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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
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File No. S-251

FINANCE:

**Investment of Illinois State
Toll Highway Commission Bond Funds**

**The Honorable Charles W. Woodford
Treasurer of the State of Illinois
State House
Springfield, Illinois**

**Mr. Elliot W. Frank
Chairman
Illinois State Toll Highway Authority
East West Toll Road at Midwest Road
Oak Brook, Illinois 60521**

Gentlemen:

You have requested advice regarding authority to invest the proceeds from bonds issued pursuant to a 1955 Bond Resolution of the Illinois State Toll Highway Commission. I understand that the Resolution provided that the funds would be continuously invested and reinvested by the Treasurer in direct obligations of the United States Government. You have referred to the investment authority of the State Treasurer under Illinois Revised Statutes 1969, Chapter 85, Paragraph 901 et seq. and Chapter 130,

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Paragraph 41a. Those statutes do not limit investments to direct obligations of the United States Government.

The Toll Highway Commission Act (Illinois Revised Statutes 1955, Chapter 121, Paragraph 314a26 et seq.) provided, when this Bond Resolution was adopted, as follows:

Paragraph 314a39:

"The Commission shall have power, by resolution, to issue and sell bonds from time to time in its discretion to finance, in whole or in part, the cost of the acquisition, purchase, construction, reconstruction, improvement, relocation, alteration or extension of any toll highway and the expenses incident to the exercise of the power conferred upon the Commission in relation to the construction of a toll highway. * * *

"The proceeds from the sale of said bonds shall be paid to the Treasurer of the State of Illinois as ex-officio custodian. * * * *"

Paragraph 314a45:

"The State Treasurer shall be ex officio custodian of such special fund, which fund shall be held and disbursed for the purposes provided herein upon the order of the Commission. * * *"

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The above quoted provisions from the Act in 1955 are still contained in the Act presently. I am not aware of any provision in the said Act specifying the investment or use to be made by the State Treasurer of these funds put in his custody, other than above quoted; also, I find nothing expressly in the Act authorizing the Commission to otherwise direct how the State Treasurer shall use such funds in the Resolution authorizing the issuance of the Bonds. It, therefore, appears to me that the Commission had no authority to attempt to limit the investment authority of the State Treasurer by so specifying in the Bond Resolution. The Act merely provides that the State Treasurer shall be ex officio custodian of the funds.

Illinois Revised Statutes 1969, Chapter 85,
Paragraph 901 et seq., known as the Investment Of
Public Funds Act, provides, in part, as follows:

Paragraph 901:

"The words 'public funds', as used in this Act, mean current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

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"The words 'public agency', as used in this Act, mean the State of Illinois, * * *"

This Act contained the same provision in 1955.

The Act presently, and in 1955, provides in Paragraph 902, for the types of investments of public funds that may be made by any public agency.

It is my belief that the State Treasurer, as ex officio custodian of these Toll Highway Commission Bond Funds, is authorized to invest them in accordance with the statutory authority granted in Illinois Revised Statutes 1969, Chapter 85, Paragraph 902, and as existed in 1955 in Illinois Revised Statutes 1955, Chapter 102, Paragraph 30. This is because the Toll Highway Commission Act did not and does not refer to investments for these funds by the Treasurer but, rather only states that the State Treasurer shall be the ex officio custodian of the funds, and the above cited Investment Of Public Funds Act expressly authorizes the investment of public funds in certain types of obligations.

In direct reply to the specific question asked, the answer is that the investment authority of the

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State Treasurer is not limited by the Bond Resolution adopted by the Commission, and the Treasurer has the full statutory authority with regard to such funds that is provided in the Investment Of Public Funds Act.

Very truly yours,

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