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August 10, 1973

FILE NO. S-605

APPROPRIATIONS:

Fiscal Year Expended

Honorable Dan Walker
Governor
State of Illinois
207 Capitol Building
Springfield, Illinois 62706

Dear Governor Walker:

I have your letter of recent date wherein you state
in part as follows:

"I am writing to ask your opinion regarding
the effect of SB 278, * * *

A problem arises because of the last sentence
of Section 1. The bill was not received in
time to permit 'distribution prior to July 1,
1973.' If I sign the bill, can the amount
appropriated be distributed during fiscal 1974?

* * * "

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Section 1 of "An Act making an appropriation to the Board of Higher Education" (SB 278) reads as follows:

"In addition to any amount otherwise appropriated for such grants, the sum of \$4,420,000, or so much thereof as may be necessary, is appropriated to the Board of Higher Education for distribution as a grant to the Chicago Medical School as authorized by the 'Health Services Education Grants Act'. This amount shall be available for distribution prior to July 1, 1973."

Section 2 of said Act provides:

"This Act takes effect upon its becoming a law."

At the outset it should be noted that an appropriation Act is to be construed under and by the same rules of statutory construction as other legislation. (81 C.J.S. Statutes, sec. 166.) It is a cardinal rule of statutory construction that a statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute. Lincoln Nat. Life Ins. Co. v. McCarthy, 10 Ill. 2d, 489.

In order to determine the legislative intent, resort may be had to the history of the legislation. Anderson v. The City of Park Ridge, 396 Ill. 235.

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The legislative history of Senate Bill No. 273

is as follows:

Mar 08 1973	S	First Reading
Mar 08 1973	S	Referred to Committee
Mar 13 1973	S	Assigned to Committee
Mar 22 1973	S	Do Pass
Mar 28 1973	S	Second Reading
Apr 04 1973	S	Third Reading - Passed
Apr 05 1973	H	House Sponsor
Apr 05 1973	H	Arrive in the House
Apr 27 1973	H	First Reading
Apr 27 1973	H	Referred to Committee
Apr 27 1973	H	Assigned to Committee
Jun 12 1973	H	Do Pass
Jun 12 1973	H	Re-Referred to Committee
Jun 22 1973	H	Do Pass
Jun 23 1973	H	Placed on Calendar Order of 2nd Reading
Jun 28 1973	H	Second Reading
Jun 30 1973	H	Third Reading - Passed

(Complete Bill Status Report,
Furnished by Legislative In-
formation Systems, Department
of Finance)

The language of the last sentence of Section 1 does not mandate distribution of the appropriated funds during fiscal 1973; it merely sanctions distribution during that time period. Further, this language in no way prohibits distribution of the funds during fiscal 1974.

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With this factor in mind it would appear from reading section 1 of Senate Bill No. 278 that the purpose of the legislation was two-fold: (1) To appropriate the sum of \$4,420,000, and (2) To make the appropriated amount available for distribution as soon as possible even prior to July 1, 1973. The legislature was obviously not unmindful of the possibility of late passage of Senate Bill No. 278, and the negative effect this would have on a distribution of the appropriated amount prior to July 1, 1973. Yet with this knowledge, Senate Bill No. 278 was passed with the inclusion of the last sentence of section 1.

I am also aware of the fact that you did not receive Senate Bill 278 until July 1, 1973, thereby precluding distribution prior to that date. This fact, in my opinion, renders the language of the last sentence of section 1 to be no more than surplusage.

Your question as to whether the appropriated amount can be distributed during fiscal 1974, must be answered in the affirmative; the legislature is not to be presumed to have done

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a vain or useless thing in the enactment of this statute.

Pinkstaff v. Penn. R.R. Co., 31 Ill. 2d 518.

It thus appears that the intent of the General Assembly, when considered in view of the late passage of Senate Bill 278 and the date which you received the bill, was to make the appropriated amount available for use during fiscal 1974.

It is a generally accepted principle of statutory construction, that in construing a statute, the statute should receive that construction which would effect its purpose rather than defeat it. (Scotfield v. Bd. of Education, 411 Ill. 11.) Any construction of Senate Bill 278 different from the above would defeat the general object and purpose of the bill and render the legislation of no effect.

Although it is not clear from your letter as to whether you are concerned with multiple-year appropriations, overlaps or no-year appropriations, any question pertaining to these matters would be moot in view of the actual date of passage rendering the authority to distribute before July 1, 1973 inoperative.

Very truly yours,

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