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No. S-693

TOWNS AND TOWNSHIPS:
Federal Revenue Sharing Funds

Honorable William D. Walsh
State Representative
Chairman
Commission on Intergovernmental Cooperation
217 South First Street
Springfield, Illinois 62706

Dear Representative Walsh:

I have your letter in which you request an opinion as to whether section 20 of article XIII of "AN ACT to revise the law in relation to township organization" (Ill. Rev. Stat. 1971, ch. 139, pars. 117 et seq., amended by P.A. 78-207), gives townships the authority to transfer funds received under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. sec. 1221 et seq.), to other units of local governments, associations, individuals and corporations to perform functions defined

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as priority expenditure items in the Fiscal Assistance Act, but not within the statutory powers of the township to perform.

Section 20 provides as follows:

"The board of town auditors may enter into any cooperative agreement or contract with any other governmental entity, and may contract and otherwise associate with individuals, associations and corporations in any manner not prohibited by law, with respect to the expenditure of federal revenue sharing funds for purposes defined as 'priority expenditures' under Section 103 of the federal State and Local Fiscal Assistance Act of 1972."

I am of the opinion that it was the clear intent of the legislature under this Act to authorize townships to expend federal revenue sharing funds for priority items, even though townships in general do not have authority to expend their own funds for such purposes. It was not the intent of the legislature to give townships authority to expend their own funds for such purposes. It is unnecessary to answer your question as to whether the legislation was effective to accomplish this intent, for even if it were, expenditure of revenue sharing funds made under this Act would not be in compliance with Federal law.

Section 123 of Title I of the Fiscal Assistance Act of 1972 (31 U.S.C., sec. 1243), provides in pertinent part as

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follows:

"(a) Assurances to the Secretary. - In order to qualify for any payment under subchapter I of this chapter for any entitlement period beginning on or after January 1, 1973, a State government or unit of local government must establish (in accordance with regulations prescribed by the Secretary, and, with respect to a unit of local government, after an opportunity for review and comment by the Governor of the State in which such unit is located) to the satisfaction of the Secretary that -

* * *

(4) it will provide for the expenditure of amounts received under subchapter I of this chapter only in accordance with the laws and procedures applicable to the expenditure of its own revenue;

* * *

It is my opinion that this provision permits a unit of local government to expend revenue sharing funds only for purposes for which it is authorized to expend its own funds. Since Public Act 78-207 does not give units of local government additional authority to expend their own funds, any unit of local government expending federal revenue sharing funds for purposes for which it is not authorized to expend its own

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revenue, would not be in compliance with the Fiscal Assistance Act of 1972, supra. This opinion is also that of the Office of Revenue Sharing in the United States Department of the Treasury. A copy of a letter received from that office is enclosed.

Very truly yours,

A T T O R N E Y G E N E R A L