



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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April 12, 2013

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Ms. Evelyn McGill
Executive Director
Virginia Workers' Compensation Commission
1000 DMV Drive
Richmond, Virginia 23220

Dear Ms. McGill:

I am responding to your request for an official opinion in accordance with § 2.2-505 of the *Code of Virginia*.¹

Issues Presented

You inquire whether, under current law, the Workers' Compensation Commission (the "Commission") may utilize funds in the Criminal Injuries Compensation Fund ("CICF" or "Fund") to purchase a new office building in which to house the headquarters of the Commission and the offices of Director of CICF and her staff. You further ask whether, if the Commission is not so empowered, there is any constitutional or other legal impediment to the introduction of legislation that would so empower the Commission. Finally, you ask whether the Commission is prohibited from housing its records and transacting its official business in an office building outside of the City of Richmond, Virginia.

Response

It is my opinion that the Commission is not authorized under current law to use funds in the Criminal Injuries Compensation Fund to purchase a new office building in which to house the headquarters of the Commission and the Director of CICF and her staff. It is my further opinion that there is no constitutional or other legal impediment to the introduction of future legislation that would enable the Commission to utilize the Fund for such purposes. Finally, it is my opinion that, effective July 1, 2013, the Commission is permitted to locate its headquarters outside the City of Richmond, provided the facility remains within the Commonwealth.

Background

The General Assembly, pursuant to general statutes and budgetary enactments, has placed the administration of the CICF with the Commission. Daily operations are managed by the Director of CICF, under the supervision of the Executive Director of the Commission, and the Virginia Workers' Compensation Commissioners serve as the governing board of the Fund. You relate that the

¹ Your predecessor, John A. Budesky, the former Executive Director of the Virginia Workers' Compensation Commission, originally requested this opinion. The opinion request was not withdrawn subsequent to your assuming the position of Executive Director, therefore, I will refer to you as the requestor.

Commission's headquarters are currently located in a facility in one part of the City of Richmond, while the offices of the Director of CICF, her staff, and two additional Commission offices are currently located at another address in the City of Richmond. You explain that the Commission is considering the relocation of its headquarters, four additional leased locations, and the offices of the Director of CICF and her staff into one office building suitable for their operations.

Applicable Law and Discussion

The administration of the Criminal Injuries Compensation Fund is governed by Chapter 21.1 of Title 19.2 of the *Code of Virginia*, entitled "Compensating Victims of Crime."² Specifically, § 19.2-368.3 charges the Commission with the specific "powers and duties in the administration of the provisions of this chapter[.]" In addition, pursuant to § 19.2-368.3:1(A), the Commission must "employ a crime victims' ombudsman and adequate staff to facilitate the prompt review and resolution of crime victim compensation claims and to assure that the crime victims' rights are safeguarded and protected during the claims process." The ombudsman "shall report directly to the Commission."³ Thus, I conclude that the General Assembly has placed with the Commission the responsibility to staff and administer the entirety of the Fund's programming.

You note that the General Assembly has appropriated amounts for the Fund's programming, and state that the Commission utilizes these appropriated funds for that purpose. In addition, § 19.2-368.18(B), in relevant part, designates that a portion of assessed court costs be deposited into the Fund, as follows:

Whenever the costs provided for in §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8 or § 17.1-275.9 or subsections B or C of § 16.1-69.48.1 are assessed, a portion of the costs, as specified in those sections, shall be paid over to the Comptroller to be deposited into the Criminal Injuries Compensation Fund.

Section 19.2-368.18 specifies how Fund monies may be spent. It provides that:

D. Sums available in the Criminal Injuries Compensation Fund shall be used for the purpose of payment of the costs and expenses necessary for the administration of this chapter and for the payment of claims pursuant to this chapter.

E. All revenues deposited into the Criminal Injuries Compensation Fund, and appropriated for the purposes of this chapter, shall be immediately available for the payment of claims.

When a statute is unambiguous on its face, it will be interpreted according to its plain language.⁴ Under the plain language of the statute, the Fund is to be used for one of two explicit purposes, the costs and expenses necessary "for the administration of this chapter," and the payment of criminal injury compensation claims. The payment of claims clearly takes precedence in priority, as funding placed into the fund must be made immediately available to pay such claims.

Although the Commission oversees the Fund and Fund deposits may be used for the administration of CICF programming, § 19.2-368.18(D) does not authorize the expenditure of Fund monies for the support of the Commission generally. Rather, the use of such money is strictly limited to

² See VA. CODE ANN. §§ 19.368.1 through 19.2-368.18 (2008 & Supp. 2012).

³ Section 19.2-368.3:1(A) (2009).

⁴ See, e.g., *Hubbard v. Henrico Ltd. P'ship*, 255 Va. 335, 339-40, 497 S.E.2d 335, 337-38 (1998).

“the administration of this chapter.” This “chapter,” Chapter 21.1 of Title 19.2, involves only the Fund and no other Commission responsibilities. The administration-related sections therein focus on the program for receiving, investigating, evaluating and determining claims for relief from the Fund, and a mandate to provide the public with adequate notice of the Fund’s existence and availability. Thus, the “costs and expenses” that may be drawn from the Fund are limited to those relating to the operation of that specific programming.

Moreover, with respect to office facilities for the Commission, § 65.2-204(A) states that, “[t]he Commission shall be provided with adequate offices . . . in which the records shall be kept and its official business transacted during regular business hours.” Subsection (C) further provides that, “[a]ll salaries and expenses of the Commission shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of state government.” These specific statutory provisions are controlling with respect to the source of funding for Commission expenses, and cannot be construed to authorize use of the Fund for the procurement of Commission office facilities.

Accordingly, I conclude that the Commission may not utilize the Fund for the purchase of a new office building in which to house the headquarters of the Commission and the Director of CICF and her staff. Should the Commission deem it appropriate to seek future legislation explicitly allowing it to utilize the Fund for such a purchase, I find no constitutional or other legal impediment to it doing so.

Relevant to your final inquiry, § 65.2-204(A) currently provides, in pertinent part, that the Commission’s offices must be “in the Capitol or in some other suitable building in the City of Richmond[.]” During its 2013 Session, the General Assembly amended that statutory requirement. The amendment struck “City of Richmond” and inserted “Commonwealth” in its stead,⁵ and, thereby, will remove the restriction that the Commission maintain its operations within the City of Richmond. The amendment becomes effective July 1, 2013. I therefore conclude that, as of that date, the Commission lawfully may establish the location of its office facilities anywhere in the Commonwealth.

Conclusion

Accordingly, it is my opinion that the Commission is not authorized under current law to use funds in the Criminal Injuries Compensation Fund to purchase a new office building in which to house the headquarters of the Commission and the Director of CICF and her staff. It is my further opinion that there is no constitutional or other legal impediment to the introduction future legislation that would enable the Commission to utilize the Fund for such purposes. Finally, it is my opinion that, effective July 1, 2013, the Commission is permitted to locate its headquarters outside the City of Richmond, provided the facility remains within the Commonwealth.

With kindest regards, I am

Very truly yours,

A handwritten signature in blue ink that reads "Ken C II". The signature is stylized and written in a cursive-like font.

Kenneth T. Cuccinelli, II
Attorney General

⁵ See 2013 Va. Acts ch. 14.