



# COMMONWEALTH of VIRGINIA

## Office of the Attorney General

**Robert F. McDonnell**  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

February 12, 2008

### VIA HAND DELIVERY

The Honorable Clarence E. "Bud" Phillips  
Member, House of Delegates  
P.O. Box 406  
Richmond, Virginia 23218

Dear Delegate Phillips:

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

### Issues Presented

You ask whether an individual employed as a school bus driver by the Dickenson County School Board is also considered an employee of Dickenson County and, therefore, ineligible to serve on the Dickenson County Industrial Development Authority.

### Response

It is my opinion that a school bus driver employed by the Dickenson County School Board is an employee of the School Board and not an employee of Dickenson County. It further is my opinion that such school bus driver is eligible to serve on the Dickenson County Industrial Development Authority.

### Applicable Law and Discussion

Section 15.2-4904(C) provides that:

No director shall be an officer or employee of the locality except in towns under 3,500 people where members of the town governing body may serve as directors provided they do not comprise a majority of the board. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

Section 15.2-102 defines "locality" to mean "a county, city, or town." "'School board' means the school board that governs a school division."<sup>1</sup> Title 22 of the *Virginia Code* governs the hiring of school bus drivers by the school board.<sup>2</sup>

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<sup>1</sup>VA. CODE ANN. § 22.1-1 (2006).

<sup>2</sup>See, e.g., § 22.1-178 (2006).

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On numerous occasions, the Attorney General has determined that a school board essentially is a political subdivision.<sup>3</sup> As such, school boards are "separate juristic entit[ies]," and employees of a school board are not treated as employees of the county in which the school board is located.<sup>4</sup> Section 15.2-4904(C) specifically prohibits employees of a locality from serving on its industrial development authority; however, a locality is a county, city, or town.<sup>5</sup> Therefore, the prohibition in § 15.2-4904(C) is applicable to county employees and would not extend to employees of that county's school board.

### **Conclusion**

Accordingly, it is my opinion that a school bus driver employed by the Dickenson County School Board is an employee of the School Board and not an employee of Dickenson County. It further is my opinion that such school bus driver is eligible to serve on the Dickenson County Industrial Development Authority.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in black ink, reading "Robert F. McDonnell". The signature is fluid and cursive, with the first name "Robert" and last name "McDonnell" clearly legible.

Robert F. McDonnell

1:845; 1:941/08-005

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<sup>3</sup> See 2006 Op. Va. Att'y Gen. 104, 106 and opinions cited therein.

<sup>4</sup> 1985-1986 Op. Va. Att'y Gen. 198, 199; *see also* Op. Va. Att'y Gen.: 1976-1977 at 235, 236 (noting that although county school board is dependent on county board of supervisors for funding, it is separate entity); 1971-1972 at 457, 458 (noting that school board and board of supervisors are separate agencies).

<sup>5</sup> See VA. CODE ANN. § 15.2-102 (2003).