



**WILLIAM J. SCOTT**  
**ATTORNEY GENERAL**  
**STATE OF ILLINOIS**  
**SPRINGFIELD**

May 5, 1971

File No. S-315

**STATE OFFICERS:**  
**Conflict of Interest**  
**Rental - Office Space**

Mr. Dick Viar  
Executive Director  
Legislative Audit Commission  
401 State Capitol Building  
Springfield, Illinois 62706

Dear Mr. Viar:

In your recent letter you enclosed a newspaper article pertaining to the payment of rental for office space by the Division of Vocational Rehabilitation to a land trust in which an employee of that agency had a half interest. You say that "It is the opinion of the Audit Commission that this situation, as reported, reflects a conflict of interest. I was, therefore, instructed to transmit this information to you and request that your office take whatever action is appropriate and advise the Audit Commission of your decision

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in this matter." You also direct my attention to "An act to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers." (Illinois Revised Statutes 1969, Chapter 102, Paragraph 1, et seq.) You ask the following questions with regard to this Act:

- "a. Do the penalty provisions apply to a trustee who does not comply with the disclosure provisions?
- b. Does this law apply to employees as well as officers of the State and other governmental units?"

The Illinois Purchasing Act (Illinois Revised Statutes 1969, Chapter 127, Paragraph 132.1 et seq.) provides:

Paragraph 132.2

"It is the purpose of this Act and is hereby declared to be the policy of the state that the principle of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts for which state funds are expended.

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Paragraph 132.11-1

"It is unlawful for any person holding an elective office in this State, holding a

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seat in the General Assembly, or appointed to or employed in any of the offices of State government, or who is an officer or employee of the Illinois Building Authority or the Illinois Toll Highway Commission, or who is the wife, husband or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper or for any services, materials or supplies, which will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois \* \* \* \* \*."

It is provided in "An Act to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers" (Supra) as follows:

Paragraph 3

"No person holding any office, either by election or appointment under the laws or constitution of this state, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any

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such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void."

Paragraph 3.1

"Before any contract relating to the ownership or use of real property is entered into by and between the State or any local governmental unit or any agency of either and a trustee who has title to such real property or a managing agent having power to contract in relation to such real property, such trustee or managing agent must disclose the identity of every owner and beneficiary having any interest, real or personal, in such property. The disclosure shall be in writing and shall be subscribed by such trustee or managing agent under oath. This Section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of real property thereby."

Paragraph 4

"Any alderman, member of a board of trustees, supervisor or county commissioner, or other person holding any office, either by election or appointment under the laws or constitution of this state, who violates any provision of the preceding sections, is

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guilty of a misdemeanor, and may be punished by confinement in the penitentiary for not less than one year nor more than five years, or fined not less than \$200 nor more than \$1,000, or both; and in addition thereto, any office or official position held by any person so convicted shall become vacant, and shall be so declared as part of the judgment of court; and the person so convicted may not hold any office or position of trust and confidence in this state until two years after the date of such conviction."

I agree with the opinion of the Audit Commission, insofar as the Illinois Purchasing Act is concerned, that this situation as reported, reflects a conflict of interest. This office consulted with and advised the Division of Vocational Rehabilitation on the law in this matter prior to your letter. You might confer with the Division of Vocational Rehabilitation as to the status of this matter and the action to be taken.

The answers to the two questions asked in your letter appear evident from the statutory provisions above quoted. The penalty provision (Paragraph 4) applies to "any alderman, member of a board of trustees, supervisor or county

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commissioner, or other person holding any office, either by election or appointment under the laws or constitution of this state."

The title of the Act expressly provides that it is "to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers." Paragraph 1 and Paragraph 2 of this Act, not herein quoted, pertain to supervisors, county commissioners, an alderman of any city or member of board of trustees of any village. Paragraph 3, it is noted, does not refer to "employee" but rather refers expressly therein only to "person holding any office" and "officer."

In view of the foregoing it is my opinion that the answer to your questions a. and b. are both in the negative.

Very truly yours,

A T T O R N E Y   G E N E R A L