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**CITIES AND VILLAGES:
Funds and Bonds
Industrial Project**

Honorable Howard R. Fricke
Director
Department of Business and
Economic Development
222 South College Street
Springfield, Illinois 62706

Dear Director Fricke:

I have your letter pertaining to the Industrial Project Revenue Bond Act. (Ill. Rev. Stat., 1971, ch. 24, par. 11-74-1, et seq.). I have re-phrased your letter into the following two questions:

1. May revenue received from the sale of industrial project revenue bonds be used by a municipality for the installation of pollution control equipment into a new industrial project?
2. May revenue received from the sale of industrial project revenue bonds be used by a municipality for the installation of

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pollution control equipment into an
already existing industrial project?

Effective September 1, 1971, the Industrial Project Revenue Bond Act (Ill. Rev. Stat., 1971, ch. 24, par. 11-74-1 to and including 11-74-13; P.A. 77-1453; S.B. 592) was added to the Illinois Municipal Code. Ill. Rev. Stat., 1971, ch. 24, par. 1-1-1, et seq.

Section 11-74-3 of the Industrial Project Revenue Bond Act (Ill. Rev. Stat., 1971, ch. 24, par. 11-74-3) delineates the legislative object and purpose of the Act. Said section 11-74-3 reads as follows:

"It is hereby determined and declared that the purpose of this Division 74 is to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, and to encourage the increase of industry within this State, thereby reducing the evils attendant upon unemployment."

In order to achieve the object and purpose of the Act, municipalities are granted certain powers in addition to those they already possessed. The powers granted to municipalities in paragraphs (1) and (2) of section 11-74-4 of the Act (Ill. Rev. Stat., 1971, ch. 24, par. 11-74-4) are of

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particular importance to us. These paragraphs read as follows:

"(1) To construct, acquire by gift or purchase, reconstruct, improve, better or extend any industrial project within or without the municipality or partially within or partially without the municipality, but in no event further than 10 miles from the territorial boundaries of such municipality, and to acquire by gift or purchase lands or rights in land in connection therewith.

(2) To issue its bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any industrial project. The governing body of the municipality in determining such cost may include all cost and estimated cost of the issuance of such bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this Division 74."

"Industrial project" is defined at section 11-74-2 of the Industrial Project Revenue Bond Act (Ill. Rev. Stat., 1971, ch. 24, par. 11-74-2) as follows:

"Whenever used in this Division 74, unless a different meaning clearly appears from the context:

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(1) 'Industrial project' means any capital project comprising an industrial or manufacturing plant, including one or more buildings and other structures, whether or not on the same site or sites; any rehabilitation, improvement, renovation, or enlargement of, or any addition to, any buildings or structures for use as a factory, mill, processing plant, assembly plant, fabricating plant, industrial distribution center, repair, overhaul or service facility, test facility, and other facilities, including research and development, for manufacturing, processing, assembling, repairing, overhauling, servicing, testing or handling of any products or commodities embraced in any industrial or manufacturing plant; and including also the sites thereof and other rights in land therefor whether improved or unimproved, machinery, equipment, site preparation and landscaping, and all appurtenances and facilities incidental thereto such as warehouses, utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, docking and similar facilities, parking facilities, dockage, wharfage, and other improvements necessary or convenient for any manufacturing or industrial plant.

(2) 'Municipality' includes any city, village or incorporated town in this State."

My answer to the first question is in the affirmative.

The definition of "industrial project" includes "... machinery, equipment ... and other improvements necessary or convenient for any manufacturing or industrial plant."

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(Ill. Rev. Stat., 1971, ch. 24, par. 11-74-2). It should be noted that legislation enacted for the purpose of meeting a real need of the People (Saline Branch Drainage District v. Urbana-Champaign Sanitary District, 399 Ill. 189) or designed to promote public welfare or public health (Zehender and Factor v. Murphy, 386 Ill. 258) should be liberally construed. Therefore, I am of the opinion that in connection with the development of a new industrial project a municipality may use revenues from the sale of industrial project revenue bonds to finance the purchase and installation of pollution control equipment.

My answer to the second question is also in the affirmative.

At this point, let us focus our attention on that part of section 11-74-4 of the Industrial Project Revenue Bond Act (Ill. Rev. Stat., 1971, ch. 24, par. 74-4(1)) that authorizes a municipality "to ... improve ... any industrial project" The term "improvement" includes the making of substantial additions or changes in existing buildings. (Quist v. Duda, 159 Neb. 393, 67 N.W. 2d 481, 485). Thus,

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the term "improvement" may presuppose, although it does not necessarily, the prior existence of some structure to be improved. (Vogel v. Reed Supply Company, 277 N.C. 119, 177 S.E. 2d 273, 282). As already noted, section 11-74-4 of the Industrial Project Revenue Bond Act (Ill. Rev. Stat., 1971, ch. 24, par. 11-74-4) authorizes a municipality to finance the improvement of any industrial project. Therefore, I am of the opinion that once an industrial project has been completed it may be improved. The cost of this improvement may be financed from the sale of industrial project revenue bonds. The installation of pollution control equipment would, of course, be an improvement.

Therefore, I am of the opinion that revenue received from the sale of industrial project revenue bonds may be used by a municipality to finance the installation of pollution control equipment in an already existing industrial project.

Very truly yours,

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