

## Article 8. Finance

The Finance Article replaced various restrictions on uses of public funds and credit with a single requirement that public assets and credit be used only for public purposes. It also required that records pertaining to public funds be available; that the state have annual budgets; and that new auditing systems be used.

### SECTION 1. GENERAL PROVISIONS

#### **(a) Public funds, property or credit shall be used only for public purposes.**

This provision replaced various restrictions on uses of public funds or credit in the 1870 Constitution with the single restriction that public assets and credit may be used only for public purposes. The Illinois Supreme Court has upheld, as serving a public purpose, use of public assets or credit for urban redevelopment,<sup>1</sup> industrial development,<sup>2</sup> creation of and aid to mass transit,<sup>3</sup> expanding facilities for the public to attend sporting events,<sup>4</sup> enforcing child-support obligations,<sup>5</sup> and even transporting students to private schools along regular public school bus routes.<sup>6</sup> The fact that some benefits will flow to private organizations does not make expenditures unconstitutional, if the expenditures serve a public purpose.<sup>7</sup>

On the other hand, the Illinois Supreme Court has held that paying legal fees for the defense of public officials against criminal charges, which did not arise from the lawful exercise of powers of their offices, is not a public purpose under this provision.<sup>8</sup> The Court has also held that a local officer's use of an official credit card to get money to gamble at a casino—even though the officer repaid from his own funds the amounts he charged—could constitute official misconduct under a Criminal Code section stating that it is a crime if a public officer or employee “[k]nowingly performs an act which he knows he is forbidden by law to perform.”<sup>9</sup> An Illinois Appellate Court decision held that displaying advertising for a shopping center on a water tower that a city had bought from the shopping center owners was an improper use of the municipally owned tower.<sup>10</sup>

Several Attorney General's opinions have addressed leasing of county-owned real estate to other persons or organizations. Those opinions advised that not only must such leases be for adequate consideration to the county (unless the county is authorized by law to make a donation to the lessee),<sup>11</sup> but the use to which the lessee puts the property must itself benefit the public, such as providing space for other units of government or for legislators.<sup>12</sup> But the outright sale of public property to anyone is permitted, if the price is adequate.<sup>13</sup> The Attorney General has also stated that use of public funds for political campaigns is unconstitutional.<sup>14</sup>

In a 2011 case, the Illinois Supreme Court held that parts of the fees charged annually to motorcyclists and put into a special fund—described by law as “a trust fund outside of the State treasury”—could be “swept” (transferred) as required by a later law to the General Revenue Fund to help pay general state expenses. The Court took that position based on the constitutional principle that the General Assembly cannot foreclose a later General Assembly's actions (or even its own later actions). The Court treated the statutory phrase “trust fund outside of the State treasury” as essentially meaningless, holding that all funds collected by law from motorcyclists were state funds and thus subject to legislative appropriation.<sup>15</sup>