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SPRINGFIELD

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**COLLEGES AND UNIVERSITIES:
Necessity of Specific Legislative
Approval of Projects Funded by
Revenue Bonds under Constitution
of 1970**

Honorable James B. Holderman
Executive Director
Board of Higher Education
500 Reisch Building
119 South Fifth Street
Springfield, Illinois 62706

Dear Director Holderman:

I have your letter of September 23, 1971, in which
you ask:

"Does Illinois Revised Statutes, Chapter 144,
Section 1201 et seq., satisfy the requirements
of Article IX, Section 9(f) of the Constitution
of 1970 by providing a legislative authorization
to the Board of Governors to issue revenue bonds
in the manner provided by law?"

"Does Article IX, Section 9(f) require each revenue bond project proposed by the Board of Governors under the authority granted it in Chapter 144, Section 1203, to be submitted to the Illinois General Assembly for additional authorization as to the specific project and dollar amount?"

Section 9(f) of Article IX of the Constitution of 1970, to which you refer, reads as follows:

"(f) The State, departments, authorities, public corporations and quasi-public corporations of the State, the State colleges and universities and other public agencies created by the State, may issue bonds or other evidences of indebtedness which are not secured by the full faith and credit or tax revenue of the State nor required to be repaid, directly or indirectly, from tax revenue, for such purposes and in such amounts as may be authorized by law."

The State Colleges and Universities Revenue Bond Act of 1967 (Ill. Rev. Stat. 1969, ch. 144, pars. 1201 et seq.) to which you also refer, grants the Board of Governors of State Colleges and Universities authority to issue bonds to pay for revenue-producing facilities. Section 9 of that Act (Ill. Rev. Stat. 1969, ch. 144, par. 1209) specifically provides that:

"§ 9. Nothing in this Act shall be construed to authorize the Board or any University to

contract a debt on behalf of, or in any way to obligate, the State of Illinois, or to pledge, assign or encumber in any way, or to permit the pledging, assigning or encumbering in any way, of appropriations made by the General Assembly of the State of Illinois."

Thus, it is clear that the bonds authorized to be issued pursuant to the State Colleges and Universities Revenue Bond Act of 1967 come within the purview of Article IX, Section 9(f) of the Constitution of 1970.

In considering the proper manner in which to construe the Illinois Constitution, our Supreme Court has established the following propositions: (a) the Constitution is to be liberally construed; (b) the meaning of constitutional language is best ascertained by considering the purpose of the provision in question; (c) such provision should be construed to give effect to the spirit in which it was adopted; (d) narrow, technical reasoning should not be applied; and (e) that which is within the intention is within the provision even if not within the letter. Wolfson v. Avery, 6 Ill. 2d 64, 93-94; People ex rel. Rogerson v. Crawley, 274 Ill. 139, 142-143;

People v. Vickroy, 266 Ill. 384, 390; People ex rel. Gaines v. Garner, 47 Ill. 246, 253; People ex rel. Stickney v. Marshall, 6 Ill. 672, 682.

An important source for determining the intent of a constitutional provision is the record of the debates in the Constitutional Convention. In discussing the proposed draft of what is now Section 9(f) of Article IX of the Constitution of 1970, Chairman Mathias of the Convention's Education Committee stated:

"I think the universities can, if the General Assembly will authorize as they now have done; the Governing Board of the university --- if the General Assembly will authorize the Governing Board of a university to issue bonds for dormitories, then they could build it. If the General Assembly wants to say, you must bring each of these proposed dormitories in, get our approval, they can do that."

Sixth Illinois Constitutional Convention --
verbatim transcript. No. 104, August 9,
1970, p. 152.

It thus appears clear that the framers of the Constitution of 1970 intended to give the General Assembly broad latitude in determining the degree of control to be exercised by the General Assembly with respect to the issuance of revenue bonds.

Section 9 of the Transition Schedule which forms a part of the Constitution of 1970 states in part as follows:

"The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations and rules of court not contrary to, or inconsistent with the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution."

Based upon my analysis of the Constitution of 1970 and the other matters referred to herein, I am of the opinion that there is no conflict between the State Colleges and Universities Revenue Bond Act of 1967 and the Illinois Constitution of 1970. Therefore, the answer to your first question is "yes" and the answer to your second question is "no".

Very truly yours,

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