CONSTITUTION OF VIRGINIA: LEGISLATURE.

Proposed amendment requesting increase in appropriation for secure confinement does not constitute special legislation and favors no specific organization that provides enhanced faith-based services to inmates or is controlled by church or sectarian society.

The Honorable M. Kirkland Cox
Member, House of Delegates
January 29, 2002

You ask whether an amendment to the 2000 and 2002 Appropriation Acts, requesting an increase in funds appropriated for secure confinement to be distributed to organizations that offer enhanced faith-based services to inmates within the Commonwealth's correctional system, violates the prohibitions set forth in Article IV, §§ 14 and 16 of the Constitution of Virginia. The source of the increase addressed in the amendment will be derived from profits generated by prison commissary operations.

The Supreme Court of Virginia has defined "special laws" prohibited by Article IV, § 14 of the Constitution as those which, by force of an inherent limitation, arbitrarily separate persons, places or things of the same general class. "[A] general law ... applies to all who are similarly situated." A law may apply only to a small class of persons, or even a single locality, without being prohibited by Article IV, § 14, if it applies to all parts of the Commonwealth where similar conditions exist.

The Supreme Court has found that constitutional prohibitions against special legislation do not prohibit classifications, as long as the classification is not purely arbitrary. "It must be natural and reasonable, and appropriate to the occasion. There must be some such difference in the situation of the subjects of the different classes as to reasonably justify some variety of rule in respect thereto."

In the facts you present, I discern no limitation on any particular organization or entity, and, further, the proposed amendment bears a reasonable and substantial relation to the object sought to be accomplished. Consequently, it is my opinion that the proposed amendment does not constitute special legislation that is forbidden by the Constitution.

Article IV, § 16 of the Constitution also prohibits the General Assembly from appropriating any public funds for the benefit of any church, sectarian society, association or institution of any kind whatever, which is entirely or partially, directly or indirectly, controlled by any church or sectarian society, nor is the General Assembly permitted to make any appropriation to any charitable institution which is not owned or controlled by the state. I discern nothing in the proposed amendment that favors any specific organization that provides enhanced faith-based services to inmates or is controlled by a church or sectarian society. From the facts you present, I must conclude that the proposed amendment does not, in any manner, violate the constitutional prohibitions contained in Article IV, § 16.

2 You are the chief patron of a request to amend Item 452 in 2002 House Bill 29 and Item 421 in 2002 House Bill 30 (see also 2002 H. Doc. No. 1), to increase the total appropriation by $100,000 for secure confinement and to add a paragraph F appropriating funds for organizations providing enhanced inmate services.

3 Article IV, § 14 states that “[t]he General Assembly shall not enact any local, special, or private law.” Article IV, § 16 provides:

“The General Assembly shall not make any appropriation of public funds, personal property, or real estate to any church or sectarian society, or any association or institution of any kind whatever which is entirely or partly, directly or indirectly, controlled by any church or sectarian society. Nor shall the General Assembly make any like appropriation to any charitable institution which is not owned or controlled by the Commonwealth; the General Assembly may, however, make appropriations to nonsectarian institutions for the reform of youthful criminals and may also authorize counties, cities, or towns to make such appropriations to any charitable institution or association.”

4 County Bd. of Sup’rs v. Am. Trailer Co., 193 Va. 72, 79, 68 S.E.2d 115, 120 (1951); Martin’s Ex’rs v. Commonwealth, 126 Va. 603, 610, 102 S.E. 77, 79 (1920).

5 County Bd. of Sup’rs v. Am. Trailer Co., 193 Va. at 78, 68 S.E.2d at 120.

6 Id. at 78, 68 S.E.2d at 120.

7 Martin’s Ex’rs v. Commonwealth, 126 Va. at 612, 102 S.E. at 80.

8 Id.