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PENSIONS:
Investment of Policemen's
and Firemen's Pension Funds

Honorable Donald R. Smith
Treasurer of the State of Illinois
105 State House
Springfield, Illinois 62706

Dear Mr. Smith:

I have your letter wherein you request an opinion on the question of whether policemen's and firemen's pension funds may utilize the Illinois Public Treasurer's Investment Pool, created by Public Act 79-1085. After examining pertinent statutes related to this question it is my opinion that such funds may utilize the aforementioned Investment Pool.

Public Act 79-1085 was enacted subsequent to the pertinent pension fund provisions governing investment of

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policemen's and firemen's pension funds, and permits the State Treasurer to establish and maintain such a pool "to supplement and enhance the investment opportunities otherwise available to other custodians of public funds for public agencies in this State". (Ill. Rev. Stat. 1976 Supp., ch. 130, par. 17.) The Act provides a mode of investment for public funds "paid into the pool by any other custodian of such funds", and for the promulgation of rules and regulations governing the State Treasurer's administration of the pool. Further, the Act refers to "public agencies" and "public funds" as defined in section 1 of "AN ACT relating to certain investments of public funds by public agencies" (Ill. Rev. Stat. 1975, ch. 85, par. 901).

The eligibility of policemen's and firemen's pension funds for pool investment turns on the definition of the terms "public funds" and public agency" as defined in section 1 of "AN ACT relating to certain investments of public funds by public agencies" (Ill. Rev. Stat. 1975, ch. 85, par. 901). These definitions are as follows:

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"The words 'public funds', as used in this Act, mean current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to or in the custody of any public agency.

The words 'public agency', as used in this Act, mean the State of Illinois, the various counties, townships, cities, towns, villages, * * * and all other political corporations or subdivisions of the State of Illinois, now or hereafter created, whether herein specifically mentioned or not." (Emphasis added.)

Additionally, "AN ACT relating to certain investment of public funds by public agencies" (Ill. Rev. Stat. 1975, ch. 85, par. 901 et seq.) was amended in the same law creating the investment pool. The amendment specifically permits any public agency to invest any public funds in the Public Treasurer's Investment Pool. (Ill. Rev. Stat. 1975, ch. 85, par. 902.) Such investment authority is a supplemental and alternative investment method to authority found in the Pension Code. (Ill. Rev. Stat. 1975, ch. 85, pars. 902, 905.) Thus, in order for said pension funds to be invested in the investment pool under the above cited statutes they must be "public funds", which by statutory definition includes any funds in the custody of a "public agency".

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Upon examining provisions in the Illinois Pension Code (Ill. Rev. Stat. 1975, ch. 108 1/2, par. 3-101 through 6-223) governing policemen's and firemen's pension funds it is apparent that such funds may clearly be considered "public funds" in the custody of a "public agency". Article 2 of the Code (covering policemen's pension funds for municipalities of 500,000 and under) provides that each municipality shall establish and administer a police pension fund. Pension funds are deposited and kept in the custody of the treasurer of the municipality. (Ill. Rev. Stat. 1975, ch. 108 1/2, pars. 3-101, 3-125, 3-132, 3-135, 3-141.) Article 4 of the Code (covering firemen's pension funds for municipalities of 500,000 and under) has similar provisions. (Ill. Rev. Stat. 1975, ch. 108 1/2, pars. 4-121, 4-130.) Article 5 of the Code (covering policemen's annuity and benefit funds for cities over 500,000) designates the city treasurer as treasurer and custodian of the fund (Ill. Rev. Stat. 1975, ch. 108 1/2, par. 5-210), as does article 6 (covering firemen's annuity and benefit funds for cities over 500,000). Ill. Rev. Stat. 1975, ch. 108 1/2, par. 6-207.

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Hence, since the General Assembly intended the statutes to provide an alternative method of investment supplementing and enhancing otherwise available investment opportunities (Ill. Rev. Stat. 1975, ch. 85, par. 905; Ill. Rev. Stat. 1976 Supp., ch. 130, par. 17), and pension funds are "public funds" within the meaning of the Act, it is my opinion that a board of trustees may utilize the investment pool in exercising their statutory authority as managers of a particular policemen's or firemen's pension fund, subject to the rules, regulations, and statutes governing said pool.

Very truly yours,

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