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SPRINGFIELD

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GOVERNMENTAL ETHICS AND
CONFLICT OF INTEREST:
Lease of Property by State's Attorney
to Secretary of State

Honorable Norbert J. Goetten
State's Attorney of Greene County
Courthouse
Carrollton, Illinois 62016

Dear Mr. Goetten:

I have your letter wherein you ask whether section 11.1 of the Illinois Purchasing Act (Ill. Rev. Stat. 1975, ch. 127, par. 132.11-1) prohibits a State's Attorney from leasing property to the Secretary of State. It is my opinion that section 11.1 does not prohibit such a lease.

Section 11.1 generally prohibits certain individuals from entering into contracts which are paid by funds appropriated by the General Assembly. The section reads as follows:

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"It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices of State government, or who is an officer or employee of the Illinois Building Authority or the Illinois Toll Highway Authority, or who is the wife, husband or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper or for any services, materials or supplies, which will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly or the State of Illinois or in any contract of the Illinois Building Authority or the Illinois Toll Highway Authority. Payments made for a public aid recipient are not payments pursuant to a contract with the State within the meaning of this Section.

It is unlawful for any firm, partnership, association or corporation in which any such person is entitled to receive more than 7 1/2% of the total distributable income to have or acquire any such contract or direct pecuniary interest therein.

It is unlawful for any firm, partnership, association or corporation in which any such person together with his spouse or minor children is entitled to receive more than 15%, in the aggregate, of the total distributable income to have or acquire any such contract or direct pecuniary interest therein.

Nothing in this Section invalidates the provisions of any bond or other security hereto or hereafter offered for sale or sold by or for the State of Illinois.

This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his spouse, minor child or any combination of such persons, if that contract was in existence before his election or employment as such officer, member, or employee. Such a contract is void, however, if it cannot

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be completed within 6 months after such officer, member, or employee takes office, or is employed.

This Section does not apply to (1) a contract for personal services as a teacher or school administrator between a member of the General Assembly or his spouse, or a State officer or employee or his or her spouse, and any school district, junior college district, the University of Illinois, Southern Illinois University or any institution under the control of the Board of Governors of State Colleges and Universities or under the control of the Board of Regents or (2) a contract for personal service of a wholly ministerial character including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly or (3) payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.

Any person convicted of a violation of this Section shall be guilty of a business offense and shall be fined not more than \$2,500."
(Emphasis added.)

Section 11.1 is applicable to "any person holding an elective office in this State." The determinative issue is whether this language refers to State's Attorneys. Literally, this language could refer to any person holding an elective office at any level of government. This would include county, township and municipal officials, along with elected officials in other units of local government and school districts.

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The basic rule of statutory construction is to give effect to the intention of the legislature. (Electrical Contractors Ass'n. of Chicago v. Illinois Building Authority (1966), 33 Ill. 2d 587, 591.) In ascertaining the legislative intent, the entire statute must be examined. (Coan v. Cessna Aircraft (1973), 53 Ill. 2d 526, 528.) A single sentence or paragraph of an act standing alone may appear to have one meaning, whereas on reading it with the entire act a different legislative intent may be evident. American Steel Foundries v. Gordon (1949), 404 Ill. 174, 180; Crouch v. Murphy (1945), 390 Ill. 112, 115.

Although the literal language in the first sentence of section 11.1 may suggest that the section applies to all elected officials, the provisions in the entire section make it clear that the legislative intent is that this language refers to elected State officials. The fifth and sixth paragraphs of the section except State officials in certain instances from the section's general prohibition. The exceptions relate to contracts that are in existence prior to the State official's election, teaching contracts with State officials, and payments made to State officials who act as foster parents.

The exceptions are expressly and specifically limited to State officers and do not extend to all elected officials.

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A statute is not to be given a construction that produces an illogical result. (Zelkovich v. Industrial Commission (1956, 8 Ill. 2d 146, 150.) There is no logical reason for excluding local officials from the exceptions in the fifth and sixth paragraphs of section 11.1; I can conceive of no reason why a local official should be prohibited from teaching at a State university or from accepting payments for serving as a foster parent while State officials are excepted from such prohibitions. The exceptions are of such a nature that logic and common sense require that these exceptions should extend to all officials who are subject to the general prohibition in section 11.1. Because the legislature has expressly and repeatedly limited the exceptions to State officers, it must be concluded that the general prohibition in section 11.1 is also limited to State officers. Therefore, it is my opinion that the prohibition in section 11.1 of the Illinois Purchasing Act against entering into contracts that are paid by funds appropriated by the General Assembly applies to elected State officers, but does not apply to elected officers in units of local government or in school districts.

The State officers referred to in the phrase "any person holding an elective office in this State" are those State officers that are elected on a State-wide basis. This interpretation is required by the fact that section 11.1 is expressly

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applicable to any person "holding a seat in the General Assembly." Specific reference to legislators would be unnecessary if the phrase "any person holding an elective office in this State" referred to all elected State officers since legislators are elected officers in the legislative branch of State government. Specific reference to this group of State officers who are elected "in" the State but not on a State-wide basis convinces me that the phrase "in this State" in section 11.1 means "throughout the State." Thus, "any person holding an elective office in this State" refers to State-wide offices; that is, the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Comptroller and the Treasurer.

Because the phrase does not refer to the office of State's Attorney, it is my opinion section 11.1 of the Illinois Purchasing Act does not prohibit a State's Attorney from entering into a contract that is paid by funds appropriated by the General Assembly. Therefore, the section does not prohibit a State's Attorney from leasing property to the Secretary of State.

Very truly yours,

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