COUNTIES, CITIES AND TOWNS: COUNTIES GENERALLY - BOARDS OF SUPERVISORS.

Freeholders of King and Queen County may not require county attorney, by petition, to challenge board of supervisors' allowance of claims against county; may request county attorney to challenge such allowance.

Mr. Daniel M. Siegel
County Attorney for King and Queen County
April 15, 1996

You ask whether, pursuant to the provisions of § 15.1550 of the Code of Virginia, freeholders of King and Queen County may require you to challenge the board of supervisors' allowance of claims against the county. You state that the freeholders have submitted to you a document entitled "Petition," which petitions you to challenge certain claims against King and Queen County on the alleged basis that the claims are illegal or irregular.

Section 15.1550 provides a procedure by which the board of supervisors shall allow for the payment of an account and for challenges, appeals and judicial review of the allowances. The county attorney shall advise the board of any claim which, in his opinion, is illegal or in improper form or, for other reason, should not be paid. The county attorney or any six freeholders of the county may initiate a challenge to the allowance of a claim. The procedure for challenging the claim differs, however, depending on whether the challenge is instituted by the county attorney or by freeholders.

Thus, if the county attorney believes that the allowance is improper or illegal, "he shall seek the advice of the Attorney General." If the freeholders believe the allowance to be improper or illegal, "such freeholders" may appeal the decision of the board of supervisors to the circuit court. The freeholders may request the county attorney to challenge the allowance of a claim. From the plain meaning of the language in the statute, however, the General Assembly clearly does not permit the freeholders, by petition to the county attorney, to institute a challenge to the allowance of a claim. Under recognized principles of statutory construction, a statute specifying the method by which something shall be done indicates a legislative intent that it not be done otherwise.

Accordingly, it is my opinion that the freeholders of King and Queen County may not require you to challenge the board of supervisors' allowance of claims against the county.

Section 15.1550 provides, in part: "No account shall be allowed by the board of supervisors unless the same shall be made out in separate items and the nature of each item specifically stated, and, when no specific fees are allowed by law, the time actually and necessarily devoted to the performance of any service charged in such account shall be verified by affidavit, to be filed
The attorney for the Commonwealth, or the county attorney in those counties which have created the office of county attorney, shall represent the county before the board and shall advise the board of any claim which in his opinion is illegal or not before the board in proper form, and upon proper proof, or which for any other reason ought not to be allowed. When any claim has been allowed by the board against the county which, in the opinion of such attorney, or any six freeholders of the county is improper as to form or proof or illegal, he shall seek the advice of the Attorney General as to legality or the State Auditor of Public Accounts as to matters of accounting, or such freeholders may appeal the decision of the board to the circuit court of the county." (Emphasis added.)


³ Section 15.1550.

4 § 15.1-550ld.

5 § 15.1-550ld. Section 15.1550 further provides that if, in the opinion of the Attorney General, the claim is illegal, the Commonwealth's attorney "shall appeal from the decision of the board to the circuit court of the county."

6 § 15.1-550ld.


8 If the Attorney General were to conclude to the county attorney that the payment of a claim is valid, the freeholders may, nevertheless, appeal the board of supervisors' decision to pay the claim to the circuit court. See Beckett v. Board of Supervisors, 234 Va. 614, 618, 363 S.E.2d 918, 920 (1988) (citing 1983-1984 Op. Va. Att'y Gen. 93, 94, concluding that payment for legal expenses incurred by county administrator in defense of criminal charges brought as result of performing official duties was proper).