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FILE NO. S-937

**CIVIL SERVICE:
Political Contributions
by City Officers and
Employees**

Honorable Philip G. Reinhard
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Dear Mr. Reinhard:

This responds to your request for an interpretation
of sections 10-1-27 and 10-1-28 of the Illinois Municipal Code.

(Ill. Rev. Stat. 1973, ch. 24, pars. 10-1-27 and 10-1-28.)

These sections provide as follows:

"§ 10-1-27. No officer or employee of any
municipality which adopts this Division 1 [entitled
'Civil Service in Cities'] shall solicit, orally or
by letter, or receive or pay, or be in any manner
concerned in soliciting, receiving or paying any
assessment, subscription or contribution for any
party or political purpose whatever."

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"§ 10-1-28. No person shall solicit, orally or by letter, or be in any manner concerned in soliciting any assessment, contribution or payment for any party or any political purpose whatever, from any officer or employee in any department of the government of any municipality which adopts this Division 1."

You have posed the following three questions:

1. Is it a violation of section 10-1-28, supra, for any person to solicit funds for political purposes from a classified civil service employee of a city which has adopted Division 1, "Civil Service in Cities"? (Ill. Rev. Stat. 1973, ch. 24, pars. 10-1-1 through 10-1-48.)
2. Is it a violation of section 10-1-28 for any person to solicit funds for political purposes, whether on the national, State or local level, from officers or employees of such city who are not under the classified civil service, which would include elected officials and other exempted officers and employees? (See Ill. Rev. Stat. 1973, ch. 24, par. 10-1-7.)
3. Is it a violation of section 10-1-27, supra, for all employees and officers or just the classified civil service employees of a city which has adopted Division 1, supra, to solicit, receive or pay monies for political purposes?

A literal interpretation of sections 10-1-27 and 10-1-28 would subject all officers and employees, regardless of whether or not they are in a classified civil service, to the prohibitions of these sections. Such a literal interpretation, however, would lead to absurd results and would not reflect the intent of the legislature. In general, "officer or employee" as used in these two sections refers only to

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officers or employees in a classified civil service. Therefore, in answer to your first question, it is a violation of section 10-1-28 for any person to solicit funds for political purposes from a classified civil service employee of a city which has adopted Division 1; in answer to your second question, it is not a violation of section 10-1-28 for a person to solicit funds for political purposes from officers or employees who are not under a classified civil service of a city which has adopted Division 1; and in answer to your third question, it is a violation of section 10-1-27 for an officer or employee of a classified civil service of a city which adopted Division 1 to solicit, receive and pay monies for political purposes, but not for unclassified officers or employees to do so.

The Illinois Supreme Court, in several cases, has stated that the intention of the legislature prevails over the literal meaning of a statute. In Zelkovich v. Industrial Commission, 8 Ill. 2d 146, at 150, the court stated:

"* * * The rule is well established that in construing a statute the courts are not confined to its literal meaning. A thing within the letter is not within the statute if it is not within the intention. [citation] Courts are bound to presume that absurd consequences were not contemplated by the legislature, and a construction should be adopted which it is reasonable to presume was contemplated. [citation]" (emphasis added.)

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In People v. Lieber, 357 Ill. 423 at 434, the court stated:

"It is a principle of construction that statutes must be interpreted according to the legislative intent and not always according to the letter. [citation] The object of the legislature must be ascertained from a consideration of the entire act, its nature, its purpose and the consequences which would result in construing it one way or the other. * * * " (emphasis added.)

In Lincoln National Life Ins. Co. v. McCarthy, 10 Ill. 2d 489 at 494-5, the court stated:

"* * * A statute or ordinance must be construed according to its intent and meaning, and a situation that is within the object, spirit and meaning of the statute is regarded as within the statute, although not within the letter; and a situation that is within the letter is not regarded as within the statute unless also within its object, spirit and meaning. [citation]." (emphasis added.)

In People v. Nastasio, 19 Ill. 2d 524 at 529, the court stated:

"* * * It is our duty so to interpret the statute as to promote its essential purposes and to avoid, if possible, a construction that would raise doubts as to its validity. * * * " (emphasis added.)

Courts have frequently held that historical facts and the significant circumstances leading up to the enactment of a statute may be noticed to show that a literal interpretation of the words used is not the intended meaning. (People ex rel. Nelson v. Olympic Hotel Building Corp., 405 Ill. 440; Church of the Holy Trinity v. United States, 143 U.S. 457.) In construing a statute one should also look at all of its sections together in light of the statute's general purpose and

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plan, the evil to be remedied and the object to be obtained.
Schofield v. Board of Education, 411 Ill. 11 at 15.

The history surrounding the origin of Division 1 of article 10 of the Illinois Municipal Code enables one to see more clearly the intent of the legislature in its original enactment. Division 1 was originally enacted as "AN ACT to regulate the civil service of cities". (Laws of 1895, p. 85.) In 1895, the "spoils" system was at its peak and jobs in cities and elsewhere were going to political supporters of elected officials without regard to merit or qualifications. In addition, people with public service jobs were being coerced into soliciting for and contributing to political machines in order to obtain or retain positions. It was this form of solicitation and receipt which the legislature must surely have had in mind when it enacted the statute. The purpose of the statute, as was the case in regard to similar laws enacted in that period, was to require appointments and promotions in the classified civil service of the enacting city to be made according to merit and fitness instead of by way of division of the "loot" of a political campaign.

In discussing section 22 (now section 10-1-28) of "AN ACT to regulate the civil service of cities", the court in People v. Murray, 307 Ill. 349 at 355-6, stated:

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"The legislature evidently believed that in order 'to promote efficiency and integrity in the discharge of official duties and to maintain proper discipline in the public service' it was desirable that the officers and employees in the civil service of the city should be exempt from solicitations of contributions of money for political purposes, — not only solicitation from their superior officer or their fellow-employees, not only in the city buildings or offices of the city government, but solicitations from all persons at all times and in all places. The 'spoils system,' in the flower of its perfection, operates not only in the offices and places where the public business is conducted, and not only through the officers in whom the law has invested the appointing power; it operates at all times and places, and its agents are not only the agents appointed by law, but beyond and above them are the chiefs of the victorious party, — the leaders of the volunteer organization which controls official appointments and at whose direction offices and places of employment are given to faithful followers for political services and taken away from meritorious employees. The purpose of the law is to protect the independence of civil service officers and employees against subservience to a political machine, whether the attempt to impose it is made directly by those in official authority or indirectly by volunteer managers having no official standing. If the managers of political campaigns are permitted to call on officeholders or employees to contribute money to be used for political purposes, — if they may make and collect assessments of such proportion of the employee's salary or wages as are deemed proper or they think they can collect, — it is little protection to the harassed employee that payment of the assessment cannot be solicited of him by a fellow-employee or in the place where he is at work. Possibly he will fail to appreciate the benevolence of the constitutional provision which protects him in the right to be assessed for the propagation of the political principles which the administration is advocating in the particular election. No one

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can question the necessity or propriety of raising money for political purposes; no one can defend the propriety of raising it by an assessment upon or forced contributions from persons engaged in the public service or by what may present itself to such persons as an involuntary assessment or contribution." (emphasis added.)

Thus, it appears that the intention of the legislature was not to prevent the elected officials from raising, soliciting and accepting political contributions but to protect the officers and employees in the classified civil service dependent upon elected officials for employment from being coerced into contributing to or soliciting for such elected officials.

In 1961 the Act to regulate the civil service in cities was repealed; however, its provisions were reenacted in "AN ACT to revise and codify the laws relating to cities" (Laws of 1961, p. 576), referred to as the Illinois Municipal Code. The intent of the legislature as it existed at the time of the original enactment is presumed to carry over to a subsequent reenactment. (Lamere v. City of Chicago, 391 Ill. 552; Jacob v. City of Peoria, 260 Ill. App. 525.) It should also be noted that the division in which sections 10-1-27 and 10-1-28 are found deals exclusively with the classified civil service of an enacting municipality as did the original act.

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Furthermore, an interpretation prohibiting non-classified civil servants, especially elected officials, from soliciting or receiving funds for political purposes would be an absurd one. If the elected officers cannot solicit or receive funds for political purposes, how can they be expected to function or compete in the electoral process? The Supreme Court of California in Bagley v. Washington Township Hospital Dist., 421 P. 2d 409 (1966), has stated that holders of elective or high appointive offices cannot reasonably be expected to refrain from political activities without profoundly affecting the workings of our representative institutions.

The Illinois Supreme Court has often stated that courts are bound to presume that absurd consequences are not intended.

"* * * [W]e have held that where the literal enforcement of a statute would result in great injustice or absurd consequences, courts are bound to presume that such consequences were not intended and to adopt a construction which, it is reasonable to assume, was contemplated by the legislature. * * * " (People ex rel. Community High School Dist. v. Hupe, 2 Ill. 2d 434 at 448.)
(emphasis added.)

Therefore, since a literal interpretation of sections 10-1-27 and 10-1-28 would produce absurd consequences, it must be presumed that the legislature's intention was that only those officers and employees within the classified civil service be

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prevented from soliciting or being solicited for political contributions.

Finally, a construction of sections 10-1-27 and 10-1-28 holding them applicable to other than officers and employees of a classified civil service would raise serious doubts as to their constitutionality. A complete prohibition against an incumbent's soliciting or receiving campaign contributions for his reelection may well be an infringement of his rights, and any non-civil servant's rights, of free speech and political association. This opinion, however, does not advise in any way upon the constitutionality of the provisions discussed. It is limited to interpreting the statutory language.

Very truly yours,

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