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FILE NO. S-413

STATE MATTERS:

**Commission for Economic Development
Overseas Office**

Honorable Tom Merritt
Chairman
Commission for Economic Development
222 South College
Springfield, Illinois 62706

Dear Senator Merritt:

I have your letter of recent date wherein you
state:

"Inasmuch as I am Chairman of the Illinois Commission for Economic Development, we have recommended in our last Report to the Governor and the General Assembly that the State of Illinois, through the Department of Business and Economic Development, establish an Overseas Office at some location in the Far East. A small group of our Commission recently completed a fact-finding tour of several cities in the Far East studying the feasibility of opening an Overseas Office in that area, and some key

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Members of our Commission will be meeting shortly after March 1, with the Governor and the Director of the Department, in hopes that we can come to some common agreement for the funding of this operation.

"Our Commission has suggested that I write you asking for a written opinion as to whether the existing Statutes provide for the establishment of another Overseas Office (since there is already one in existence in Brussels at the present time), as it will be most important that we have this opinion in our files when such an appropriation is being considered in the coming Session of the Legislature. This for the obvious reason, that the question will undoubtedly be asked on many occasions if the existing Statutes already provide for the establishment of another Overseas Office, or whether further Legislation to accomplish this would be necessary."

Section 46.1 of The Civil Administrative Code of Illinois (Ill. Rev. Stat., 1971, ch. 127, par. 46.1) provides as follows:

"The Department of Business and Economic Development has the powers enumerated in Sections 46.2 through 46.30."

Sections 46.24, 46.25 and 46.26 of The Civil Administrative Code of Illinois (Ill. Rev. Stat., 1971, ch. 127, pars. 46.24 - 46.26) respectively provide as follows:

"§46.24. In cooperation with the Department of Agriculture and the International Trade and Port Promotion Advisory Committee, to (a) provide assistance to those manufacturing and service companies who desire to export agricultural machinery, implements, equipment, other manufactured products and professional services; (b) encourage Illinois companies to initiate exporting or increase their export sales of agricultural and manufactured products; (c) cooperate with agencies and instrumentalities of the federal government in trade development activities in overseas markets; (d) conduct the necessary research within Illinois and in overseas markets in order to assist exporting companies; (e) promote the State of Illinois as a source of agricultural and manufactured products through information and promotion campaigns overseas; and (f) conduct an information program for foreign buyers of Illinois agricultural and manufactured products."

"§46.25. In cooperation with the Department of Agriculture and the International Trade and Port Promotion Advisory Committee, to (a) establish a freight rate information service for U. S. and foreign shippers; (b) promote the advantages of Illinois water ports and existing airport facilities through appropriate means and media in this country and overseas; and (c) cooperate with the export expansion projects and any other activity that results in the additional flow of agricultural and manufactured products through the Illinois water ports and existing airport facilities."

"§46.26. In cooperation with the Department of Agriculture and with the counsel of the

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International Trade and Port Promotion Advisory Committee, to establish an overseas office for (a) the promotion of the export of Illinois agricultural and manufactured products; (b) representation of Illinois seaports; (c) economic development; and (d) tourism promotion and services."

Although your letter deals primarily with the construction of said section 46.26, it is best that the preceding statutes be read and construed together. They were originally enacted together (Laws of 1967, p. 2003, approved July 24, 1967) and were simultaneously amended. P.A. 77-1335, effective August 27, 1971.

The issue that your letter raises is whether or not said section 46.26 authorizes the Department of Business and Economic Development, hereinafter referred to as the Department, to open more than one overseas office. This issue can only be resolved by construction of the phrase "an overseas office."

"The primary rule in the interpretation and construction of statutes is that the intention of the legislature should be ascertained and given effect. (Certain

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Taxpayers v. Sheahan, 45 Ill. 2d 75, 84.) Thus, in construing the phrase "an overseas office" one must search for the legislative intent.

"An overseas office" is subject to two constructions. One, it can be construed to mean that the legislature intended that a special office of the Department be opened, here in the State of Illinois, to perform the various activities said office is assigned in section 46.26. Or, "an overseas office" can be construed to mean that the legislature intended to authorize the Department to open an office in a foreign or overseas country.

"Words employed in a statute should be given their plain and ordinary, or commonly accepted or popular meaning, unless to do so would defeat the legislative intent." (Droste v. Kerner, 34 Ill. 2d 495, 503, cert. den. 385 U.S. 456.) The World Book Encyclopedia Dictionary (2 The World Book Encyclopedia Dictionary 1382 (1963)) defines the word "overseas" as follows:

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"Overseas - across the sea; beyond the sea; abroad. 1. done, used, or serving overseas; 2. of or in countries across the sea; foreign."

67 C.J.S., at p. 545, defines the word "oversea" as "beyond the seas." In the face of these accepted meanings, the legislature obviously intended to authorize the Department to open an office in an overseas country.

Furthermore, "it is an elementary rule of statutory construction that all the parts of an act relating to the same subject should be considered together and not each alone, so that the purpose and intent of the whole act can be ascertained and given effect as consistent provisions to accomplish the purpose intended." (People v. Handzik, 410 Ill. 295, 302.) As mentioned earlier, said sections 46.24, 46.25 and 46.26 were enacted and amended simultaneously. Section 46.24(d) authorizes the Department to "conduct the necessary research within Illinois and in overseas markets in order to assist exporting companies." (Emphasis added) Section 46.24(e) authorizes the Department to "promote the

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State of Illinois as a source of agricultural and manufactured products through information and promotion campaigns overseas." (Emphasis added) Section 46.25(b) authorizes the Department to "promote the advantages of Illinois water ports and existing airport facilities through appropriate means and media in this country and overseas." (Emphasis added)

Thus, the General Assembly has clearly authorized the Department to send its personnel overseas to foreign countries to promote the exporting of Illinois agricultural and manufactured products and to promote the use of Illinois water ports and airports. It is only reasonable to assume that the legislature intended to authorize the Department to open an office overseas so that personnel of the Department can use that office as a base of operations to carry out the mandate of sections 46.24 and 46.25.

Therefore, I am of the opinion that the legislature intended by the phrase "an overseas office" to authorize the Department to locate the office in an overseas country.

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Now, we can turn to the issue of whether the legislature intended by use of the phrase "an overseas office" to allow the Department to open more than one such office. This issue centers on the construction of the word "an." "An" is an indefinite article. (State ex rel. Hurd v. Blomstrom, 72 S.D. 562, 530, 37 N.W. 2d 247, 249.) It is seldom used to denote plurality. People v. Ogden, 40 N.Y.S. 827, 828.

Earlier I quoted a rule of statutory construction that words will be given their ordinary meaning unless to do so would defeat the legislative intent. (Droste v. Kerner, 34 Ill. 2d 495, 530, cert. den. 385 U.S. 456.) I am of the opinion that the article "an" ought not to be construed in its ordinary sense, i.e., the singular sense. To do so, would defeat the legislature's intent.

It might be pointed out, at this point, that it is a common rule of statutory construction that the spirit or intent of the law shall prevail over the letter of the law. (34 I.L.P., Statutes, sec. 115 (1958)). The preceding rule

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was eloquently stated by the Illinois Supreme Court as follows:

"Courts do not have the power to give words the meaning which was not within the intent of the legislature, but if the intent is clear they are not confined to the literal meaning of the words. The maxim is, that a thing within the intention is regarded within the statute though not within the letter."

Anderson v. City of Park Ridge,
396 Ill. 235, 254.

I base my opinion that the legislature intended to authorize the Department to open more than one overseas office from the mandate the legislature has given to the Department in section 46.24 and 46.25. Throughout these sections the legislature mandates the Department to promote the exporting of Illinois agricultural and manufactured products and to promote the use of Illinois airports and water ports. The legislature uses the following terms in these sections: overseas markets; foreign buyers; and foreign shippers. At no point does the legislature direct the Department to deal with any one, specific country or any one

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area of the world. The legislature continuously uses general terms in mandating the Department to strengthen the economy of Illinois by promotion of foreign trade.

Sections 46.13 and 46.14 of The Civil Administrative Code of Illinois (Ill. Rev. Stat., 1971, ch. 127, pars. 46.13, 46.14) deserve quoting at this point:

"§46.13. To assist Illinois businesses in obtaining contracts from the United States Government and from foreign countries."

"§46.14. To assist Illinois businesses to engage in, expand and increase foreign trade."

Construing these sections together with sections 46.24 and 46.25, one ascertains that the legislature intends that there shall be no limit as to what country or areas of the world the Department can travel to and deal with in an effort to strengthen the Illinois economy. As far as the geographic limits of the Department's power to promote and further the Illinois economy, the mandate of the legislature is world wide.

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"It is a familiar rule of statutory construction that if the language employed admits of two constructions, one of which makes the enactment absurd if not mischievous, while the other renders it reasonable and wholesome, the construction which leads to an absurd result should be avoided." (Kloss v. Suburban Cook Co. Sanitarium, 404 Ill. 87, 97.) I am of the opinion that the legislature intended to authorize the Department to open more than one overseas office. To limit the Department to only one overseas office would defeat the legislative intent to promote the Illinois economy all over the world and would lead to absurd results, e.g., it would be difficult, to say the least, for the Belgium office to promote the Illinois economy in far eastern markets.

In summary, I am of the opinion that the Department can open an office overseas; also, the Department can open more than one overseas office.

Very truly yours,

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