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FILE NO. S-1317

**FINANCE:**

Disposition of Interest  
Earned On Funds Appropriated  
To The Metropolitan Fair  
and Exposition Authority

Honorable Robert G. Cronson  
Auditor General  
State of Illinois  
Lincoln Tower Plaza  
Springfield, Illinois 62706

Dear Mr. Cronson:

I have your letter wherein you state as follows:

"The Metropolitan Fair & Exposition Authority received over the years direct appropriations for the purpose of paying principal and interest on McCormick Place Reconstruction Bonds. Over the years, the Authority immediately drew down the full amount of the appropriation and invested the appropriation until such time as it was needed to pay the annual installment of principal and interest. When the last appropriation was made to retire the bonds and pay the accumulated interest, the Authority requested the full amount of the appropriation rather than

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taking into account the account balance generated by interest earned on the funds.

\* \* \*

You inquire whether the interest accumulated by the Authority may be retained by the Authority or must be paid over to the State. For the reasons hereinafter stated, it is my opinion that the interest in question must be paid over to the State.

Section 8 of the Fair and Exposition Authority Reconstruction Act (Ill. Rev. Stat. 1976 Supp., ch. 85, par. 1250.8), which authorizes appropriation from the Metropolitan Fair and Exposition Authority Reconstruction Fund to the Metropolitan Fair and Exposition Authority and which restricts the use of funds appropriated, provides in pertinent part as follows:

"§ 8. After there has been paid into the Service Recognition Bond, Interest and Retirement Fund sufficient money to retire all bonds payable from that Fund, those taxes which were required to be paid into the Service Recognition Bond, Interest and Retirement Fund in the State Treasury shall thereafter be paid into the Metropolitan Fair and Exposition Authority Reconstruction Fund in the State Treasury, from which fund appropriations may be made by future General Assemblies of the State of Illinois from time to time to the Metropolitan Fair and Exposition Authority for the payment of principal and interest of bonds of the Authority issued under the provisions of this Act and when received by the Authority shall be used solely for the purpose of paying the principal of

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and interest on the bonds issued pursuant to this Act. Any and all of said funds so received shall be kept separate and apart from any and all other funds of the Authority. \* \* \* (Emphasis added.)

Although section 8 was amended by Public Act 77-2129, effective July 27, 1972, and Public Act 79-1390, effective August 17, 1976, the underscored portion of the section has remained unchanged since the Act became law in 1967. Laws 1967, p. 2350.

The intent of the General Assembly in enacting section 8 is made clear by the language of that section. The Authority is authorized to use appropriate funds for the payment of principal and interest on specified bonds. There exists no authority to draw down the funds at the earliest possible date for the purpose of using the funds for investment, and, should the funds be invested in contravention of section 8, there exists no authority to retain the interest earned thereon.

While the contention could be made that section 2 of "AN ACT relating to certain investments of public funds by public agencies" (Ill. Rev. Stat. 1975, ch. 85, par. 902) authorizes investment of the funds in question and permits retention of the interest earned thereon, such an assertion is overcome by section 8 of the Fair and Exposition Authority

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Reconstruction Act which places restrictions upon the use of the funds and requires that such funds be kept separate.

Furthermore, the Authority's attempt to earn interest at the expense of the State by drawing down appropriated funds before such funds are actually needed cannot be condoned.

In light of the manifest intent of the General Assembly as expressed in the restrictions contained in section 8, it must be concluded that the interest earned may not be retained by the Authority. Therefore, the funds in question must be paid over to the State.

Very truly yours,

A T T O R N E Y   G E N E R A L