HOTEL ROANOKE CONFERENCE CENTER COMMISSION ACT.

Act specifically authorizes Virginia Polytechnic Institute and State University to enter into services contracts with Hotel Roanoke Conference Center Commission and to expend nongeneral funds from continuing education programs in support of operating costs of Hotel Roanoke Conference Center; does not authorize University to contribute to capital expenditures of Commission.

The Honorable Clifton A. Woodrum
Member, House of Delegates
December 29, 2000

You inquire regarding whether the Hotel Roanoke Conference Center Commission Act (the "Act") prohibits Virginia Polytechnic Institute and State University (the "University") from contributing to capital expenditures of the Hotel Roanoke Conference Center Commission (the "Commission").

For the purposes of this opinion, I shall assume that the term "capital expenditure" is to be given its common, ordinary meaning. "Capital expenditure" generally is defined to mean "an expenditure for long-term additions or betterments properly chargeable to a capital assets account." Capital assets are "long-term assets either tangible or intangible (as land, buildings, patents, or franchises)."

The first paragraph of § 20 of the Act provides:

Any participating party, or other political subdivision of the Commonwealth, except the University, is authorized to provide services, to donate real or personal property and to make appropriations to the Commission, for the acquisition, construction, maintenance, and operation of the Commission’s facilities…. Nothing in this section shall prohibit the University from entering into a services contract with the Commission by which the University receives services from or provides services to the Commission.

Section 3 of the Act contains definitions of terms used in the Act. The term "facility" is defined as "a conference center constructed adjacent to a renovated Hotel Roanoke, including all fixtures, furniture and equipment."

Section 21 of the Act pertains to the fiscal year and the budget of the Commission. The Commission is required to prepare and submit to the participating parties a proposed operating budget and a proposed capital budget. The proposed operating budget must show "estimated revenues and expenses," as well as the responsibility of any participating party for any anticipated deficit when estimated expenses exceed estimated revenues. The proposed capital budget must show "estimated expenditures for such fiscal year for assets costing more than $20,000 … and having an estimated useful life of twenty years or more and the source of funds for such expenditures."
University has authority to participate in funding the budget of the Commission as follows:

No moneys appropriated to the University by the Commonwealth, except moneys generated by the continuing education programs offered by the University, shall be contributed to the Commission by the University. The University is authorized to expend nongeneral funds from continuing education programs in support of its share of the operating costs of the Hotel Roanoke Conference Center. The University shall report to the chairmen of the House Appropriations and Senate Finance Committees by August 15 of each fiscal year all planned and actual transfers to the Hotel Roanoke Conference Center.\[10\]

Under well-accepted principles of statutory construction, when a statute creates a specific grant of authority, the authority exists only to the extent specifically granted in the statute.\[11\] In addition, the mention of one thing in a statute implies the exclusion of another.\[12\] Finally, the use of the word "shall" in a statute ordinarily implies that its provisions are mandatory.\[13\] The Act specifically authorizes the University to enter into services contracts with the Commission "by which the University receives services from or provides services to the Commission."\[14\] Furthermore, the University is allowed to contribute to the Commission only those funds appropriated to the University by the Commonwealth that are generated by the continuing education programs offered by the University.\[15\] The University is specifically authorized "to expend nongeneral funds from continuing education programs in support of its share of the operating costs of the Hotel Roanoke Conference Center."\[16\]

The Virginia Supreme Court has stated, "the plain, obvious, and rational meaning of a statute is always to be preferred to any curious, narrow, or strained construction."\[17\] The Court has also noted, "[w]hile in the construction of statutes the constant endeavor of the courts is to ascertain and give effect to the intention of the legislature, that intention must be gathered from the words used, unless a literal construction would involve a manifest absurdity."\[18\]

Therefore, based on the clear and unambiguous language of the Act, I must conclude that the Act does not authorize the University to contribute to capital expenditures of the Commission.


\[2\]Webster’s Third New International Dictionary of the English Language Unabridged 332 (1993).

\[3\]Id.


\[5\]Id. § 3, at 656.

7 Id. § 21(B).

8 Id.

9 Id.

10 Id. § 21(G).


13 See Andrews v. Shepherd, 201 Va. 412, 414, 111 S.E.2d 279, 281 (1959) (noting that "shall" is word of command, used in connection with mandate); see also Schmidt v. City of Richmond, 206 Va. 211, 218, 142 S.E.2d 573, 578 (1965) (noting that "shall" generally indicates procedures are intended to be mandatory, imperative or limited); Op. Va. Att’y Gen.: 1997 at 16, 17; 1996 at 20, 21; 1991 at 126, 126, and opinions cited therein; id. at 127, 129, and opinions cited therein.


15 See 1994 Va. Acts, supra note 1, § 21(G), at 902.

16 Id.
