

01-081

ELECTIONS: CAMPAIGN FINANCE DISCLOSURE ACT.

Decision by State Board of Elections that candidate's campaign committee may pay for expenses of campaign only with check drawn on campaign depository and paid directly to vendor providing service is entitled to great weight. No authority for staff member of candidate's campaign committee to pay for office supplies with personal credit card and to be reimbursed by check drawn on campaign depository for amount of purchase.

The Honorable S. Chris Jones
Member, House of Delegates
November 28, 2001

You request interpretation of § 24.2-905 of the *Code of Virginia*, a portion of the Campaign Finance Disclosure Act,¹ relating to the payment of campaign expenses.

As chairman of the Joint Legislative Study on Campaign Finance Reform, you state that you are seeking a clear, impartial interpretation of a portion of § 24.2-905, which provides:

No candidate, campaign treasurer, or other individual shall pay any expense on behalf of a candidate, directly or indirectly, except by a check drawn on such designated depository identifying the name of the campaign committee and candidate.

You state that the State Board of Elections has interpreted this provision to mean that a candidate's campaign committee may pay for expenses of the campaign only with a check drawn on the campaign depository and paid directly to the vendor providing a service. You suggest that this interpretation prohibits the practice by a candidate's campaign committee of reimbursing staff directly for out-of-pocket expenses. You provide an example whereby a campaign staff member uses a personal credit card to pay for office supplies to be used by the campaign committee and then is reimbursed by the campaign committee with a check drawn on the campaign depository in the exact amount of the purchase. You advise that a review of campaign finance reports reflects that nearly all candidates use such common reimbursement practices.

You state that the members of the Joint Legislative Study of Campaign Finance Reform believe this interpretation of the statutory provision to be contrary to the intent of the General Assembly. You relate that you believe that the actual intent is to ensure that all monies spent by a campaign committee flow in and out of the official campaign depository account. You believe that expense reimbursements written on a depository account and duly reported on campaign finance reports clearly come within the allowable intent of the provision.

Therefore, you ask whether the terms "directly or indirectly," as used in § 24.2-905, may be interpreted to permit a candidate's campaign committee to reimburse a candidate, campaign treasurer or other individual campaign committee staff member for campaign-related expenses.

It is my opinion that the language in § 24.2-905 does not mandate a conclusion permitting a staff member of a candidate's campaign committee to pay for office supplies with a personal credit card, without regard to the purchase amount, and to be reimbursed by check drawn on the campaign depository in the amount of the purchase. The State Board of Elections may view such a conclusion as inconsistent with the directions also contained in § 24.2-905 for establishing "a petty cash fund to be utilized for the purpose of ... reimbursing verified credit card expenditures of less than one hundred dollars if complete records of such expenditures are maintained as required by [the Campaign Finance Disclosure Act]."

The Campaign Finance Disclosure Act constitutes "the exclusive and entire campaign finance disclosure law of the Commonwealth."² Section 24.2-905, a portion of the Act, must be read as a whole rather than in isolated parts.³ The reading of a statute as a whole influences the proper construction of ambiguous individual provisions.⁴ When read as a whole, I am of the view that the provisions of § 24.2-905 cannot reasonably be read to support a conclusion that the General Assembly intended to permit such reimbursements of verified credit card expenditures in excess of \$100. The Supreme Court of Virginia mandates that "[t]he manifest intention of the legislature, clearly disclosed by its language, must be applied."⁵ In addition, a statute specifying the method by which something shall be done evinces a legislative intent that it not be done otherwise.⁶ Had the General Assembly intended to permit reimbursement of credit card purchases in excess of \$100, it would not have clearly specified permission in § 24.2-905 for a treasurer to "establish a petty cash fund to be utilized for the purpose of ... reimbursing verified credit card expenditures of less than one hundred dollars."

The language of § 24.2-903, also a portion of the Campaign Finance Disclosure Act, reaffirms the general statutory duty of the State Board of Elections to "provide ... instructions for persons filing reports pursuant to [the Act] to assist them in completing the reports," so as "to obtain uniformity ... and legality and purity in all elections."⁷ In making its decision, the State Board, of course, had access to all of the relevant information regarding the reimbursement practices of candidates' campaign committees, as related in your opinion request, and considered the detailed procedure in Article 4 of the Act for reporting campaign contributions and expenditures.⁸ As in other instances, the decision of the State Board in performing its statutory duty in this instance is entitled to great weight.⁹ I conclude that the decision in this instance is not inconsistent with the express language of § 24.2-905, and represents a proper exercise of the authority the General Assembly places in the State Board.

¹Va. Code Ann. §§ 24.2-900 to 24.2-930 (Michie Repl. Vol. 2000 & Supp. 2001).

²Section 24.2-900 (Michie Repl. Vol. 2000).

³*See* *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.

⁴*See* *Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 222 S.E.2d 793 (1976); 1994 *Op. Va. Att'y Gen.* 109, 112.

⁵*Barr v. Town & County 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)).

⁶*See* *Grigg v. Commonwealth*, 224 Va. 356, 364, 297 S.E.2d 799, 803 (1982); 1991 *Op. Va. Att'y Gen.* 202, 203.

⁷Va. Code Ann. § 24.2-103 (Michie Repl. Vol. 2000).

⁸Sections 24.2-914 to 24.2-928 (Michie Repl. Vol. 2000 & Supp. 2001).

⁹*See* *Forst v. Rockingham*, 222 Va. 270, 276, 279 S.E.2d 400, 403 (1981); *Dept. Taxation v. Prog. Com. Club*, 215 Va. 732, 739, 213 S.E.2d 759, 763 (1975); 1993 *Op. Va. Att'y Gen.* 226, 227. This rule of statutory construction is particularly persuasive in construing individual statutes that constitute parts of a complex statutory scheme, such as the voting system established in Title 24.2. In such an instance, deference to a decision of the agency charged by the General Assembly with the statewide administration of such a system is appropriate unless the decision clearly is wrong. 1996 *Op. Va. Att'y Gen.* 124, 127 n.7. I, therefore, issue no opinion on whether the language of § 24.2-905 could support a different conclusion by the State Board.