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OFFICERS:

Members of Illinois State
Board of Investment are
Required to Take Oath
Provided in Statute and
Not Oath Provided in
Constitution to Qualify
to Serve on Board.

Honorable Robert J. Downing
Chairman
Illinois State Board of Investment
Suite 905, 160 North LaSalle Street
Chicago, Illinois 60601

Dear Judge Downing:

This responds to your letter in which you asked
how one "qualifies" within the meaning of section 22A-109
of the Illinois Pension Code (Ill. Rev. Stat. 1975, ch.
108 1/2, par. 22A-109, as amended by P.A. 79-1171) to serve
as a member of the Illinois State Board of Investment.

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Section 22A-109 clearly provides that a person appointed to membership "qualifies" by "taking an oath of office before the Secretary of State". I understand, however, that the real question is whether the oath required is the one provided for in section 22A-109 or the one set forth in section 3 of article XIII of the Illinois Constitution of 1970.

That the oath set forth in section 3 of article XIII of the Constitution is not required of members of the Illinois State Board of Investment is clear from the wording of section 3 itself. Section 3 provides:

"Each prospective holder of a State office or other State position created by this Constitution, before taking office, shall take and subscribe to the following oath or affirmation:

'I do solemnly swear (affirm) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of to the best of my ability.'

The position of member of the Illinois State Board of Investment is not "a State office or other State position created by this Constitution". The board and the position of member thereon were created by statute (Ill. Rev. Stat.

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1975, ch. 108 1/2, par. 22A-101 et seq.) and not by the Constitution.

It is equally clear that the oath provided by section 22A-109 of the Pension Code is required of members of the Board of Investment. The section states in relevant part:

" * * *
Each person appointed to membership shall qualify by taking an oath of office before the Secretary of State stating that he will diligently and honestly administer the affairs of the board and will not violate or knowingly permit the violation of any provisions of this Article. (emphasis added)

* * * "

The legislature did not enclose any part of this oath in quotation marks or otherwise set it apart from the rest of the section. This shows that the legislature "intended to state only the substance and not the exact language of the oath to be used". (People ex rel. Seegren v. Sackett, 351 Ill. 363) Therefore, I must consider further whether the constitutional oath does in substance satisfy the requirement of the statute.

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It could be argued that when an appointee says the phrase in the constitutional oath, ". . . I will faithfully discharge the duties of the office of member of the Illinois State Board of Investment to the best of my ability", he does state, in substance, that he will "diligently and honestly administer the affairs of the Board" as required by section 22A-109. Assuming that argument to be correct, I note, however, that section 22A-109 also requires that the appointee state that he will not violate or knowingly permit a violation of article 22A. Although it could be argued that such a statement is implied in the phrase "faithfully discharge the duties of the office of member of the Illinois State Board of Investment to the best of my ability" in the constitutional oath, it is clear from section 22A-109 that a specific additional statement was intended. It is a general rule of construction that a statute should be so construed, if possible, that no word, clause or sentence is rendered meaningless or superfluous. (People ex rel. Barrett v. Barrett, 31 Ill. 2d 360) The requirement that an appointee state that he will not violate or knowingly permit the violation of article 22A

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would be superfluous and meaningless if it were included within the general phrase "diligently and honestly administer the affairs of the board". Hence, section 22A-109 must be construed to require a specific statement by the appointee that he will not violate or knowingly permit a violation of article 22A in addition to the general statement that he will "diligently and honestly administer the affairs of the board". Neither the phrase in the constitutional oath that the appointee will faithfully discharge the duties of the office to the best of his ability nor any other phrase in the constitutional oath meets that specific requirement.

I am therefore of the opinion that appointees to membership on the Illinois State Board of Investment must in order to qualify to serve in that position take the oath required in section 22A-109 of the Illinois Pension Code and that they need not take the oath set forth in section 3 of article XIII of the Illinois Constitution of 1970. I am further of the opinion that the taking of the oath provided in section 3 of article XIII of the Constitution does not

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satisfy the oath requirement of section 22A-109 of the
Illinois Pension Code.

Very truly yours,

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