

01-048

ADMINISTRATION OF GOVERNMENT GENERALLY: PLANNING AND BUDGET SYSTEM.

General Assembly may amend 2000 Appropriation Act by means of limited purpose bills rather than by comprehensive budget amendment bill that amends entire Act.

The Honorable H. Morgan Griffith

Member, House of Delegates

May 2, 2001

You ask whether the General Assembly may amend the 2000 Appropriation Act¹ by means of limited purpose bills rather than by a comprehensive budget amendment bill that amends the entire Act.

At the 2001 Session of the General Assembly, each house considered and passed its own budget amendment bills. The Session adjourned *sine die*, however, without both houses agreeing to a single budget amendment bill. You advise that, in spite of the General Assembly having amended the budget by means of limited purpose bills in 1994, there has been concern expressed that the 2000 Appropriation Act may not be amended with limited purpose bills.

"The powers of the General Assembly are broad and plenary."² It may enact any law not prohibited by the United States Constitution or the Virginia Constitution.³ "Moreover, an act of the General Assembly is presumed to be constitutional, and every reasonable doubt must be resolved in favor of the act's constitutionality."⁴

The budgetary process for the Commonwealth is contained in Chapter 27 of Title 2.1, §§ 2.1-387 through 2.1-404 of the *Code of Virginia*. Section 2.1-399(B) specifically provides that, before the beginning of any regular session of the General Assembly held in an odd-numbered year, the Governor shall submit his proposed amendments "to capital appropriations acts adopted in the immediately preceding even-numbered year session." Section 2.1-400 requires that the standing committees of each house in charge of appropriation measures "shall begin consideration of the budget within five days after the budget has been submitted to the General Assembly by the Governor." Section 2.1-401 provides:

The General Assembly may increase or decrease items in the budget bill as it may deem to be in the interest of greater economy and efficiency in the public service, but neither house shall consider further or special appropriations, except in case of an emergency, which fact shall be clearly stated in the bill therefor, until the budget shall have been finally acted upon by both houses.

There are several rules of statutory construction that I must apply to this matter. Obviously, the primary goal of statutory construction is to ascertain and give effect to legislative intent.⁵ "[T]he plain, obvious, and rational meaning of a statute is always to be preferred to any curious, narrow, or strained

construction."⁶ "The manifest intention of the legislature, clearly disclosed by its language, must be applied."⁷ The use of the word "shall" in a statute generally implies that its terms are intended to be mandatory, rather than permissive or directive.⁸ Finally, statutes are to be read as a whole rather than in isolated parts.⁹ The reading of a statute as a whole influences the proper construction of ambiguous individual provisions.¹⁰

The plain language of the statutes governing the state budgetary system clearly requires both houses to have "finally acted upon" budget amendment bills before the General Assembly may consider any "further or special appropriations."¹¹ After the budget amendment bills have been "finally acted upon" by each house, "further or special appropriations"¹² may be considered by both houses.¹³ The phrase "finally acted upon by both houses," as used § 2.1-401, has not been defined by the General Assembly.

The 2001 Session of the General Assembly adjourned *sine die* with each house having considered and approved its own budget amendment bills. Each house considered the budget amendments approved by the other house; however, the General Assembly did not approve a single budget amendment bill. Adjournment *sine die* on February 24, 2001,¹⁴ had the effect of foreclosing any further action on, and then effectively defeating, all pending legislation which had not been passed by both houses of the General Assembly. It is, therefore, my opinion that each house of the 2001 Session of the General Assembly "finally acted upon"¹⁵ the budget amendment bills of each house, as required by § 2.1-401.¹⁶

Accordingly, I am required to conclude that the General Assembly may amend the 2000 Appropriation Act by means of limited purpose bills rather than by a comprehensive budget amendment bill that amends the entire Act.

¹2000 Va. Acts ch. 1073, at 3220.

²Trucking Corporation v. Commonwealth, 207 Va. 23, 29, 147 S.E.2d 747, 751 (1966); see also Harrison v. Day, 200 Va. 764, 770, 107 S.E.2d 594, 598 (1959).

³Trucking Corporation v. Commonwealth, 207 Va. at 29, 147 S.E.2d at 751; Railway Express v. Commonwealth, 199 Va. 589, 593, 100 S.E.2d 785, 788 (1957), *aff'd*, 358 U.S. 434 (1959); Lipscomb v. Nuckols, 161 Va. 936, 944, 172 S.E. 886, 889 (1934); Supervisors Cumberland County v. Randolph, 89 Va. 614, 619, 16 S.E. 722, 723 (1893); see also Portsmouth v. Chesapeake, 205 Va. 259, 264, 136 S.E.2d 817, 822 (1964) (stating that, in absence of constitutional prohibition against annexation by city of portion of another city, General Assembly has power to deal with subject).

⁴Terry v. Mazur, 234 Va. 442, 449, 362 S.E.2d 904, 908 (1987).

⁵See Turner v. Commonwealth, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983); 1993 Op. Va. Att'y Gen. 237, 239.

⁶Turner v. Commonwealth, 226 Va. at 459, 309 S.E.2d at 338.

⁷Barr v. Town & Country Properties, 240 Va. 292, 295, 396 S.E.2d 672, 674 (1990) (quoting Anderson v. Commonwealth, 182 Va. 560, 566, 29 S.E.2d 838, 841 (1944)).

⁸See *Andrews v. Shepherd*, 201 Va. 412, 414-15, 111 S.E.2d 279, 281-82 (1959); see also *Schmidt v. City of Richmond*, 206 Va. 211, 218, 142 S.E.2d 573, 578 (1965); Op. Va. Att'y Gen.: 1999 at 44, 45; 1991 at 238, 240.

⁹See *Gallagher v. Commonwealth*, 205 Va. 666, 669, 139 S.E.2d 37, 39 (1964) ("every provision in or part of a statute shall be given effect if possible" (quoting *Tilton v. Commonwealth*, 196 Va. 774, 784, 85 S.E.2d 368, 374 (1955))); Op. Va. Att'y Gen.: 1996 at 26, 27; 1994 at 93, 95; 1985-1986 at 177, 178.

¹⁰See *Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 222 S.E.2d 793 (1976); 1994 Op. Va. Att'y Gen. 109, 112.

¹¹Va. Code Ann. § 2.1-401 (Michie Repl. Vol. 1995).

¹²For purposes of this opinion, I assume that the limited purpose appropriation bills, which are the subject of your inquiry, are "further or special appropriations" as contemplated by § 2.1-401. Because I conclude that, in any event, the requirements of § 2.1-401 have been met, I express no opinion whether such limited purpose appropriation bills are, in fact, "further or special appropriations." Section 2.1-401.

¹³Section 2.1-401.

¹⁴See 2001 H.J. Res. 906.

¹⁵Section 2.1-401.

¹⁶See 2001 H.B. 1600; 2001 S.B. 800; 2001 S.B. 1426.

[Back to May Index](#)