



# COMMONWEALTH of VIRGINIA

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The Honorable W.R. "Randy" Hamilton  
Sheriff, City of Buena Vista  
2039 Sycamore Avenue  
Buena Vista, Virginia 24416

Dear Sheriff Hamilton:

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 inquire concerning the composition of a board for a regional jail, noting that an agreement between several localities specifies the membership of this board, and you ask how the agreement can be reconciled with § 53.1-106, which mandates a minimum membership for such a board. You further ask, if § 53.1-106 requires the sheriff and at least one representative from each political subdivision to serve on the board of the regional jail, whether Rockbridge County can continue to appoint, in addition to the Sheriff, two members to serve on the Board.

## Response

It is my opinion that the board membership specified in § 53.1-106 controls over the agreement and that Rockbridge County can continue to appoint two members to serve on the Board.

## Background

On March 1, 1986, Rockbridge County, the Cities of Lexington and Buena Vista, and the towns of Glasgow and Goshen reached an agreement to establish a regional jail. The agreement ("Agreement") establishes a Board of Directors ("the Board") and specifies the composition of the Board. The Board comprises five members, appointed as follows: Rockbridge appoints two directors, Lexington and Buena Vista each appoints one, and Rockbridge appoints the final member of the Board, who must be a resident of Goshen or Glasgow. This final appointment alternates between residents of the two towns, and the town council of Goshen or Glasgow can make a nonbinding recommendation to Rockbridge County concerning this Board member.

## Applicable Law and Discussion

Section 53.1-105 of the *Code of Virginia* authorizes any two or more political subdivisions to establish, maintain and operate a regional jail facility. Section 53.1-106(A) vests supervision and management of regional jails in a board or authority composed of representatives from each political subdivision. The board or authority must "consist of at least the sheriff from each participating political

subdivision, and one representative from each political subdivision participating therein.”<sup>1</sup> The language of § 53.1-106(A) plainly requires that both a sheriff and one representative serve on the Board. A previous opinion from this office concludes that “the membership of a jail board or authority includes, at a minimum, the sheriff of each participating political subdivision and one member selected by the local governing body of each subdivision.”<sup>2</sup> Contrary provisions under the Agreement must yield.<sup>3</sup> Therefore, at a minimum, the Board must consist of the Sheriffs of Rockbridge County, Lexington and Buena Vista,<sup>4</sup> and one representative from each political subdivision appointed by the governing body of that subdivision.

Section 53.1-106(A) further provides that the membership of the Board must consist of “at least” the Sheriff and one member selected by the local governing body of each political subdivision that is a participating jurisdiction. Therefore, Rockbridge County can continue to appoint more than the minimum two representatives to the Board called for by § 53.1-106(A).<sup>5</sup>

### Conclusion

Accordingly, it is my opinion that § 53.1-106 controls over the agreement, and that Rockbridge County can continue to appoint two members to serve on the Board.

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

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<sup>1</sup> Before its amendment in 1998, § 53.1-106(A) required the appointment of the sheriff of a political subdivision to a jail authority only if the political subdivision appointed more than one representative to the authority. *See* 1998 Va. Acts. ch. 541, at 1289, 1289.

<sup>2</sup> 1998 Op. Va. Att’y Gen. 107, 108.

<sup>3</sup> Because neither Goshen nor Glasgow has a sheriff, none need be appointed.

<sup>4</sup> *Id.*

<sup>5</sup> The statute fundamentally alters the nature of the composition of the Board contemplated by the Agreement. The participating localities are free, of course, to renegotiate the composition of the Board, provided it conforms to the minimum requirements imposed in § 53.1-106(A). Alternatively, the participating localities may seek special legislation permitting an alternative arrangement. *See* 1998 Op. Va. Att’y Gen. 107, 109 (noting that when a jail authority is created by special legislation, “the special legislation would control the composition of such membership.”).