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FILE NO. S-936

CONSTITUTION:
Item Veto Power -
Striking Language From
An Appropriation Bill

-

Honorable George W. Lindberg
Comptroller
State of Illinois
Room 201
State House
Springfield, Illinois 62706

Dear Comptroller Lindberg:

House Bill 2355 (Public Act 78-1057) was passed by the General Assembly on July 11, 1974. The Governor signed this bill on July 23, 1974, subject to certain item and reduction vetoes. Of particular importance was an attempt by the Governor to use his item veto power to strike certain language of section 7 of House Bill 2355. In his message to the General Assembly, the Governor stated:

> "Article IV, Section 8(d) of the Constitution of 1970, provides in pertinent part: 'Appropriation bills shall be limited to the subject of appropriations.' The item on page 5 at lines 19 through 28 purports to establish a substantive standard for payment in an appropriations bill. This language is invalid under the above quoted language from the 1970 Constitution. In order to avoid confusion and to forestall the possibility of a Constitutional attack on the bill, I am, pursuant to the item veto power of Article IV, Section 9(d) of the Constitution of 1970, hereby vetoing the language at page 5, lines 20 through 28, commencing with 'in the' in line 20 and continuing through 'July 1, 1974' in line 28."

House Bill 2355 is titled: "AN ACT to provide for the ordinary and contingent expenses of certain agencies of the state government."

Section 7 of House Bill 2355 reads in pertinent part:

> "Section 7. The following named sums, or so much thereof as may be necessary are appropriated to the Department of Public Health for the following objects and purposes, and in the following amounts:
>
> * * *
>
> For grants to local governments for health services <u>in the same amount that each received during fiscal year 1974, plus an</u>

> increase of one-third for each local government that is providing, or has acceptable plans to provide, the basic Public Health programs, according to the recommendations developed by the State Department of Public Health as of July 1, 1974. 3,790,000
>
> * * *
>
> (emphasis added.)

The language underlined denotes the portion of section 7 that the Governor attempted to strike by item veto.

The "item of appropriation" appearing in section 7 was $3,790,000. This monetary figure was not vetoed or reduced but was left intact. The patent effect of the Governor's attempted use of the item veto power is to strike certain "hand-picked" words while leaving unstricken the remaining words of the item, thus removing all qualifications and conditions bearing upon the expenditure of the $3,790,000.

In response to the Governor's attempted item veto of language in section 7 of House Bill 2355, the Speaker of the House of Representatives ruled that the Governor had improperly exercised his item veto power and cited Illinois Attorney General Opinion S-630 (October 11, 1973) as authority

for his ruling. House Journal No. 167, Nov. 22, 1974, p. 28.

In Opinion S-630, it is stated:

> "Section 9(d) of article IV of the Illinois Constitution of 1970 grants to the Governor only the power to veto or reduce an item of appropriation. The power to veto or reduce an item of appropriation does not authorize the Governor to alter or eliminate a condition or limitation placed on the expenditure of an appropriation by the General Assembly. The Opinion of the Justices, 294 Mass. 616, 2 N.E. 2d 789; Fulmore v. Lane, 104 Tex. 499, 140 S.W. 405; State v. Holder, 76 Miss. 158, 23 So. 643; Bengzon v. Secretary of Justice, 299 U.S. 410; Commonwealth v. Dodson, 11 S.E. 2d 120."

Section 9(d) of article IV of the Illinois Constitution of 1970 provides:

> "(d) The Governor may reduce or veto any item of appropriations in a bill presented to him. Portions of a bill not reduced or vetoed shall become law. An item vetoed shall be returned to the house in which it originated and may become law in the same manner as a vetoed bill. An item reduced in amount shall be returned to the house in which it originated and may be restored to its original amount in the same manner as a vetoed bill except that the required record vote shall be a majority of the members elected to each house. If a reduced item is not so restored, it shall become law in the reduced amount."

An "item of appropriation" is a specified sum of money to be used for a specified purpose. People v. Brady, 277 Ill. 124; Commonwealth v. Dodson, 176 Va. 281, 11 S.E. 2d 120 (1940); Fairfield v. Foster, 25 Ariz. 146, 214 P. 319 (1923); Green v. Rawls, 122 So. 2d 10 (Fla. 1960).

The language which the Governor attempted to strike provides that each local government receive the same amount as it received in fiscal year 1974. It also makes each local government eligible for a one-third increase in funds if the local government provides, or has plans to provide, the basic public health programs recommended by the Illinois Department of Public Health. You have inquired as to the legality of this language. Two specific issues are raised: (1) Whether the Speaker of the House of Representatives was correct in ruling that the Governor had improperly exercised his item veto power; (2) Whether the pertinent language violates the constitutional provision limiting appropriations to the subject of appropriations.

The Governor attempted to justify his use of the

item veto power by declaring that the language that he was attempting to strike from the bill violated that portion of section 8(d) of article IV of the Illinois Constitution which states: "Appropriation bills shall be limited to the subject of appropriations."

The object and purpose of the constitutional provision limiting the subject of appropriation bills to appropriations was delineated by the Illinois Supreme Court in People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38, where at page 42 the court states:

> "The constitutional provision which limits appropriation bills to the subject of appropriations is not simply a formal requirement in the enactment of legislation. It is much more than that. It has its roots in the doctrine of separation of powers. As a practical matter, if subjects other than the immediate subject of appropriations in the sense of authorizations of expenditures are permitted to be included in an appropriations bill, then the veto power of the Governor is effectively nullified. Appropriation bills are characteristically passed late in the legislative session and they must become effective in order to prevent government operations from being brought to a complete stop. The Governor's amendatory veto power is also affected, for an amendatory veto would also delay the availability of the appropriated funds to insure the continued operation of governmental functions."

The item veto power also has its roots in the separation of powers. The item veto power serves, however, to correct an abuse of legislative power different in kind from that corrected by the constitutional provision prohibiting general legislation from being tacked onto an appropriation bill. The item veto power serves to check the power of the General Assembly to expend State funds.

Without an item veto power, the Governor would have no realistic tool to check unwanted or undesirable appropriations. He could veto the entire appropriation bill but this would impair the continued operation of governmental functions. The item veto power enables the Governor to strike items of an appropriation bill while the remainder of the bill becomes law.

To use the item veto power to correct suspected violations of the constitutional provision limiting appropriation bills to the subject of appropriations would violate the plain intent of section 9(d) of article IV of the Illinois Constitution of 1970. Section 9(d) of article IV of the Illinois Constitution was designed to empower the Governor to check the spending

power of the General Assembly. On the other hand, the object and purpose of the constitutional provision limiting appropriation bills to the subject of appropriations was to prevent a tacking on of substantive legislative riders to appropriation bills. The item veto power may not be used to strike language suspected as being in violation of the constitutional provision limiting appropriation bills to the subject of appropriations.

To allow the Governor to use his item veto power to strike language from an appropriation bill would open the door to a possible abuse of the executive power. For example, if the Governor could, through his item veto power, strike selected words and phrases from an appropriation bill, while leaving the appropriation itself intact, he could dramatically alter the intent of the legislature. (See, Patterson v. Dempsey, 207 A. 2d 739 (Conn. 1965); In re Opinion of the Justices, 294 Mass. 616, 2 N.E. 2d 789 (1936).) Language used by the General Assembly to describe the purpose of an appropriation could be altered in such a way that the legislative purpose for which the appropriation was originally intended would be drastically

changed so that the funds could potentially be used for a completely different purpose. An obvious example of such a change in legislative intent could follow from elimination of negative or prohibitory language, i.e., the word "not", in a condition or restriction to an item in an appropriation bill.

In Fergus v. Russel, 270 Ill. 304, the Illinois Supreme Court considered the legality of the Governor modifying certain items of appropriation. The Governor attempted in some instances to strike out the words "per annum" appearing after a monetary figure. It was argued that this was an improper use of the item veto power and as such was a nullity and of no effect. The court agreed that the Governor had misused his item veto power. At page 348, the court states:

> "* * * We think it is clear that the power given the Governor by the consititution to disapprove of and veto any distinct item or section in an appropriation bill does not give him the power to disapprove of a part of a distinct item and approve the remainder. To permit such a practice would be a clear encroachment by the executive upon the rights of the legislative department of the State. * * *"

The potential abuse of the item veto power was ably discussed by the Supreme Judicial Court of Massachusetts in In re Opinion of the Justices, 294 Mass. 616, 2 N.E. 2d 789 (1936). The Massachusetts legislature had passed an appropriation bill appropriating $100,000 for the use of the Governor subject to certain specified limitations, i.e., that not less than $50,000 was to be used to carry out the provisions of specified statutes, not less than $10,000 was to be used to entertain the President of the United States and other dignitaries, and not more than $5,000 was to be transferred to other specified items of the same appropriation bill. The Governor attempted to strike out the limitations while leaving the $100,000 item of appropriations intact. The court held that the Governor could not alter or eliminate any conditions or limitations placed on the expenditure of an appropriation by the Massachusetts legislature while at the same time generally approving the bill. Such action would be tantamount to gubernatorial legislation. The court reasoned as follows:

"* * * Power is conferred upon the Governor to reduce a sum of money appropriated, or to disapprove the appropriation entirely. No power is conferred to change the terms of an appropriation except by reducing the amount thereof. Words or phrases are not 'items or parts of items.' This principle applies to the condition attached to the appropriation now in question. That condition is not an item or a part of an item. The veto power conferred upon the Governor was designed to enable him to recommend the striking out or reduction of any item or part of an item. In the present instance His Excellency the Governor did not undertake to veto the appropriation of $100,000 made by item 101, or any part of it; nor to reduce that amount or any part of it apportioned to a specific purpose. He sought, rather, as shown by his message, to enlarge the appropriation made by the General Court by throwing the $100,000 into a common fund to be used for any one of several different purposes. We are of opinion that the power conferred upon him by said article 63 does not extend to the removal of restrictions imposed upon the use of the items appropriated. It is plain that no other provision of the Constitution confers power upon the Governor to disapprove the condition attached to the item in question.

The result is that the disapproval of that condition was a nullity. * * *" (In re Opinion of the Justices, 294 Mass. 616, 620-621, 2 N.E. 2d 789, 790-791; see, also, Lee v. Dowda, 19 So. 2d 570, 573 (Fla. 1944).)

It should also be noted that the item veto power may only be overridden by a three-fifths vote of both houses of the General Assembly. Thus, by deleting selected words and phrases the legislative intent of an act could be changed and restoration of such an intent could only be accomplished by an extraordinary majority.

The General Assembly is constitutionally empowered to appropriate the funds belonging to the State of Illinois. (Ill. Const., art. VIII, sec. 2(b).) To construe section 9(d) of article IV of the Illinois Constitution of 1970 as granting the Governor the power to alter or eliminate language appearing in the appropriation bill, while the remainder of the bill would become law, could seriously upset the General Assembly's determination as to <u>how</u> State funds may best be allocated to meet the needs of the people of the State of Illinois. Such a use of the item veto power would not only violate the plain meaning of section 9(d) of article IV of the Illinois Constitution of 1970 but would open the door to abuses of executive power that could potentially conflict with that portion of section 2(b) of article VIII of the Illinois

Constitution of 1970 which requires the legislature to make appropriations of funds belonging to the State of Illinois.

This interpretation of the Constitution is implicit in the language of the Illinois Supreme Court hereinbefore quoted from the case of People ex rel. Kirk v. Lindberg, 59 Ill. 2d 38, 42, in which the court acknowledged the inability of the Governor to use his item veto power to strike certain language from the appropriation bill there in question. The court went on to say that the Governor's only power over that language, short of an outright veto of the entire bill, would lie in the use of his amendatory veto powers. Also implicit in the court's holding in the Kirk case is the fact that the Governor's item veto power is not in any way broadened or expanded when the language he wishes to strike may be in violation of the constitutional provision limiting appropriation bills to the subject of appropriations. (Lee v. Dowda, 19 So. 2d 570 (Fla. 1944).) To construe the Constitution as authorizing the Governor to exercise his item veto powers to strike language he deems unconstitutional from an

appropriation bill would necessarily carry with it the construction of the Constitution that would authorize the General Assembly to restore unconstitutional language by a vote to override, a double exercise in futility. Of course, if the General Assembly failed to override, the Governor would have made the final determination as to the constitutionality of the language involved, thus successfully invading the province of the courts to whom such determinations are reserved by our Constitution.

Therefore, I am of the opinion that the Speaker of the House was correct in ruling that the Governor's attempted item veto of language in section 7 of House Bill 2355 was ineffective.

Next, it is necessary to consider whether the pertinent language of House Bill 2355 violates the constitutional provision limiting appropriation bills to the subject of appropriations. Although there was a provision in the Illinois Constitution of 1870 (sec. 16 of art. IV) which restricted bills appropriating officers' salaries to no other subject, the provision in the Illinois Constitution of 1970 is broader and the few Illinois cases which interpreted the meaning of the limitation under the Illinois Constitution of 1870 do not

provide much guidance for interpretation of the new constitutional provision. The Illinois Supreme Court in People v. Joyce, 246 Ill. 124, 128, described the purpose of section 16 of article IV of the Constitution of 1870 as follows:

> "The manifest object of this provision is to separate legislation from appropriation, in order that no officer's salary shall depend upon legislation and no legislation upon the salary of any officer."

See also Ritchie v. People, 155 Ill. 98; Matthews v. People 202 Ill. 389; and Fergus v. Russel, 270 Ill. 304.

Braden and Cohn state that the purpose of section 16 was two-fold: (1) to prevent unwanted appropriations from being forced upon the Governor who would have to deny himself and other officers their pay if he were to veto the bill; and, (2) to prevent the tacking on of legislative riders to the appropriation bill for pay of State officers. (Braden and Cohn, "The Illinois Constitution: An Annotated and Comparative Analysis", October 1969.) The purpose of the provision limiting appropriation bills to the subject of appropriations in the Constitution of 1970 is at least as broad as this.

The debates of the 6th Illinois Constitutional Convention are sparse in discussion of the new constitutional provision limiting appropriation bills to the subject of appropriations. However, the debates do make clear that sub-

stantive legislation ought not be placed in a bill with appropriations:

> "MRS. NETSCH: And may I ask one other question? 'Appropriation bills shall be limited to the subject of appropriations.' My question has to do with the kind of hybrid bills that are so frequently passed by the General Assembly; for example, a bill creating a commission in which the substance of the creation of the commission -- its membership, powers, and so forth -- are set forth, and frequently the last section is an appropriation for that commission. Is that an appropriation bill or is it not?
> MR. LEWIS: Delegate Netsch, the intention of the committee in our language was to make it -- was to make it clear that there would not be an appropriation attached to a law or attached to the forming of a commission.
> Now, I have reference to the Atomic Energy Commission and an amendment in 1970 which just occurred, where there was an act amending the Atomic Energy Commission Act, and in the end of it, it appropriated $15,000 to the commission for fiscal 1971. We would propose and intend that that amendment, of itself, was a law, and that the appropriation should have been separate from that, and that the matter of appropriation should be separate from the law itself. We think there is good reason that we should not have the hybrid.
> MRS. NETSCH: Then you would contemplate, then, that the -- again taking the commission bill as an example -- that the text of the bill creating the commission would be one bill, and the appropriation for that commission would be a separate bill."
> (IV Record of Proceedings 2701.)

The interpretation put on the provision by the Illinois Supreme Court in Kirk v. Lindberg, supra, has already been discussed. It should be noted, however, that that case involved a

section of an appropriation bill which related to the authority of the Department of Local Government Affairs to use Federal grant monies. The section did not appropriate any funds and did not involve a condition or limitation on an item of appropriation similar to language involved here.

Other jurisdictions have constitutional provisions similar to our constitutional provision limiting appropriation bills to the subject of appropriations. For example, section 20 of article IV of the Constitution of Arizona reads:

> "The general appropriation bill shall embrace nothing but appropriations for the different departments of the State, for State institutions, for public schools and for interest on the public debt. * * * "

Sellers v. Frohmiller, 24 P. 2d 666 (Ariz. 1933), was an original proceeding to mandamus the auditor to issue a warrant on funds appropriated by a general appropriation bill. The general appropriation bill contained a provision empowering the Governor to authorize the obligation or expenditure of funds appropriated to various State agencies for "operation and/or travel", thus removing discretion from the various State agencies in expending their appropriations for this purpose. The Arizona Supreme Court held that the grant of powers to the Governor was in violation of section 20 and, therefore, void. The court

described the purpose of section 20 as follows:

> "'* * * The very purpose of this provision of the Constitution is to confine the general appropriation bill to appropriations for the different departments of the state government and exclude from it all legislation except, perhaps, that which is clearly incidental to or explanatory of a particular appropriation.' * * * "

In State v. Angle, 91 P. 2d 705 (Ariz. 1939), the Arizona Supreme Court demarked what material may properly appear in the general appropriation bill.

> "'* * * After a careful review of the cases, we think the rule laid down thereby may be stated as follows: The general appropriation bill can contain nothing but the appropriation of money for specific purposes, and such other matters as are merely incidental and necessary to seeing that the money is properly expended for that purpose only. Any attempt at any other legislation in the bill is void. * * * "

In Caldwell v. Board of Regents of the Univ. of Ariz., 96 P. 2d 401 (Ariz. 1939), the Arizona Supreme Court struck down a provision in the general appropriation bill that prevented State agencies from hiring both husband and wife. The court upheld plaintiff's contention that a violation of section 20 of article IV had occurred. At page 404, the court stated:

> "Since the proviso in question is unquestionably in substance an attempt to enact far reaching general legislation establishing a new qualifica-

> tion for all state employees whose salaries are paid under the general appropriation bill, and since such general legislation in that bill is expressly forbidden by art. IV, sec. 20, supra, we hold that the proviso is unconstitutional and void, and that the defendant will not violate any law by employing all of plaintiffs, if the only objection to their employment is that any two of them are husband and wife."

The principles developed by the Arizona Supreme Court in construing section 16 of article IV are as follows: (1) The general appropriation bill may contain matter incidental to or explanatory of an appropriation; (2) the general appropriation bill may not contain "substantive legislation" or "general legislation". Matters incidental to an appropriation apparently means matters that are so interwoven or intertwined with an item of appropriation that they do not make sense cut apart from the appropriation.

In State ex rel. Whittier v. Safford, 214 P. 759 (N.M. 1923), the New Mexico Supreme Court construed section 16 of article IV of the New Mexico Constitution which reads in pertinent part as follows:

> "General appropriation bills shall embrace nothing but appropriations for the expense of the executive, legislative and judiciary departments, interest, sinking fund, payments on the public debt, public schools, and other expenses required by existing laws; but if any such bill contain any other matter, only so much thereof as is hereby forbidden to be placed

therein shall be void. All other appropriations shall be made by separate bills."

At page 760 of its opinion, the court states:

"The object and purpose of the constitutional provision quoted was to protect the treasury against legislative raids by the insertion of special appropriations for new purposes in a general appropriation bill where they might easily pass unnoticed. When careful consideration of such items upon their merits, which might be had if presented separately, would result in their defeat by reason of their doubtful strength. The further purpose was to prevent the passage of general legislation as a part of such bill, which in no way was connected with the subject of making provision for the expenses of the government. The term 'general appropriation bills shall embrace nothing but appropriations,' as used, means that no appropriations other than those specified shall be valid if placed in such general appropriation bill. To sustain appellant's contention would result in holding that nothing but bare appropriations shall be incorporated in such general appropriation bill. This is neither the purpose nor spirit of the constitutional provision under consideration. The details of expending the money so appropriated, which are necessarily connected with and related to the matter of providing the expenses of the government, are so related, connected with, and incidental to the subject of appropriations that they do not violate the Constitution if incorporated in such general appropriation bill. It is only such matters as are foreign, not related to, nor connected with such subject, that are forbidden. Matters which are germane to and naturally and logically connected with the expenditure of the moneys provided in the bill, being in the nature of detail, may be incorporated therein. Otherwise everything connected with the expenditure of money provided in the general appropriation bill would have to be

> provided in separate and special acts of the Legislature -- a condition which was never intended."

The New Mexico Supreme Court in construing section 16 of article IV of the New Mexico Constitution delineated principles identical to those developed by the Arizona Supreme Court. Specifically, the general appropriation bill may contain matter incidental to or explanatory of an appropriation; (State ex rel. Lucero v. Marron, 128 P. 485 (N.M. 1912)); however, the general appropriation bill may not contain "substantive legislation" or "general legislation". State ex rel. Delgado v. Sargeant, 134 P. 218 (N.M. 1913).

Florida is another State with a provision similar to the Illinois constitutional provision limiting appropriation bills to the subject of appropriations. Section 12 of article III of the Florida Constitution reads:

> "Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject."

This provision is identical to the one contained in section 30 of article III of the Florida Constitution of 1885.

The Florida Supreme Court has held that the purpose of such a constitutional provision is to prevent the tacking on to bills appropriating money to carry on State government

riders that are completely foreign to the appropriation bill. Lee v. Dowda, 19 So. 2d 570, 573 (Fla. 1944).

The Florida Supreme Court discussed the problem of determining when language in an appropriation bill is merely an explanation of the appropriation as opposed to substantive legislation. At page 10 in In re Advisory Opinion to the Governor, 239 So. 2d 1 (Fla. 1970), the court states:

> "* * * Such qualifications and restrictions may not go to the extent of changing other substantive law, but they may limit or qualify the use to which the moneys appropriated may be put and specify reasonable conditions precedent to their use, even though this may leave some governmental activities underfinanced in the opinion of the officers of other departments of government.
>
> * * *"

The test formulated by the court appears on page 11 as follows:

> "That the Legislature does not have the power nor the right under the Constitution of this State to make law in an appropriations bill on other subjects, unless the other subjects are so relevant to, interwoven with, and interdependent upon, the appropriations so as to jointly constitute a complete legislative expression on the subject."

In Bedford v. People ex rel. Tieman, 98 P. 2d 474 (Colo. 1939), the Supreme Court of Colorado interpreted a similar provision in the Colorado Constitution. Section 32 of article V of the Colorado Constitution provided in part:

> "The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial

> departments of the state, interest on the public debt, and for public schools. * * * "

The Colorado legislature appropriated $3600 as the pay of the director of the State Board of Vocational Education. However, such appropriation contained the following proviso:

> "(Less any amount received from the federal government or agencies, it being the intention that the total salary of said director shall not exceed $4,000.00 per year)."

The issue was whether the proviso was constitutional. The court held that it was, since it was only a simple condition attached to an appropriation bill.

From these cases it is clear that an appropriation bill may contain matter incidental to or explanatory of an appropriation or a condition or limitation, but may not include substantive legislation. Therefore, the nature of the pertinent language in House Bill 2355 must be considered.

The Illinois Department of Public Health has the power to make grants to the local governments pursuant to section 55.05 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1973, ch. 127, par. 55.05) which reads:

> "§ 55.05. To approve the disbursement of State and Federal funds to local health authorities and to other public or private agencies and organizations for the development of health programs or services from appropriations made available to the Department for such purposes."

Section 7 of House Bill 2355 does not amend section 55.05. It directs that the grant to the local governments be at least in the same amount as in fiscal year 1974. The legislature issued similar directions to the Department in its fiscal year 1974 appropriation act. Public Act 78-140.

Typically, the Department enters into a grant contract with a local government, i.e., county health department, public health district, or municipal health department. In this contract the local government is promised a certain sum of money. Based on this grant of funds the local government incurs expenditures and then seeks reimbursement. The Department, of course, approves the reimbursement to the local governments; thereby insuring the grant money is used for health services.

Section 7 of House Bill 2355 also directs the Department to grant a one-third increase in funds for each local government that is providing, or has acceptable plans to provide, the basic public health programs according to the recommendations developed by the Department as of July 1, 1974. This provision is an incentive to local health authorities to bring their health programs into conformance with the recent recommendations of the Department. It does not impliedly amend section 55.05 of the Civil Administrative Code of Illinois.

Substantive or general legislation is a conclusory description of language that has impact apart from any appropriations. It is legislation that could be placed alone in a bill and have meaning and import. The pertinent language in section 7 of House Bill 2355 has no viability by itself; it draws its meaning from its context. When the appropriation is depleted or expires (Ill. Rev. Stat. 1973, ch. 127, par. 161), the pertinent language of section 7 of House Bill 2355 will cease to have any effect. It provides no new authority to the Department; it is not substantive legislation.

The pertinent language in section 7 is a relevant condition or limitation on the appropriation and is incidental to and in explanation of the appropriation. It directs that each local government receive the same amount of money each received in fiscal year 1974 plus a specified additional amount for those who come into compliance with the recommendations of the Department. This is reasonably related to the general purpose of the particular item of appropriation.

I am aware of no court case which holds that the constitutional provision similar to that under discussion means an appropriation bill is limited to bare appropriations. This would be absurd. An "item of appropriations" connotes not only

a specified sum of money but also a specified purpose for which the money may be expended. It is important to understand that it is the legislature that has plenary powers over the expenditure of State funds. (See, Ill. Const., art. VIII, sec. 2(b).) The Governor is merely empowered to check the spending of the legislature. In Colbert v. State, 86 Miss. 769, 39 So. 65, (1905) it was stated:

> "'Under all constitutional governments recognizing three distinct and independent magistracies, the control of the purse strings of government is a legislative function. Indeed, it is the supreme legislative prerogative, indispensable to the independence and integrity of the Legislature, and not to be surrendered or abridged, save by the Constitution itself, without disturbing the balance of the system and endangering the liberties of the people. The right of the Legislature to control the public treasury, to determine the sources from which the public revenues shall be derived and the objects upon which they shall be expended, to dictate the time, the manner, and the means, both of their collection and disbursement, is firmly and inexpugnably established in our political system. This supreme prerogative of the Legislature, called in question by Charles I., was the issue upon which Parliament went to war with the King, with the result that ultimately the absolute control of Parliament over the public treasury was forever vindicated as a fundamental principle of the British Constitution. The American commonwealths have fallen heirs to this great principle, and the prerogative in question passes to their Legislatures without restriction or diminution, except as provided by their Constitutions, by the simple grant of the legislative power.'"

Explanations, conditions, and limitations with regard to appropriations are necessary for the legislature to maintain its control over appropriations.

Finally, legislation is presumed to be constitutional, and all doubt will be resolved in favor of its validity. Northshore Post No. 21 v. Korzen, 38 Ill. 2d 231.

I am of the opinion that section 7 of House Bill 2355 is constitutional and should be given full force and effect.

Very truly yours,

ATTORNEY GENERAL