



COMMONWEALTH of VIRGINIA

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The Honorable William H. Fralin, Jr.
Chairman, Board of Commissioners
Virginia Port Authority
600 World Trade Center
Norfolk, Virginia 23510

Dear Mr. Fralin:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether the prohibition contained in § 2.2-434 of the *Code of Virginia* prohibits the Virginia Port Authority's employment of a lobbyist for compensation to represent its interests at the federal level of government.

Response

It is my opinion that § 2.2-434 does not prohibit the Virginia Port Authority ("VPA") from employing a lobbyist for compensation to represent its interests at the federal level of government.

Applicable Law and Discussion

Section 2.2-434 expressly prohibits the "[e]mployment of a lobbyist for compensation by an officer, board, institution or agency of the Commonwealth . . ."¹ For purposes of § 2.2-434, a "lobbyist" is an individual who is engaged in specified activities "for the purpose of lobbying."² "Lobbying" is defined as: "[i]nfluencing or attempting to influence executive or legislative action through oral or written

¹ VA. CODE ANN. § 2.2-434 (2011).

² Section 2.2-419 defines "[l]obbyist" as:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;
2. An individual who represents an organization, association, or other group for the purpose of lobbying; or
3. A local government employee who lobbies.

communication with an executive or legislative official”³ In turn, “executive official” and “legislative official” are further defined exclusively in terms of state officials such as the Governor, Lieutenant Governor, Attorney General, members of the General Assembly, and others within the Commonwealth’s executive and legislative branches.⁴ The enumerated definitions clearly limit the application of § 2.2-434 to lobbying at the state level of government.⁵ Because these definitions do not include federal officials, § 2.2-434 does not prohibit the VPA from employing a lobbyist for compensation to lobby the federal level of government.

Conclusion

Accordingly, it is my opinion that the prohibition contained in § 2.2-434 does not prohibit the VPA’s employment of a lobbyist for compensation to represent its interests at the federal level of government.

With kindest regards, I am

Very truly yours,

A handwritten signature in black ink that reads "Ken C II". The signature is written in a cursive style with a large "K" and "C".

Kenneth T. Cuccinelli, II
Attorney General

³ Section 2.2-419 (2011). “Lobbying” also includes the “[s]olicitation of others to influence an executive or legislative official.” *Id.*

⁴ *See* § 2.2-419 (defining “executive official” and “legislative official”).

⁵ *Id.*; *see also* the definitions of “Executive action” and “Legislative action,” as contained in that statute, which similarly limit their applicable scope to state government matters.