



TYRONE C. FAHNER  
~~WILLIAM T. SCOTT~~  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

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GOVERNMENTAL ETHICS AND  
CONFLICT OF INTEREST:  
A Member of an Appointing  
Authority May Not Be Appointed to  
the Governing Board of the Jackson-  
Union Counties Regional Port District

Honorable William G. Schwartz  
Jackson County State's Attorney  
County Courthouse  
Murphysboro, Illinois 62966

Dear Mr. Schwartz:

I have your letter wherein you inquire whether a member of an appointing authority may be appointed to the governing board of the Jackson-Union Counties Regional Port District. For the reasons hereinafter stated, it is my opinion that sections 1 and 2 of "AN ACT to prevent fraudulent and corrupt practices, etc." (Ill. Rev. Stat. 1979, ch. 102, pars. 1, 2) prohibit the appointment of a member of an appointing authority to the governing board of the Jackson-Union Counties Regional Port District.

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As you are aware, authority to appoint members to the Jackson-Union Port District Board is found in section 16 of the Jackson-Union Counties Regional Port District Act (Ill. Rev. Stat. 1979, ch. 19, par. 666), which provides in pertinent part:

"§ 16. The Governor shall appoint 4 members of the Board, each Mayor of the municipalities of Grand Tower, Jonesboro, Gorham, Murphysboro, Carbon-dale, Anna, Cobden, Makanda, Ava, Mill Creek, Elk-ville, Alto Pass, Vergennes, Dowell, Desota, Campbell Hill, and Dongola shall appoint one member of the Board, and each County Board of Jackson County and Union County shall appoint one member of the Board. All initial appointments shall be made within 60 days after this Act takes effect. Of the 4 members initially appointed by the Governor, 2 shall be appointed for initial terms expiring June 1, 1978, and 2 for an initial term expiring June 1, 1979. The terms of the members initially appointed by the respective Mayors and County Boards shall expire June 1, 1979. At the expiration of the term of any member, his successor shall be appointed by the Governor, the respective Mayors, or the respective County Boards in like manner and with like regard to place of residence of the appointee, as in the case of appointments for the initial terms."

Section 16 authorizes the Governor, mayors of specified municipalities and the Jackson and Union County Boards to appoint members of the port district governing board. No language in this section or in any other provision of the Act specifically authorizes a mayor to appoint a member of his city council or board of trustees or a county board to appoint one of its members to the port district governing board.

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Sections 1 and 2 of "AN ACT to prevent fraudulent and corrupt practices, etc." (Ill. Rev. Stat. 1979, ch. 102, pars. 1, 2) provide as follows:

"§ 1. No member of a county board, during the term of office for which he is elected, may be appointed to, accept or hold any office other than chairman of the county board or member of the regional planning commission by appointment or election of the board of which he is a member. Any such prohibited appointment or election is void. This Section shall not preclude a member of the county board from being selected or from serving as a member of the County Personnel Advisory Board as provided in Section 12-17.2 of 'The Illinois Public Aid Code', approved April 11, 1967, as amended, or as a member of a County Extension Board as provided in Section 7 of the 'County Cooperative Extension Law', approved August 2, 1963, as amended."

"§ 2. No alderman of any city, or member of the board of trustees of any village, during the term of office for which he is elected, may accept or be appointed to or hold any office, by the appointment of the mayor or president of the board of trustees. Any such appointment is void."

Section 1 clearly prohibits a county board member from being appointed to an office by the county board, other than those positions specifically excepted therein, and section 2 clearly prohibits an alderman or member of a village board of trustees from being appointed to an office by the mayor or village president of the municipality which he serves. Appointments made in violation of either section are void.

Prior Attorney General opinions have consistently held that the prohibitions in sections 1 and 2 govern except

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where an inconsistency exists between those sections and another relevant statute. (1975 Ill. Att'y Gen. Op. 877; 1972 Ill. Att'y Gen. Op. 505.) Where one statute is general and one specific, the specific statute prevails especially where the special Act is enacted at a later date. In re Gubalas Estate (1967), 81 Ill. App. 2d 378, 383; see, 1975 Ill. Att'y Gen. Op. 866; 1975 Ill. Att'y Gen. Op. 985.

Since no section of the Jackson-Union Counties Port District Act (Ill. Rev. Stat. 1979, ch. 19, par. 851 et seq.) contains specific language authorizing an appointing authority to appoint one of its members to the port district board, there is no inconsistency between it and sections 1 and 2 of "AN ACT to prevent fraudulent and corrupt practices, etc." (Ill. Rev. Stat. 1979, ch. 102, pars. 1, 2). Therefore, the general provisions of sections 1 and 2 prohibiting such appointments apply.

Very truly yours,

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