



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

April 23, 1998

FILE NO. 98-006

APPROPRIATIONS:

Expenditure of Appropriated
Monies Subsequent to the Repeal
of the Employee Ownership Assistance Act

Mr. Bobby J. Wilkerson, Executive Director
Illinois Development Finance Authority
Sears Tower
233 South Wacker, Suite 5310
Chicago, Illinois 60606

Dear Mr. Wilkerson:

I have your letter wherein you inquire regarding the purposes, if any, to which the Illinois Development Finance Authority may now apply monies originally appropriated to it for the development of employee ownership assistance programs in accordance with the provisions of the Employee Ownership Assistance Act (see 20 ILCS 635/1 et seq. (West 1994)), which was repealed in 1995. For the reasons hereinafter stated, it is my opinion that monies appropriated to the Illinois Development

Mr. Bobby J. Wilkerson - 2.

Finance Authority to develop employee ownership assistance programs under the provisions of the Employee Ownership Assistance Act may not be diverted to any other use.

The Illinois Development Finance Authority (hereinafter the "Authority") is a body politic and corporate created by the provisions of the Illinois Development Finance Authority Act (20 ILCS 3505/1 et seq. (West 1996)), which is authorized, inter alia, to accept appropriations from the State for authorized direct loan projects and to issue bonds to support the purposes of the Employee Ownership Assistance Act. (20 ILCS 3505/7(a), (c) (West 1996).) In addition, prior to the repeal of the Employee Ownership Assistance Act, the Authority was charged with assisting employee-owned enterprises in obtaining financial assistance (20 ILCS 635.4(d) (West 1994) (repealed)), and was authorized to develop and administer an employee ownership assistance loan program pursuant to which employee ownership associations could obtain loans from the Authority to help finance qualifying plant acquisition projects. (20 ILCS 635/6 through 11 (West 1994) (repealed).)

You have indicated that in 1982, the General Assembly made a two million dollar appropriation to the Authority "to be

Mr. Bobby J. Wilkerson - 3.

used for loans pursuant to the Employee Ownership Assistance Act". (See Public Act 84-1108, effective December 20, 1985.) Upon receiving the appropriation, the Authority developed an employee ownership assistance loan program and executed a number of loan agreements with various employee ownership associations pursuant thereto.

I have assumed, from your description, that the Authority used the funds appropriated to it in Public Act 84-1108 to establish what is, in essence, a revolving fund, from which monies have been lent for employee ownership assistance loans, and to which repayments of said loans are credited. Thus, as you have noted, the monies originally appropriated to the Authority, together with the interest income accruing on the amounts lent, constitute a special fund which is accounted for separately, and which is segregated from the Authority's other funds.

Subsequently, however, the General Assembly repealed the Employee Ownership Assistance Act. (See Public Act 89-364, effective August 18, 1995.) You have indicated that the Authority was made aware of the repeal of the Act only recently. During the period since the repeal, the Authority has continued to account separately for the original appropriation, plus

Mr. Bobby J. Wilkerson - 4.

interest income, less disbursements made under the loan program, in its financial statements. The Authority now desires to use the remaining funds for "its other corporate purposes and lending programs". You have inquired whether the Authority may properly apply those monies derived from the General Assembly's original appropriation to other loan programs designed to stimulate economic activity and to the Authority's other corporate purposes.

Section 14 of the Illinois Development Finance Authority Act (20 ILCS 3505/14 (West 1996)), which governs the Authority's expenditure of monies generally, provides, in pertinent part:

" * * *

All funds of the Authority, including without limitation, grants or loans from the federal government, the State or any agency or instrumentality thereof, fees, service charges, interest or other investment earnings on its funds, payments of principal of and interest on loans of its funds and revenue from any other source, except funds the application of which is otherwise specifically provided for by appropriation, resolution, grant agreement, lease agreement, loan agreement, indenture, mortgage or trust agreement or other agreement, may be held by the Authority in its treasury and be generally available for expenditure by the

Mr. Bobby J. Wilkerson - 5.

Authority for any of the purposes authorized
by this Act. * * *

* * *

Funds appropriated by the General Assembly to the Authority prior to July 1, 1983 may be held in the Authority's treasury, redeposited into its treasury and disbursed therefrom. After June 30, 1983, monies appropriated by the General Assembly to the Authority shall be held in the State Treasury unless the act making the appropriation specifically states that the monies are appropriated to the Authority's treasury.

* * *

"

(Emphasis added.)

The primary object of statutory construction is to ascertain and give effect to the intent of the General Assembly.

(Atkins v. Deere & Co. (1997), 177 Ill. 2d 222, 233.)

Legislative intent is best evidenced by the language used in the statute. (Burrell v. Southern Truss (1997), 176 Ill. 2d 171, 174.) Where statutory language is clear and unambiguous, it must be given effect as written. In re B.C. (1997), 176 Ill. 2d 536, 542.

Under the language of section 14 of the Illinois Development Finance Authority Act, the Authority may expend funds it receives from the State for any of the purposes authorized in

Mr. Bobby J. Wilkerson - 6.

the Act, except where the disposition of the funds is specifically provided for in the appropriation or agreement pursuant to which the funds were received. Public Act 84-1108, effective December 20, 1985, by which the General Assembly originally appropriated the funds in question to the Authority, provides, in pertinent part:

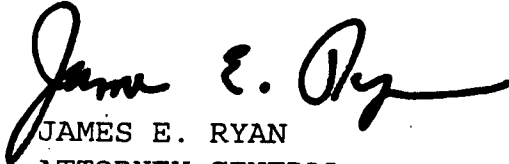
"Section 93. The sum of \$2,000,000 is appropriated to the Illinois Development Finance Authority to be used for loans pursuant to the Employee Ownership Assistance Act, to be held outside the State Treasury in the custody of the Treasurer of the Authority."
(Emphasis added.)

Under the plain and unambiguous language of Public Act 84-1108, the monies which are the focus of your inquiry were appropriated to the Authority by the General Assembly for the express purpose of granting "loans pursuant to the Employee Ownership Assistance Act". Nothing in the language of the appropriation or in the pertinent provisions of either the Illinois Development Finance Authority Act or the Employee Ownership Assistance Act purports to authorize the Authority to use those monies in its employee ownership assistance fund for funding other loan programs or for other corporate purposes, the repeal of the Employee Ownership Assistance Act notwithstanding.

Mr. Bobby J. Wilkerson - 7.

To the contrary, section 14 of the Illinois Development Finance Authority Act clearly excepts funds appropriated for a specific purpose from the Authority's general grant of power to expend its funds for any purposes related to its programs. Consequently, it is my opinion that the monies remaining from the appropriation made by Public Act 84-1108 or derived therefrom may not be applied to the Authority's other loan programs or be expended for other corporate purposes, without legislative authorization therefor.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL