Northern Neck Regional Jail Board has no independent authority to pay bonuses to its employees. Instead, the Board has the authority to request the participating localities of regional jail to adopt ordinance providing for payment of bonuses to employees of Northern Neck Regional Jail.

The Honorable C.W. Jackson
Sheriff for Westmoreland County
June 29, 2002

This is in response to your request for an official advisory opinion in accordance with § 2.2-505 of the Code of Virginia.

Issues Presented

You ask whether the Northern Neck Regional Jail Board has the authority to pay bonuses to its employees, and if so, whether each participating jurisdiction must adopt an ordinance authorizing the Board to pay such bonuses.

Response

It is my opinion that the Northern Neck Regional Jail Board has no independent authority to pay bonuses to its employees. Instead, the Board has the authority to request the participating localities to fund such bonuses. To make such bonuses effective, each participating jurisdiction must adopt an ordinance pursuant to § 15.2-1508. Additionally, any individual localities, or group thereof, could adopt an ordinance for the sole purpose of providing bonuses to the Board’s employees. The Board may request the participating localities of the regional jail to adopt the Board’s annual budget, which provides for the payment of bonuses to the employees of the jail, and the adoption of such budget by ordinance satisfies the requirements of § 15.2-1508.

Facts

You relate that the Northern Neck Regional Jail Board recently voted to approve a bonus for all employees of the area’s regional jail and included the bonus in the Board’s annual budget. The budget approved by the Board is submitted to the governing bodies of the participating localities in the regional jail for their approval. The regional jail’s budget is considered by each of the governing bodies separately from their normal county budget adoption process.

Applicable Law and Discussion

Regional jails are the creations of two or more counties and cities and are not independent political subdivisions. Such jails are governed by a board consisting of, at a minimum, the sheriff and one representative from each participating
The board appoints a superintendent and jail officers who serve at the pleasure of the board. A regional jail may appoint a treasurer or director of finance from a participating jurisdiction as the fiscal agent for the regional jail. Operating and maintenance expenses are "borne by the participating political subdivisions" on a proportional basis, which are reimbursable by the Compensation Board.

Section 53.1-107 requires the regional jail board to submit annually a budget to each of the participating localities. The budget submission requirement imposed on regional jail boards by § 53.1-107 implicitly requires that the proposed budget be approved by the participating jurisdictions. The participating localities may adopt any reasonable procedure for the consideration and approval of a budget submitted by a regional jail board. In the absence of another agreed procedure, the jail board should submit its estimated budget to the local governing body for approval "on or before the first day of April of each year."

Title 15.2 of the Code of Virginia addresses aspects of the employer/employee relationship in local government. Specifically § 15.2-1500(A) provides that "[e]very locality shall provide for all the governmental functions of the locality, including, without limitation, … the employment of … employees needed to carry out the functions of government." Because the statute does not define the terms "employment" and "employee," these terms must be given their common, ordinary meanings. The term "employment" generally is defined as "activity in which one engages or is employed"; "an instance of such activity"; "the act of employing : the state of being employed." An "employee" is "one employed by another usu[ally] for wages or salary and in a position below the executive level." Furthermore, the verb "employ" generally means "to use or engage the services of"; "to provide with a job that pays wages or a salary."

Employees of a regional jail are deemed to be local employees. As such, § 15.2-1508 authorizes the "payment of monetary bonuses to [such] officers and employees for exceptional services rendered. The payment of a bonus shall be authorized by ordinance." Such ordinance for bonuses must be adopted at a lawful meeting with a recorded vote after appropriate notice.

Section 15.2-1508 requires any bonuses paid to local employees to be approved by ordinance. I assume the Board’s annual budget that is before each participating locality is in the form of an appropriation ordinance. Therefore, it is subject to the notice and recorded vote requirements of § 15.2-1427 applicable to all ordinances. Consequently, it appears the Board’s annual budget, which includes the bonuses for its employees, if adopted by each locality, satisfies the requirements of § 15.2-1508. Additionally, each locality could adopt a separate ordinance for the sole purpose of providing bonuses to the Board’s employees and satisfy the requirements of § 15.2-1508.

Conclusion

Accordingly, it is my opinion that the Northern Neck Regional Jail Board has no independent authority to pay bonuses to its employees. Instead, the Board has the authority to request the participating localities to fund such bonuses. To make such bonuses effective, each participating jurisdiction must adopt an ordinance pursuant to § 15.2-1508. Additionally, any individual localities, or group thereof, could adopt an ordinance for the sole purpose of providing bonuses to the Board’s employees. The Board may request the participating localities of the regional jail to adopt the Board’s annual budget, which provides for the payment...
of bonuses to the employees of the jail, and the adoption of such budget by ordinance satisfies the requirements of § 15.2-1508.


6 Id. § 53.1-112 (Michie Repl. Vol. 1998). I assume an agreement governing such expenses has been executed by participating localities pursuant to § 15.2-1300.

7 Id. § 53.1-114 (Michie Repl. Vol. 1998); see also id. § 53.1-85 (Michie Repl. Vol. 1998) (prescribing time and manner of paying costs incurred by regional jails).


9 Id.


13 Id.

14 Id.


16 Id. § 15.2-1427(A)-(C), (F) (Michie Supp. 2001).