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FILE NO. S-446

FINANCE - STATE OFFICERS
Travel Expense

Mr. Richard L. Mathias
Chairman
Travel Control Board
Office of the Governor
State of Illinois
160 North LaSalle
Chicago, Illinois

Dear Mr. Mathias:

I have your recent letter requesting my opinion on whether the restrictions on travel expenses as promulgated by the Travel Control Board under Illinois Revised Statutes 1971, Chapter 127, Paragraph 148 et seq. apply to both of the following classes of personnel appointed by the Governor:

- (1) Salaried commission members, such as members of the Industrial Commission (Ch. 48, Section 138.13) or the Commerce Commission (Ch. 111 2/3 §1), and
- (2) Members of Code Department advisory boards and advisory boards for commissions who receive no compensation for their services, but who do receive reimbursement for their actual traveling expenses and other expenses while engaged in the performance of their duties, such as members of the Board of Higher Education (Ch. 144, Section 185).

In your letter you state "The language contained in Sections 12-1 and 12-2 of the State Finance Act would seem to indicate that these two categories of appointees are subject to the limitations on expenses promulgated by the Department of Finance. However, specific provisions in the Acts which create the boards or commissions usually state that the appointees are to be reimbursed their 'actual and necessary expenses'." See Section 14 of the Illinois Workmen's Compensation Act (Ill. Rev. Stat. 1971, ch. 48, par. 138.14), Section 5 of "An Act concerning public utilities" (Ill. Rev. Stat. 1971, ch. 111 2/3, par. 5) and Section 5 of "An Act creating a Board of Higher Education" (Ill. Rev. Stat. 1971, ch. 144, par. 185).

The cardinal rule of statutory construction is that statutes should be construed to give effect to the intention of the legislature, I. L. P., Statutes, §113. Since the intention of the legislature in providing for official travel expense regulations is obviously to protect the State funds from unreasonable expense charges, this regulation must be construed to give effect to that intent. Lincoln Nat. Life Ins. Co. v. McCarthy, 10 Ill. 2d 489, 140 N.E. 2d 687 (1957).

With regard to the persons to whom the restrictions on travel expenses as promulgated by the Travel Control Board are applicable, Section 12-2 of "An Act in relation to State Finance", (Ill. Rev. Stat. 1971, ch. 127, par. 148-2) provides:

"Official travel regulations shall be promulgated and published by the Department of Finance and shall be applicable to the expenditures of State funds by personnel of all State agencies as defined in the Illinois Auditing Act except the following: judges, members of the General Assembly, constitutionally elected State officers, and personnel under the jurisdiction of constitutionally elected State officers other than the governor. The travel regulations and changes therein shall become effective only upon their approval by the Travel Control Board.

"Each constitutionally elected State officer other than the governor shall promulgate and publish travel regulations applicable to his office and to personnel under his jurisdiction." (Emphasis supplied).

The Illinois Auditing Act defines "state agencies"

as:

" * * * all officers, departments, boards, commissions, institutions, universities, colleges, bodies politic and corporate of the State and any other person or any other administrative unit of State government or corporate outgrowth thereof, expending or encumbering State funds by virtue of an appropriation from the General Assembly, or handling money on behalf of the State, or holding any trust funds from any source derived. * * * " (Ill. Rev. Stat. 1971, ch. 15, par. 63.)

The courts of Illinois have long recognized that the General Assembly has the power to make reasonable definitions of the terms it uses, (Modern Dairy Co. v. Dept. of Revenue, 413 Ill. 55, 108 N.E. 2d 8 (1952); Bohn v. State Emp. Retirement System, 404 Ill. 117, 88 N.E. 2d 29 (1949)), and those definitions will control in the construction of those terms. New York Life Ins. Co. v. Murphy, 388 Ill. 316, 58 N.E. 2d 182 (1945); Krebs v. Thompson, 387 Ill. 471, 56 N.E. 2d 761 (1944).

Since the definition of "state agencies", to which these travel restrictions apply, adopted by the legislature expressly includes "all officers, boards, (and) commissions" (material supplied) it appears that these travel expense restrictions apply to members of code department advisory boards and advisory boards for commissions who receive no compensation for their services. "Where from the particular language, the court can give an interpretation which would permit an equal enjoyment of benefits, or an equal imposition of burdens, the court should adopt such meaning."

Schultz v. Gilbert, 300 Ill. App. 417, 20 N.E. 2d 884 (1939).

The application of these travel expense restrictions is not inconsistent with the provisions of the Acts creating such boards or commissions which allow such appointees to be reimbursed for their "actual and necessary expenses". "Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative

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policy." (34 I. L. P., Statutes, §193.) To give effect to a consistent legislative policy with regard to the application of these travel expense regulations requires that they be held applicable to both salaried commission members, such as members of the Industrial Commission or the Commerce Commission and members of code department advisory boards and advisory boards for commissions who receive no compensation for their services. The expense regulations promulgated under Section 12-2 of "An Act in relation to State Finance", (Ill. Rev. Stat. 1971, ch. 127, par. 148-2) do not prohibit the reimbursement to members of code department advisory boards and advisory boards for commissions who receive no compensation for their service for their "actual and necessary expenses" but merely limit the amount of such expenses in accordance with the travel expense regulations.

Very truly yours,

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

JCB