



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

October 31, 1974

FILE NO. S-821

**APPROPRIATIONS:
Expenditure of Federal
Grant Funds**

Honorable George W. Lindberg
Comptroller
State of Illinois
Springfield, Illinois 62706

Dear Mr. Lindberg:

This responds to your request for an opinion as to whether you can legally honor vouchers from the Illinois Law Enforcement Commission for the expenditure of funds appropriated in House Bill 2347, as amended by the Governor's item and reduction vetoes, until the adjournment of the proposed fall session of the General Assembly. You have enclosed correspondence from the Illinois Law Enforcement Commission and from the Assistant General Counsel and the Deputy Administrator of the Law Enforcement Assistance Administration of the United States Department of Justice and a copy of the Governor's veto message.

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It is my understanding that you do not question either the validity of the appropriation bill under the Illinois Constitution of 1970, or the effectiveness of the Governor's item and reduction vetoes.

You are concerned with the possibility that the State, at a future time, would have to refund any Federal funds, granted to the State, which are expended as appropriated by House Bill 2347. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. sec. 3701 et seq.) provides that Federal grants shall be made only to States with a comprehensive State plan drawn up by the State planning agency and approved by the Law Enforcement Assistance Administration, and shall be expended only in accordance with such plan. Some of your enclosed correspondence indicated the possibility that the bill will not permit the Illinois Law Enforcement Commission to effect all of the comprehensive State plan as approved by the Law Enforcement Assistance Administration and, consequently, endangers the granting of Federal funds which have already been appropriated by the bill.

Charles R. Work, the Deputy Administrator for Administration of the Law Enforcement Assistance Administration

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stated in his letter of August 7, 1974, which is the most recent letter of your enclosed correspondence:

"While a decision in the future by the General Assembly not to appropriate sufficient matching funds would imperil the funding of the Illinois Law Enforcement Commission program from that point forward, so long as the State in all other respects complies with LEAA guideline and statutory requirements, the LEAA would not seek to recover monies previously spent by the Illinois Law Enforcement Commission for the approved projects for which funds were appropriated in H.B. 2347."

Section 509 of Title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. sec. 3757) provides:

"Whenever the Administration, after a reasonable notice and opportunity for hearing to an applicant or a grantee under this chapter, finds that, with respect to any payments made or to be made under this chapter, there is a substantial failure to comply with —

(a) the provisions of this chapter;

(b) regulations promulgated by the Administration under this chapter; or

(c) a plan or application submitted in accordance with the provisions of this chapter;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure."

Neither you nor I are in a position to determine whether this bill will, in fact, cause the loss of the Federal

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grant. While the bill may not now be in conformance with the ILEC comprehensive State plan, there has been no such official determination and such determination would be subject to appeal under the provisions of the Omnibus Crime Control and Safe Streets Act, supra. It is also possible that the plan will be amended to conform to the bill or that the General Assembly will amend the appropriation bill to conform to the plan.

The General Assembly is aware that many Federal grants to this State are made with certain conditions attached. I can only assume that the General Assembly was aware of the conditions involved in this particular program and has passed this bill aware of the possible consequence of loss of Federal funds for failure to abide by these conditions. The General Assembly has shown by passing this bill its intention to undertake that risk. Such action does not negate the validity of the bill.

I, therefore, am of the opinion that you may legally honor vouchers in accordance with House Bill 2347 as it has been approved by the Governor.

Very truly yours,

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