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FILE NO. S-1151

**LABOR:
Public Body -
Prevailing Wage Act**

**Donald A. Johnson
Director
Department of Labor
State of Illinois
Springfield, Illinois 62706**

Dear Director Johnson:

This responds to your letter regarding the applicability of "AN ACT regulating wages of laborers, mechanics, and other workmen employed in any public works, etc." (Ill. Rev. Stat. 1975, ch. 48, pars. 39s-1 et seq.) to a construction project being undertaken by a certain hospital. Under authority of "AN ACT authorizing counties to levy a tax for the purpose of maintaining public non-sectarian hospitals" (Ill. Rev. Stat. 1975, ch. 34, par. 5351) the hospital requested and received financial aid from the county in 1974 and 1975. In

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1976, the hospital has not requested, and the county has not provided, any such authorized financial support. The hospital is now undertaking a construction project. You ask whether the hospital's receipt of public funds in 1974 and 1975 cause it to be classified as a "public body" and therefore to be subject to the provisions of "AN ACT regulating wages of laborers, mechanics, and other workmen employed in any public works, etc."

It is my opinion that the fact that the hospital is no longer receiving funds from the county is not by itself determinative of whether the hospital is a "public body" for purposes of the Act. If the hospital retains funds received from the county in 1974 or 1975, it is partially supported by such public funds and is therefore a "public body" for purposes of the Act. The existence of public funds previously received from the county and currently existing as a portion of the hospital's assets, is a factual determination which I am unable to make.

Section 1 of the Act states:

"§ 1. It is the policy of the State of Illinois that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workmen and mechanics employed by or on behalf of any and all public bodies engaged in public

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works, exclusive of maintenance work."

Section 2 states in pertinent part:

"§ 2. This Act applies to the wages of laborers, mechanics and other workmen employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works.

As used in this Act, unless the context indicates otherwise:

'Public works' means all fixed works constructed for public use by any public body, other than work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds.

* * *

'Public body' means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, authorized by law to construct public works or to enter into any contract for the construction of public works, * * * " (emphasis added.)

In order to be a "public body" the hospital would have to fall within the category described as "any institution supported in whole or in part by public funds".

Your question apparently arises from the fact that the hospital is not receiving funds from the county at the same time that it is undertaking the construction project. It would require a narrow interpretation of the word "supported" to conclude that the institution in question must be simultaneously receiving public funds and undertaking a construction

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project if it is to be considered a "public body" for purposes of the Act. I do not feel that the word "supported" should be so narrowly construed.

In the absence of a statutory definition indicating a definite legislative intent, words used in a statute should be given their common dictionary meaning or their popularly understood meaning. (Conlon-Moore Corp. v. Cummins, 28 Ill. App. 2d 368, aff'd. 23 Ill. 2d 341; Stice v. Beard, 46 Ill. App. 2d 304.) Webster's Third New International Dictionary defines "support" as:

"To pay the costs of; maintain; to supply with the means of maintenance or to earn or furnish funds for maintaining; to provide a basis for existence or subsistence."

It should be clear that if the hospital still retains funds received from the county in 1974 or 1975, its existence and operations are to some degree maintained by such public funds and it would therefore be supported in part by public funds. I conclude that the word "supported" as used in the definition of "public body" encompasses not only the receipt of public funds while undertaking "public work", but also the possession of public funds received prior to the institution of a "public work" which to any degree enables the institution to maintain itself and its operation. The fact that an insti-

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tution has ceased to receive public funds does not conclusively determine whether it is or is not a "public body" for purposes of the Act.

Because I have no information concerning the present financial resources of the hospital in question, I am unable to determine whether in fact it does retain funds granted by the county in 1974 or 1975. If it does, then the hospital is an institution supported in part by public funds. If it does not, it is not within the scope of the Act.

Very truly yours,

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