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FINANCE:
State Budget

Honorable William C. Harris
Minority Leader
State of Illinois Senate
Springfield, Illinois 62706

Dear Senator Harris:

This responds to your letter requesting my opinion as to whether the Illinois Constitution of 1970 precludes the General Assembly from enacting legislation providing for a biennial budget. As you note in your letter, the applicable constitutional provision is section 2(a) of article VIII, the first sentence of which states:

"The Governor shall prepare and submit to the General Assembly, at a time prescribed by law, a State budget for the ensuing fiscal year."

In my opinion section 2(a) plainly requires that the Governor prepare and submit an annual budget and that as a result the

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legislature may not provide by law for a biennial budget.

The Supreme Court of Illinois has held repeatedly that the language of constitutions, as well as statutes, should be read and understood according to the most natural and obvious import of the language used. (Austin v. Healy, 376 Ill. 633; City of Beardstown v. City of Virginia, 76 Ill. 34.) Similarly, it was said in People v. Stevenson, 281 Ill. 17, at 26 that in construing the Constitution "courts will not disregard the plain and ordinary meaning of the words used to search for some other conjectural contention".

The first sentence of section 2(a) of article VIII provides that the Governor "shall prepare and submit" at the time prescribed by law a budget "for the ensuing fiscal year". (emphasis added.) Webster's Third New International Dictionary defines the word "ensue" to mean "to follow in chronological succession". Reading the first sentence of section 2(a) in light of this definition, it seems evident that the obvious and natural import of the language used there is to require that a budget be prepared and submitted for each succeeding fiscal year.

Support for this position can be found at pages 11-12 of the Majority Report of the Committee on Revenue and Finance.

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(VII Record of Proceedings 2017-2018.) In explaining to the convention the meaning of what is now the first sentence of section 2(a), the Committee stated that it "establishes annual budgeting".

Similarly, it is evident from the debates of the Constitutional Convention the delegates understood section 2(a) to require an annual budget. For example, in an exchange between delegate Netsch of the Committee on Revenue and Finance, and delegate Gertz, it was said that:

"Mr. Gertz: Mrs. Netsch does this section, in effect, mandate an annual session of the General Assembly, at least for fiscal purposes?

Mrs. Netsch: It does contemplate annual budgeting, yes." (II Record of Proceedings 880.)

In addition, on two other occasions delegate Netsch spoke of section 2(a) as providing for a budget for the "following fiscal year". II Record of Proceedings 877 and 880.

It is therefore my opinion that section 2(a) of article VIII of the Illinois Constitution of 1970 plainly calls for the preparation and submission by the Governor of an annual budget. Further, I am of the opinion that this provision of the Constitution is mandatory and not merely directory.

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Section 2(a) states that the Governor "shall" prepare and submit a budget for the ensuing fiscal year. In construing the language of the Constitution the same general principles are to be applied as pertain to the construction of a statute. (Peabody v. Russel, 301 Ill. 439.) The court in Clark v. Patterson, 214 Ill. 533, in construing the word "shall" noted that although under certain special circumstances it might be held to have only a directory meaning, in "common and ordinary meaning the word has always a compulsory sense". Nothing in the language of section 2 of article VIII read as a whole, or the Proceedings of the Constitutional Convention, indicate that the word "shall" in section 2(a) was meant by the framers of the Constitution to convey any meaning other than that commonly and ordinarily understood.

I therefore am of the opinion that the requirement of an annual budget contained in section 2(a) of article VIII of the Illinois Constitution of 1970 is mandatory and imperative and as a result the General Assembly may not enact legislation providing for a biennial budget.

Very truly yours,

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