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FILE NO. S-254

FINANCE:
Department of General Services
Insurance - Motor Vehicles

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

Dear Sir:

I have your letter referring to Public Acts 76-2020 and 76-2021 enacted by the 76th General Assembly. Your letter reads, in part, as follows:

"I have been instructed by the Legislative Audit Commission to request your opinion regarding the reference to 'motor vehicles owned or controlled by the State of Illinois' in each section of the statutes quoted above. More specifically, is it your judgment that these requirements pertaining to the purchase of public liability insurance apply only to State agencies under the direct jurisdiction of the Governor or are they applicable to all State agencies (including elected Constitutional officers, colleges and universities)?"

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Public Act 76-2020 (S.H.A. Chapter 127, Paragraph 63b13.16) provides:

"To charge, collect and receive from all other agencies of the State government fees or monies equivalent to the costs of purchasing public liability insurance covering drivers of motor vehicles owned or controlled by the State of Illinois, and repairing, servicing, and maintaining the motor vehicles used by such other agencies under Section 67.15 of this Act.¹ All contracts let under the provisions of this Act shall be by bid in accordance with the procedure set forth in the Illinois Purchasing Act."

(1. Illinois Revised Statutes 1969, Chapter 127, Paragraph 63b13.15, hereinafter quoted)

Public Act 76-2021 (S.H.A. Chapter 127, Paragraph 144.6) provides:

"Appropriations for the operation and maintenance of State garages including the servicing and repair of all automotive equipment owned or controlled by the State of Illinois, the purchase of necessary supplies, equipment and accessories for automotive use, the purchase of public liability insurance covering drivers of motor vehicles owned or controlled by the State of Illinois, and all other expenses incident to the operation and maintenance of the State garages are payable from the State Garage Revolving Fund. All contracts let under the provisions of this Act shall be by bid in accordance with the procedure set forth in the Illinois Purchasing Act."

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Illinois Revised Statutes 1969, Chapter 127, Paragraph 63b13.15, referred to in Public Act 76-2020, is a part of The Civil Administrative Code of Illinois. It pertains to the powers and duties of the Department of General Services, as does Public Act 76-2020. It was not amended by the 76th General Assembly, and provides:

"To supervise and administer all State garages used for the repair, maintenance or servicing of State-owned motor vehicles except those operated by any State college or university; and to acquire, maintain and administer the operation of the passenger cars reasonably necessary to the operations of the executive department of the State government. To this end, the Department of General Services shall occupy the space and take possession of the personnel, facilities, equipment, tools and vehicles which are in the possession or under the administration of the Department of Public Works and Buildings for these purposes on the effective date of this amendatory Act of 1967 and shall, from time to time, acquire such further, additional and replacement facilities, space, tools and vehicles as are reasonably necessary for the purposes described in this Section."

It is noted that Paragraph 63b13.15 empowers the Department of General Services to supervise and administer all State garages except those operated by any State college or university and to acquire, maintain and to administer the operation of the passenger cars reasonably necessary to

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the operations of the executive department of the State government. Public Act 76-2020 (Paragraph 63b13.16) authorizes the Department to charge, collect and receive "from all other agencies of the State government" the equivalent costs of repairing, servicing and maintaining "the motor vehicles used by such other agencies under Section 67.15 of this Act" and "the costs of purchasing public liability insurance covering drivers of motor vehicles owned or controlled by the State of Illinois". The costs of public liability insurance was added to this statute by Public Act 76-2020.

The Department of General Services makes purchases and contracts for the Departments created by The Civil Administrative Code and approves rules and regulations of other State agencies making purchases and contracts. (Illinois Revised Statutes 1969, Chapter 127, Paragraph 63b13.1) This statute reads as follows:

Paragraph 63b13.1:

"To make purchases of or contracts for supplies, commodities, equipment and utilities for the departments created by this Act. The Director may

authorize the various departments, pursuant to procedures established by him, to purchase or contract for supplies, commodities, equipment and utilities where such purchase or contract will result in economy or expedition to the State, except that all postage stamps purchased from State funds must be procured by the Department and perforated for identification purposes. All other State agencies shall purchase and contract for supplies, commodities, equipment and utilities in accordance with rules and regulations prepared by them and approved by the Department, except that all postage stamps purchased from State funds, including those purchased by the several courts of the State and by the legislature, its officers, committees and commissions, must be procured through the Department and perforated for identification purposes."

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

provides:

Paragraph 132.8:

"Any State agency, not otherwise subject to the jurisdiction of the Department of General Services for purchasing, may, upon request to the Director of General Services and under such reasonable conditions as the Director may impose, use the procurement facilities of the Department of General Services for purchases and contracts. All office supplies furnished for the use of the State shall be purchased in accordance with rules and regulations of the Department of General Services."

Illinois Revised Statutes 1969, Chapter 95 1/2.

Paragraph 10-101, (The Illinois Vehicle Code) provides:

"Insurance. (a) Any public entity or corporation may insure against the liability imposed by law in any insurance carrier duly authorized to transact business in this State and the premium for such insurance shall be a proper charge against the general fund or any applicable special fund of such entity or corporation.

"(b) Every employee of the State, who operates a vehicle owned by the State or licensed by the State for the use of the State over and upon the public highways of this State, shall procure, or the State may furnish without cost to said employee insurance in the limit of the amounts of liability not less than the amounts required in Section 7-203 of this Act. The State may not obtain any other vehicle insurance coverage. The premium for such insurance shall be a proper charge against the general fund of the State or any applicable special fund."

It is to be noted that this provision requires that every State employee operating a State vehicle or one licensed for use by the State have public liability insurance.

It may be purchased without cost to State employees and the premium charged against the general fund of the State or any applicable special fund.

These statutes, when all read together, mean that the Department of General Services has been given certain

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powers and duties over the State garages and the State motor vehicles. It is to be noted, however, that there is nothing contained in the statutes which indicates that these powers and duties are exclusive to any such power that might also exist in any other State office, department or agency. As I interpret these statutes, it is my conclusion that the Department of General Services has the power to make the acquisitions and to provide the services and the insurance referred to therein, for the Departments created under The Civil Administrative Code and, if requested, by any other agencies of the State government under their rules. The Department is authorized to charge such other agencies for such services. The power of such other agencies to make such acquisitions and provide such services for the agencies' own purposes is not limited or eliminated by these statutes. In other words, these amendments do not show any intent on the part of the legislature that authority which exists in such other agencies was to be taken away and placed entirely in the

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Department of General Services. It should also be pointed out that the reference in the statute (Public Act 76-2020-Paragraph 63b13.16) to "all other agencies of the State government" means all agencies other than the Department of General Services. Furthermore, it should be observed that Public Act 76-2021 (Paragraph 144.6), which pertains to appropriations, does not apply to any State agencies other than the Department of General Services, since that statute refers to appropriations for the operation and maintenance of State garages and such operation and maintenance is placed, by law, in the Department of General Services.

In direct reply to your specific question, it is my judgment that the requirements pertaining to the purchase of public liability insurance by the Department of General Services apply to Departments created by The Civil Administrative Code, and to such other State agencies as request purchase by the Department in accordance with their rules.

Very truly yours,

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