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ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

November 18, 1982

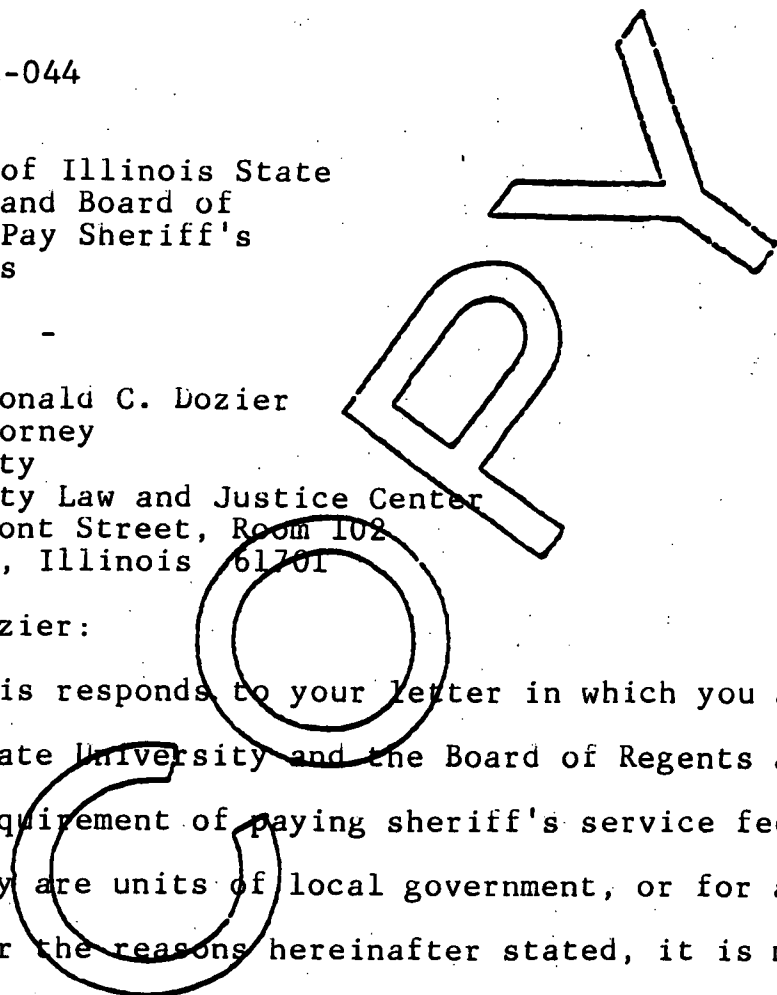
FILE NO. 82-044

FEES:  
Obligation of Illinois State  
University and Board of  
Regents to Pay Sheriff's  
Service Fees

Honorable Ronald C. Dozier  
State's Attorney  
McLean County  
McLean County Law and Justice Center  
104 West Front Street, Room 102  
Bloomington, Illinois 61701

Dear Mr. Dozier:

This responds to your letter in which you ask whether Illinois State University and the Board of Regents are exempt from the requirement of paying sheriff's service fees, either because they are units of local government, or for any other reason. For the reasons hereinafter stated, it is my opinion that Illinois State University and the Board of Regents are not units of local government but that they are exempt from the



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requirement of paying sheriff's service fees because they are agencies of the State.

Reference is made in your letter to section 19 of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1981, ch. 53, par. 37) which sets forth the fees for sheriffs in counties of the second class, such as McLean County. The last paragraph of this section provides: "The fee requirements of this Section do not apply to units of local government or school districts". You point out that because of this language, in opinion No. 82-014, issued May 17, 1982, I advised that a unit of local government, such as a county, is not required to pay to another county, or its sheriff, any sheriff's fees established by section 19 of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1981, ch. 53, par. 37). You ask whether Illinois State University and the Board of Regents are units of local government and therefore exempt from the requirement of paying sheriff's fees.

Section 1 of article VII of the 1970 Illinois Constitution provides as follows:

" \* \* \* 'Units of local government' means counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts."

Neither Illinois State University nor the Board of Regents is declared to be a unit of local government in section 1, nor has

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either been designated as a unit of local government by law. In Pope v. Parkinson et al. (1977), 48 Ill. App. 3d 797, the court considered the issue of whether the University of Illinois was a unit of local government to which the Local Records Act (Ill. Rev. Stat. 1981, ch. 116, par. 43.101 et seq.) would apply. The court said at page 802:

" \* \* \*

Here, it is clear that the University is not a unit of local government or a school district to which section 3a of the Local Records Act (Ill. Rev. Stat. 1972 Supp., ch. 116, par. 43.103a) might apply. Rather, the University is an arm of the State of Illinois (Kane v. Board of Governors (1976), 43 Ill. App. 3d 315, 319, 356 N.E.2d 1340, 1345). \* \* \* "

It is my opinion that neither Illinois State University nor the Board of Regents is exempt from the requirement of paying sheriff's fees under the exemption pertaining to units of local government and school districts. As agencies of the State, however, they are exempt from sheriff's fees.

In People v. Oregon Savings Bank (1934), 357 Ill. 545, 550, the court stated: "It is well established that the rights of the sovereign are never impaired by a general legislative enactment unless such an intent is expressly declared in the statute". (See, also, Village of Westchester v. Holmes (1945), 390 Ill. 436, 446.) Section 19 of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1981, ch. 53, par. 37) does not expressly declare that the State or its agencies are

subject to the fee requirements of this section. Public officers have no claim for official services rendered except where, and to the extent that, compensation is provided by law. Sprinkle v. County of Cass (1930), 340 Ill. 382, 383. Consequently, the fees in question do not apply to the State or any of its agencies.

The State and any of its agencies therefore are exempt from payment of sheriff's fees unless rendered liable for them under express statutory provision. The remaining matter is whether or not Illinois State University and the Board of Regents are State agencies.

Statutes relating to the Board of Regents demonstrate that the Board is an agency or arm of the State and not a unit of local government. The Board of Regents manages, operates, and controls Illinois State University pursuant to the provisions of section 1 of the Regency Universities Act (Ill. Rev. Stat. 1981, ch. 144, par. 301). The Board consists of nine members appointed by the Governor, by and with the advice of the Senate, and one nonvoting student member from each university governed by the Board. (Ill. Rev. Stat. 1981, ch. 144, par. 302.) Real property acquired by the Board is held for the People of the State of Illinois, for the use of the regency university concerned. (Ill. Rev. Stat. 1981, ch. 144, par. 307.)

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The General Assembly is authorized to make appropriations from the Board of Regents Income Fund in the State treasury for the support and improvement of the State colleges and universities under the jurisdiction of the Board of Regents. (Ill. Rev. Stat. 1981, ch. 127, par. 142a4.)

Expenditures of the Board of Regents are subject to both the State Comptroller Act (Ill. Rev. Stat. 1981, ch. 15, par. 201 et seq.) and the Illinois State Auditing Act (Ill. Rev. Stat. 1981, ch. 15, par. 301-1 et seq.).

In support of your conclusion that the Board of Regents is an agency of the State of Illinois you refer to McGuire v. Board of Regents of Northern Illinois University (1979), 71 Ill. App. 3d 998. Holding that a breach of contract action against the Board of Regents must be brought in the Court of Claims, the court stated at pages 1000-1001:

" \* \* \*

The language describing the structure of the Regency Universities (Ill. Rev. Stat. 1967, ch. 144, par. 307) discloses an intent that the Board of Regents is an agency of the State in the execution of its powers.

\* \* \*

Without recitation of detail, examination of the statutory provisions creating the Regency Universities and granting their powers disclose that such provisions meet the criteria of an arm or agency of the State as determined in Williams v. Medical Center Com. (1975), 60 Ill. 2d 389, 328 N.E.2d 1, and Kane v. Board of Governors (1976), 43 Ill. App. 3d 315, 356 N.E.2d 1340.

\* \* \*

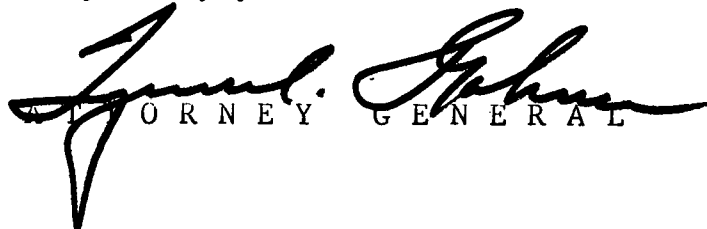
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The nature of the Board of Trustees of the University of Illinois was considered in People v. Barrett (1943), 302 Ill. 321. The court stated at page 243 that "it functions solely as an agency of the State for the purpose of the operation and administration of the university, for the State". See, also, Hoffman v. Yack (1978), 57 Ill. App. 3d 744; People v. Tadd (1973), 12 Ill. App. 3d 391; 1980 Ill. Att'y Gen. Op. 155.

I am therefore of the opinion that Illinois State University and the Board of Regents are agencies of the State. Consequently, they are exempt from the requirement of paying sheriff's service fees.

Very truly yours,

  
ATTORNEY GENERAL