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## The Comptroller: Illinois' Chief Fiscal Control Officer, 8 J. Marshall J. Prac. & Proc. 225 (1974)

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# THE COMPTROLLER: ILLINOIS' CHIEF FISCAL CONTROL OFFICER

by ROGER C. NAUERT\*

The 1970 Illinois Constitution created the new office of State Comptroller.<sup>1</sup> In doing so, it introduced an unprecedented level of fiscal accountability in Illinois, ending years of bickering over whether the state was enjoying prosperity or nearing bankruptcy. This new office was to serve as a "watchdog" over all public funds. The Comptroller, as the chief fiscal control officer of the state, was to compile all fiscal data and approve all expenditures. Now every penny would be accounted for on its way to and from the treasury.

The constitutional reference to the duties of the Comptroller is quite brief:

The Comptroller, in accordance with law, shall maintain the State's central fiscal accounts, and order payments into and out of the funds held by the Treasurer.<sup>2</sup>

This directive is deceptively simple. The magnitude of the office can be seen more clearly in the provisions of the State Comptroller Act<sup>3</sup> of 1972. This implementing legislation establishes the Comptroller as the state's chief fiscal control officer.<sup>4</sup> To enable him to fulfill this role, the Comptroller is made responsible for the development and implementation of a system of controls over state spending, the reporting of the state's financial condition, and the establishment and maintenance of a uniform accounting system for the entire state government.<sup>5</sup>

Pursuant to the State Comptroller Act, the Comptroller also absorbs all of the former duties of the now abolished Auditor of Public Accounts.<sup>6</sup> Further legislation enacted by the 78th General Assembly delegated numerous supplemental responsibilities formerly exercised by the Auditor of Public Accounts. An omnibus revisory bill<sup>7</sup> substituted the Comptroller's office for

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1. ILL. CONST. art. V, § 17 (1970).

2. *Id.*

3. ILL. REV. STAT. ch. 15, § 201 *et seq.* (1973).

4. *Id.* § 202.

5. *Id.* § 207.

6. *Id.* § 222.

7. Pub. Act No. 78-592 (Sept. 7, 1973) 2 Laws of Ill. 1634 (1973).

that of the Auditor in a multitude of miscellaneous state functions generally relating to financial operations. For the most part, these responsibilities relate to the administration of certain appropriations and government functions, special audits, and membership on various boards and commissions.

Many of the statutes amended by this massive revision have been the subject of case law. In virtually all of the cases, the rulings continue to be relevant in defining the duties and responsibilities of the Comptroller.

Together, the constitution, the State Comptroller Act, related implementing legislation, and the existing case law comprise a useful statement of the Comptroller's jurisdiction. However, numerous issues are encountered daily by the Comptroller which do not have an interpretive basis in existing law. As a result, a vast array of potential legal and constitutional questions await solution as Illinois' first Comptroller goes about his newly created task of screening state spending and developing an immense reservoir of data on state finance.

## THE CONSTITUTION

### *General References*

The Comptroller is included among the officers enumerated under section 1 of the Executive Article.<sup>8</sup> This section provides that the Comptroller, like his fellow constitutional officers, shall keep public records and maintain a residence at the seat of government during his term of office.<sup>9</sup>

Since his term is limited to four years,<sup>10</sup> and since article V, section 2 of the constitution requires all constitutional officers to run in non-presidential election years beginning in 1978, the Comptroller will run for a two-year term of office in 1976. His eligibility to hold office is the same as that provided for the other members of the Executive Branch—he must be a United States citizen, at least 25 years of age, and a resident of the State of Illinois for the three years preceding his election.<sup>11</sup> Vacancies in the office are filled through appointment by the Governor.<sup>12</sup>

### *Title and Responsibilities*

As indicated above, the constitutional provision establishing the actual duties of the Comptroller is extremely brief. He has

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8. ILL. CONST. art. V, § 1 (1970).

9. *Id.*

10. *Id.* § 2. The state's first comptroller, George W. Lindberg, was inaugurated on January 8, 1973; his term of office will therefore expire in 1976.

11. ILL. CONST. art. V, § 3 (1970).

12. *Id.* § 7.

the responsibility of maintaining the state's fiscal accounts and ordering payments into and out of the funds held by the Treasurer.<sup>13</sup> This alone is a formidable task. State government is the largest "business" in Illinois, now receiving and spending more than \$7 billion annually.<sup>14</sup>

Moreover, the mere change in name from "Auditor of Public Accounts" to "Comptroller" itself indicates a host of totally new duties.<sup>15</sup> The Constitutional Convention of 1970 felt that "Auditor of Public Accounts" was a misnomer and that the name "Comptroller" would more accurately reflect the duties of the office:

The title "Comptroller" is actually more appropriate than that of "Auditor of Public Accounts" even at present. That official's audit-related duties are minimal and of the so-called "pre-audit" type—relating to verifications at the time the State's agencies request him to issue a warrant.<sup>16</sup>

Further, the term "audit" suggests to most members of the public a financial analysis following an actual transaction. Hence, the Constitutional Convention felt that the name "Auditor of Public Accounts" needlessly confused the public in distinguishing that office from the office of the Auditor General,<sup>17</sup> which performs the true post-audit duty in state government and is a part of the legislative branch.<sup>18</sup>

From a constitutional perspective, the change in the title of the new office has both semantic and operational significance. The pre-audit function of the Comptroller is the basis for his decision to disburse funds.<sup>19</sup> This pre-audit occurs before the fact of payment and requires a vigorous decision-making function traditionally associated with careful fiscal management.

In addition to the above, the current operation of the Com-

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13. *Id.* § 17.

14. The state can be conceptualized as a "business" in that it provides a wide range of government services for a price. Like a true business, it receives revenues and has expenditures. During the state's last fiscal year, it received and spent over \$6 billion. The current rate is far above that. It also has over 100,000 employees and billions of dollars in assets. Utilizing virtually any common ground for comparison, Illinois far exceeds the financial activities of any corporation doing business within its borders. This includes such giants as Sears Roebuck, Standard Oil, and Caterpillar Tractor.

15. According to the dictionary, an "auditor" is a person authorized to "examine and verify accounts," while a "comptroller" is a public official who not only "audits government accounts" but also "certifies expenditures." WEBSTER'S SEVENTH NEW COLLEGIATE DICTIONARY 58, 171 (1969).

16. REC. OF PROCEEDINGS, SIXTH ILL. CONSTITUTIONAL CONVENTION *Committee Proposals, Committee on the Executive*, vol. VI at 354 (1969-70) [hereinafter cited as *Committee Proposals*].

17. *Id.* at 354-55.

18. ILL. CONST. art. VIII, § 3 (1970).

19. The legislative authority for the Comptroller's pre-audit function is set forth in ILL. REV. STAT. ch. 15, § 209 (1973).

troller's office is indicative of the restructured approach of the state in controlling its fiscal activities. This operation is characterized by a problem-solving approach employing the twin disciplines of law and accounting.

A primary goal of the Constitutional Convention was to create one officer who would be accountable for the financial affairs of the state. The benefit of having one fiscal officer as embodied in the Comptroller's office was made clear by the Executive Committee to the 1970 Constitution when it noted:

Undesirable diffusion of responsibility [sic] and duplicative effort of little value have become increasingly prevalent and costly over the years. Provisions for the maintenance of central accounts in accordance with sound practice need to be strengthened, and we believe this can best be done under the auspices of an independently elected Comptroller . . . .<sup>20</sup>

Thus, the Comptroller's constitutional authority to maintain the state's central fiscal accounts and to order payments into and out of the funds held by the Treasurer is a clear expression of the Constitutional Convention's wish that there be one officer directly responsible for the fiscal affairs of the state.<sup>21</sup>

To implement this responsibility, the Comptroller has been made accountable for both the collection of fiscal information from all of the state agencies and the dissemination of that information to various state officers, to state agencies, and to the public.<sup>22</sup>

In further implementing this responsibility, the General Assembly also placed in the hands of the Comptroller the duty to determine the legality of state expenditures.<sup>23</sup> The Committee Proposal on the Comptroller section noted that:

Under the rewritten provision, verification of the legality of expenditures will be the clear responsibility of the Comptroller . . . .<sup>24</sup>

Since it is elementary to the responsibilities of a "Comptroller" to prohibit payments which are contrary to the law, this duty flows logically from the Comptroller's function of payment.

20. *Committee Proposals, Committee on the Executive*, vol. VI at 355.

21. Under law, all of the fiscal processing functions of the state ultimately lead to the Comptroller. ILL. REV. STAT. ch. 15, § 202 (1973). Although vouchers are certified at the agency level and, in some cases, are later approved by the Department of Finance, the final decision to honor the voucher and to issue the warrant is made by the Comptroller. *Id.* § 209.

22. ILL. REV. STAT. ch. 15, §§ 216, 219 (1970). The term "state agency" has been defined broadly in section 7 of the Comptroller Act to include all departments, officers, authorities, public corporations and quasi-public corporations, commissions, boards, institutions, state colleges and universities, and all other public agencies created by the state other than units of local government and school districts. *Id.* § 207.

23. ILL. REV. STAT. ch. 15, § 209 (1973).

24. *Committee Proposals, Committee on the Executive*, vol. VI at 384.

Although the Comptroller's jurisdiction is not as broad as that of the Governor's, it is no less important in terms of checks and balances. In fact, the office of the Comptroller is equal in constitutional authority to the office of the Governor.<sup>25</sup> The Comptroller does not report to the Governor; he is responsible to the people. As might be expected, there have been occasional disagreements with the office of the Governor on fiscal matters. Some examples of these confrontations illuminate the constitutional responsibilities and independence of the Comptroller.

On May 3, 1974, Comptroller Lindberg refused to pay bills for the continued operation of the River Oak Correctional Center in Joliet. The Comptroller took action to hold bills for the Center totalling more than \$22,000 until he had ascertained the legality of the requested expenditures. The question was whether state funds specifically appropriated to care for *juvenile* inmates could be used for *adult* inmates without General Assembly action. The Governor had earlier notified the Comptroller that the Department of Corrections had transferred the Juvenile Reception and Diagnostic Center at Joliet from the Juvenile Division to the Adult Division of the Department. The name was also changed to River Oak Correctional Center at that time.

Beginning on April 25, 1974, the Department of Corrections began sending bills for River Oak to the Comptroller for payment as an adult facility. The Comptroller noted that when the function of the institution was transferred to another state correctional facility, the money appropriated to the River Oak facility had to follow the juvenile diagnostic function to the new institution. Responding to the Comptroller's view, the Governor reversed his position one week later and decided to abort the transfer of functions and to restore the earlier organization.

One of the more celebrated confrontations between the Governor and the Comptroller concerned the Governor's use of hundreds of unappropriated accounts involving millions of dollars in federal funds. In *People ex rel. Kirk v. Lindberg*,<sup>26</sup> the issue centered around the meaning of article VIII, section 2(b) of the Illinois Constitution, which reads: "The General Assembly by law shall make appropriations for all expenditures of public funds by the State." The General Assembly had included clauses in the appropriation bills of 13 gubernatorial agencies that these agencies were not free to spend federal funds in excess of the amounts appropriated without additional appropriations by the General Assembly.<sup>27</sup> Despite protest by the Comptroller, the Il-

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25. ILL. CONST. art. V, § 1 (1970).

26. No. 46966 (Ill., Sept. 27, 1974).

27. These items came to be known, perhaps inappropriately, as

Illinois Supreme Court in *Kirk* invalidated these clauses. The Comptroller insisted that this would result in a dilution of legislative power, with a corresponding broadening of the powers of the executive branch of Illinois state government. The Comptroller also argued that in holding the General Assembly powerless to restrict the spending of federal funds by the use of a prohibition clause, another major victory had been won for the federal government's overriding of the authority of the state to resist federal influence.<sup>28</sup>

For purposes of this discussion, the key element in this case was the confrontation between the Comptroller and the Governor. Had the Comptroller not been an independent constitutional officer, as is the case in some states, the Governor would have been able to direct payment without interference.

A third example of the constitutional responsibilities and independence of the Comptroller can be seen in the continuing controversy surrounding the Central Accounting Section of the Department of Finance. It was the clear intent of the Constitutional Convention that duplicative pre-audit functions pursued by the Department of Finance should be eliminated. The Committee on the Executive noted that:

Laws and practices relating to the recently created Bureau of the Budget and the older Department of Finance need to be revised to preserve those elements of fiscal control which the Governor requires as part of the budgetary process, while dispensing with routines which impinge upon the role of the Comptroller and which, further, actually divert energies in those staffs from their core activity—financial planning and budget administration. Appropriate statutory realignment of fiscal responsibilities is expected to ensue in due course once the revised Constitution is adopted.<sup>29</sup>

The expectations of the Constitutional Convention, however, have not thus far been carried out. An attempt by the Comptroller to cause the Governor to transfer the central accounting function to the Comptroller's office was resisted by the Governor and failed in the Illinois Senate.<sup>30</sup> This duplication of effort continues to be a point of controversy between the Governor and

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"weasel clauses." Perhaps they might have been better defined as "anti-weasel clauses."

28. *People ex rel. Kirk v. Lindberg*, No. 46966 (Ill., Sept. 27, 1974). By focusing its attention on the "weasel clause," the court chose to ignore the broader issue of whether the state may spend any funds without specific legislative appropriation. This broader issue was a major cause of the Comptroller's decision to petition for a rehearing before the court. This is a monumentally important provision of the constitution which will probably be argued on many occasions before the full scope of the legislature's appropriation power is adequately described.

29. *Committee Proposals, Committee on the Executive*, vol. VI at 356.  
30. S. 5, 78th Gen. Assembly, 4th Special Sess. (1973).

the Comptroller. In addition to being contrary to the constitutional mandate, it creates a bottleneck in the processing of state vouchers, adding a chronic problem of slow pay by the State of Illinois. The Comptroller has repeatedly argued that the elimination of these duplicative pre-audit functions could expedite the state's payments of its bills.

Again, it is apparent that the Comptroller has the independent constitutional power to dispute the Governor and to claim those functions properly within his role as the state's chief fiscal control officer. On numerous occasions the Comptroller has underscored the clear message of the constitution that he has the authority to implement modern financial systems and to be free to exercise his independent judgment in scrutinizing state expenditures. His position finds support in the proposals of the Executive Committee:

The constitutional change here proposed and the statutory revision here envisioned would place Illinois with such states as California and New York which, long ago, rewrote the constitutional authorizations for their fiscal officers to reflect modern accounting practices. The new provisions will preserve the overall responsibilities of the Governor while increasing the assurance of the people that another officer directly responsible to them provides an independent check upon treasury deposits and disbursements.<sup>31</sup>

### *Comparison of Offices*

As emphasized above, the Constitutional Convention was deeply concerned with the duplication and overlap of responsibilities in state government.<sup>32</sup> To solve this problem, the framers attempted to sharply delineate the duties of the four offices chiefly responsible for state fiscal affairs, while maintaining a delicate but effective system of checks and balances. The four offices are those of the Comptroller, the Treasurer, the Governor and the Auditor General.

As noted, the Comptroller is an executive officer, elected by the citizens of Illinois. He provides a central repository for fiscal data. Most importantly, he performs a pre-audit function by ascertaining the legality of all expenditures and orders payments into and out of funds held by the Treasurer. He exercises a combined legal-accounting function to establish control over state finance.

The Treasurer is also an executive officer elected by the citizens of Illinois.<sup>33</sup> He can only disburse funds from the treasury

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31. *Committee Proposals, Committee on the Executive*, vol. VI at 357.

32. *Id.* at 355.

33. ILL. CONST. art. V, § 1 (1970).



upon a warrant drawn by the Comptroller.<sup>34</sup> Essentially, the Treasurer performs depository and investment functions. As the state's "investment banker," his basic task is to maximize the return on investments of idle funds held within the treasury. The Treasurer maintains the state's "savings account" while the Comptroller makes the deposits and withdrawals. The Treasurer must keep the savings account as high as possible, while the Comptroller insures that all expenditures are properly within the law.

The Governor, elected by the people as the state's chief executive officer, also exercises a considerable financial function, embracing numerous fiscal activities necessary to his administration.<sup>35</sup> Two principal gubernatorial agencies assist him in this vital area, the Department of Finance and the Bureau of the Budget. The Department of Finance was created by statute to engage in a financial analysis of the spending of agencies which report to the Governor.<sup>36</sup> Thus, it performs a substantial accounting and auditing function. The Bureau of the Budget was created by statute to budget the expenditures of agencies reporting to the Governor.<sup>37</sup> It also prepares the Governor's annual budget in accordance with the constitution.<sup>38</sup>

Finally, the Auditor General is a legislative officer who is appointed for a ten-year term by a three-fifths vote of the General Assembly.<sup>39</sup> The Auditor General is responsible for post-audit duties.<sup>40</sup> He is the financial and management auditor for the legislature. He determines whether appropriations were spent properly.

Thus, an intricate check-and-balance system is maintained for state fiscal activities. The payment function is performed by the Comptroller, an executive officer. His decisions, as well as those of the agencies themselves, are ultimately checked by the Auditor General, a legislative officer.

Significantly, it is the General Assembly which has the sole authority to appropriate funds for expenditure in the State of Illinois.<sup>41</sup> It should also be noted that the term of the Auditor General is ten years in duration. This necessarily overlaps the activities of the terms of the Comptroller, the Treasurer, and the Governor who are elected for only four-year terms.

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34. *Id.* § 18.

35. *Id.* §§ 1, 8.

36. ILL. REV. STAT. ch. 127, § 35.1 *et seq.* (1973).

37. *Id.* § 411 *et seq.*

38. ILL. CONST. art. VIII, § 2(a) (1970); ILL. REV. STAT. ch. 127, § 412.1 (1973).

39. ILL. CONST. art. VIII, § 3 (1970).

40. *Id.* § 3(b).

41. *Id.* § 2(b).

*Supplemental Duties*

An examination of the responsibilities given to the Comptroller under the constitution reveals a curious omission. Most constitutional officers in Illinois are given an open-ended authority to "perform other duties that may be prescribed by law." This language does not appear in either the statement of the Comptroller's responsibilities or in the provisions relating to the Treasurer.<sup>42</sup> The absence of any such language can be interpreted as a mandate from the Constitutional Convention that the legislature is not to tamper with the powers of the Comptroller and the Treasurer in terms of either limiting the jurisdiction of these officials or adding extraneous non-financial duties to these offices.

It appears that the Constitutional Committee did not want to take a stand on this matter. This seems to be the view expressed by Mr. Charles Coleman, the vice-chairman of the Executive Article Committee of the 1970 Constitutional Convention, during floor discussion at the Convention:

We didn't actually write in a prohibition, because we don't know what the legislature might want to do at a future time. We didn't want to write in a prohibition, but we didn't want to advertise, either, that [additional duties and responsibilities] should be added on.<sup>43</sup>

However, the Citizens' Advisory Committee on the Implementation of the Comptroller's Office expressed concern regarding the allocation of extraneous duties to the Comptroller's office. It was the Committee's opinion that:

In order that the Comptroller may concentrate on developing and administering an improved fiscal control system for the state government, such unrelated responsibilities as the Auditor of Public Accounts had regarding local government finances should be placed elsewhere.

Transfer away from the Comptroller's Office is also recommended for the Auditor's responsibilities in administering the Cemetery Care and Funeral or Burial Funds Act.<sup>44</sup>

The General Assembly, however, determined that all of the duties formerly performed by the Auditor of Public Accounts could properly be placed under the auspices of the Comptroller. In section 22 of the Comptroller Act the General Assembly empowered the Comptroller to succeed to all "rights, powers, duties

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42. ILL. CONST. art. V, §§ 17, 18 (1970).

43. REC. OF PROCEEDINGS, SIXTH ILL. CONSTITUTIONAL CONVENTION *Verbatim Transcripts*, vol. III at 1318 (1969-70) [hereinafter cited as *Verbatim Transcripts*].

44. ILLINOIS COMPTROLLER'S OFFICE IMPLEMENTATION, REPORT OF THE CITIZENS' ADVISORY COMMITTEE ON IMPLEMENTATION OF THE COMPTROLLER'S OFFICE UNDER THE 1970 ILLINOIS CONSTITUTION (Springfield, Illinois, Oct. 4, 1971).

and liabilities of the Auditor of Public Accounts" in effect at the end of the Auditor's term of office.<sup>45</sup> As previously noted, an omnibus revisory bill was similarly passed in 1973 to substitute the title "Comptroller" for the "Auditor of Public Accounts" throughout Illinois statutes.<sup>46</sup>

Moreover, time has shown that the concerns of the Advisory Committee were unwarranted. In addition to meeting all of the mandates of the Comptroller Act, the Comptroller has been able to retain and upgrade many of the so-called "unrelated" functions mentioned by the Committee without any appreciable diversion of effort.

This is amply demonstrated by several Comptroller improvements in the methods used for the annual auditing and reporting of the financial affairs of units of local government in Illinois.<sup>47</sup> Another example can be seen in the higher audit standards pursued in the Cemetery Care and Funeral Trust Fund area.<sup>48</sup> The Comptroller maintains an audit staff to oversee and audit the perpetual care funds of private cemeteries and the "pre-need" trust funds maintained by funeral enterprises in Illinois. He also possesses a licensing function in this area.<sup>49</sup>

It should not be assumed, however, that the Comptroller takes no part in deciding whether to accept or reject supplemental functions. Several suggested functions have been eschewed by the Comptroller as inappropriate. For example, the Comptroller in 1973 opposed a bill which would have given his office general management and investment responsibilities over volunteer police and fire pension funds.<sup>50</sup> In asking the Governor to veto the bill, the Comptroller pointed out that the investment function was foreign to the general duties of the Comptroller's office and clearly belonged elsewhere in government.

In general, it has been the policy of the Comptroller to retain or accept those functions which are reasonably related to general government finance operations and which would find a counterpart in private enterprise. Further, such supplemental

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45. ILL. REV. STAT. ch. 15, § 222 (1973).

46. Pub. Act No. 78-592 (Sept. 7, 1973) 2 Laws of Ill. 1634 (1973).

47. The Comptroller's local government audit and reporting functions are elaborated in three Illinois statutes. See the Illinois Municipal Auditing Law, ILL. REV. STAT. ch. 24, § 8 (8)(1) *et seq.* (1973); the County Auditing Law, ILL. REV. STAT. ch. 34, § 2011 *et seq.* (1973); and An Act in Relation to Audits of the Accounts of Certain Governmental Units (Townships and Special Districts), ILL. REV. STAT. ch. 85, § 701 *et seq.* (1973).

48. See The Cemetery Care Act, ILL. REV. STAT. ch. 21, § 64.1 *et seq.* (1973) and the Funeral or Burial Funds Act, ILL. REV. STAT. ch. 111½, § 73.01 *et seq.* (1973).

49. ILL. REV. STAT. ch. 21, § 64.7 (1973); *id.* ch. 111½, § 73.103 (1973).

50. "An Act to authorize extended service incentives for volunteer firemen," H.R. 244, 78th Gen. Assembly (1973).

duties have found a basis in functional expedience. In some cases, the Comptroller is in the best position to execute a particular responsibility because his staff is uniquely qualified to do so. In other cases, the fact that the Comptroller is an elected official, drawing his power from the people, has been a persuasive basis of authority.

Thus, the Comptroller's office today is principally involved in the administration of state finance with primary emphasis on accounting and state-level fiscal reporting. However, other functions go beyond pure state-level finance. Only those which clearly belong elsewhere in state government are opposed.

The following list of current duties and responsibilities performed by the Comptroller may be described as tangential to his role as chief fiscal control officer:

1. Responsibility for the administration of the Cemetery Care Act.<sup>51</sup>
2. Responsibility for the administration of the Funeral or Burial Fund Act.<sup>52</sup>
3. Membership on the State Records Commission.<sup>53</sup>
4. Supervision and control over the auditing of local government units in Illinois other than school districts.<sup>54</sup>
5. Power to determine the need for a petty cash fund by any state agency.<sup>55</sup>
6. Membership on the State Employees Group Insurance Advisory Commission.<sup>56</sup>
7. Power to pursue uncollectible claims or accounts receivable of the state or state agencies.<sup>57</sup>
8. Power to approve any financial obligations imposed on the state pursuant to the Interstate Compact on Juveniles Act.<sup>58</sup>
9. Membership on the Board of Trustees of the State Employees Retirement System.<sup>59</sup>
10. Membership on the State Travel Control Board.<sup>60</sup>
11. Power to investigate the affairs of the Educational Facilities Authority.<sup>61</sup>

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51. ILL. REV. STAT. ch. 21, § 64.1 *et seq.* (1973).

52. *Id.* ch. 111½, § 73.101 *et seq.* (1973).

53. *Id.* ch. 116, § 43.19 (1973).

54. *Id.* ch. 85, § 701 *et seq.* (1973); *id.* ch. 24, § 8 (8) (1) *et seq.* (1973); and *id.* ch. 34, § 2011 *et seq.* (1973).

55. *Id.* ch. 127, § 171.1 (1973).

56. *Id.* ch. 127, § 524 (1973).

57. *Id.* ch. 15, § 103 (1973).

58. *Id.* ch. 23, § 2595 (1973).

59. *Id.* ch. 108½, § 14-172 (1973).

60. *Id.* ch. 127, § 148-1 (1973).

61. *Id.* ch. 144, § 1318 (1973).

12. Power to determine the tax rate pursuant to the Revenue Act of 1939 required to produce the amount of taxes levied by the General Assembly. The power is exercised in conjunction with the Governor and the Treasurer.<sup>62</sup>

### *Comparison with the 1870 Constitution*

In comparing the 1870 and 1970 Constitutions, an examination must be made of the duties of the Auditor of Public Accounts as enumerated in article IV, section 17 of the 1870 Constitution and the duties of the Comptroller as specified in article V, section 17 of the 1970 Constitution. There are three primary areas of change in the new constitution. Two of these changes were mandatory and have gone into effect. The third change was optional and has been rejected by the General Assembly.

First, the 1970 Constitution specifically directs the Comptroller to maintain the state's central fiscal accounts.<sup>63</sup> This mandate is the most crucial change in the constitution relative to the Comptroller's office. The 1870 Constitution had no comparable provision. This directive of the new constitution has been implemented by the State Comptroller Act.<sup>64</sup> Its implementation is discussed below.

The second mandatory change in the 1970 Constitution pertaining to the role of the Comptroller is found in the language describing the funds over which the Comptroller's powers extend. The wording has been changed from "funds in the Treasury" to "funds held by the Treasurer."<sup>65</sup> The purpose of this distinction is to give to the Comptroller, in his role as chief fiscal control officer, the responsibility for the ordering of expenditures of *all* public funds, not just those technically held in the treasury.

An example of funds held by the Treasurer which are technically not *in* the treasury can be seen in the various state university funds, over which the Treasurer is *ex officio* custodian.<sup>66</sup> The Comptroller's warrant-writing responsibility now extends to expenditures of these funds even though the funds may not be strictly construed to be within the state treasury.

The third change in the 1970 Constitution concerns the warrant system as used in Illinois. The delegates to the Constitutional Convention sought to give the state legislature the option of developing a new system for ordering payments into and out of funds held by the Treasurer. Thus, the word "warrant" is

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62. *Id.* ch. 120, § 634 (1973).

63. ILL. CONST. art. V, § 17 (1970).

64. ILL. REV. STAT. ch. 15, § 201 *et seq.* (1973).

65. ILL. CONST. art. V, § 17 (1970).

66. ILL. REV. STAT. ch. 127, §§ 140-41 (1973).

conspicuously absent from article V, section 17 of the constitution, whereas it was specifically used in article IV, section 17 of the 1870 Constitution and appeared in early drafts of the 1970 Constitution. However, the General Assembly declined to exercise this implicit constitutional option. Section 9 of the Comptroller Act directs the Comptroller to continue the use of warrants as the sole means for ordering payments into and out of funds held by the Treasurer.<sup>67</sup>

The basic title transformation of an "Auditor of Public Accounts" into a "Comptroller" is also another very obvious change. As was once the case with the Auditor, detailed legislation was required to implement the constitution and to describe what would now be expected of a "Comptroller."

#### STATE COMPTROLLER ACT

The 1970 Constitution provides only a bare framework of duties for the Comptroller's office. Legislation was required to implement the directives of article V, section 17 of the constitution. In passing the State Comptroller Act,<sup>68</sup> the 77th General Assembly provided a blueprint for state fiscal accountability by giving the Comptroller many and varied powers deemed necessary to his function as the state's chief fiscal control officer. The Act delegated four major areas of responsibility to the Comptroller:

1. The power to develop uniformity in state fiscal procedures;<sup>69</sup>
2. General pre-audit authority;<sup>70</sup>
3. The power to gather information from the various state agencies;<sup>71</sup> and
4. A duty to disseminate fiscal data to the various state agencies and the general public.<sup>72</sup>

Section 2 of the Act establishes the Comptroller as the state's chief fiscal control officer and embellishes the abbreviated responsibilities mentioned in the constitution. Section 2 also re-

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67. *Id.* ch. 15, § 209 (1973). It should be noted, however, that a new policy has been formalized by the Federal Reserve System which will not accept warrants after January 1, 1976. The new policy would require all monetary instruments going through the Federal Reserve System for the benefit of a third party to have been drawn on financial depository institutions chartered by state or federal law and subject to supervision. See Letter from the Federal Reserve System to State Treasurer Alan Dixon, Oct. 8, 1974.

68. *ILL. REV. STAT.* ch. 15, § 201 *et seq.* (1973).

69. *Id.* §§ 207-08.

70. *Id.* §§ 209-10.17.

71. *Id.* §§ 216-18.

72. *Id.* §§ 219-20.

cognizes that the Comptroller may receive additional responsibilities by legislative action:

The comptroller shall serve as the chief fiscal control officer of the State of Illinois, shall maintain the State's central fiscal accounts, shall order all payments into and out of the funds held by the State Treasurer and, in addition to the powers and duties otherwise provided by law, shall have the powers and duties provided in this Act.<sup>73</sup>

### *Oath and Bond*

Sections 3 through 5 of the Act are devoted to the Comptroller's oath and bond.<sup>74</sup> The Comptroller's oath or affirmation is the same as that for any other prospective holder of a state office. The Comptroller simply swears or affirms that he will support the Constitution of the United States and the constitution of the State of Illinois and will faithfully discharge the duties of his office to the best of his ability.

By law, the Comptroller is required to have a million dollar bond.<sup>75</sup> The bonding requirements are understandably substantial when the responsibilities of the office are considered. On a given day, the Comptroller averages expenditures of approximately \$30 million and issues more than 50,000 warrants.

### *The Comptroller's Seal and Records*

In deference to our common law heritage, section 6 requires the maintenance and use of a Comptroller seal to authenticate documents required by law to be certified from the Comptroller's office.<sup>76</sup> Any such records thus certified are to be received in evidence in the same manner and with like effect as the originals.<sup>77</sup>

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73. *Id.* § 202.

74. *Id.* §§ 203-05.

75. *Id.* § 203. In this regard, the Act provides that the Comptroller must give bond with two or more sureties to be approved by the Governor and two justices of the supreme court, payable to the people of the State of Illinois in the sum of \$1 million and conditioned on the faithful discharge of his duties, on delivery to his successor, of all documents and other property appertaining to his office, and on his giving additional bonds, with sufficient sureties, as may be legally required.

The seriousness of the bonding provisions of the Comptroller Act can be seen in instances where the Comptroller fails to give bond initially upon taking office or fails to supply additional bond when required by the Governor. In either case, the office becomes vacant, and a successor is appointed by the Governor. The Governor also has the responsibility of ordering suits to be instituted on the bond against the Comptroller whenever a condition is broken. *Id.* §§ 203-05.

76. ILL. REV. STAT. ch. 15, § 206 (1973).

77. *Id.* The same "best evidence" provision is found elsewhere in Illinois law. The State Records Act clearly establishes the general rule that documents relating to the obligation, receipt and use of public funds are public records and must be available for public inspection during regular office hours. ILL. REV. STAT. ch. 116, § 43.6 (1973). See also

*Uniform Accounting System*

Sections 7 and 8 of the State Comptroller Act provide the primary avenues for the creation of a uniform accounting system for use by all state agencies.<sup>78</sup> The new Comptroller's Uniform Statewide Accounting System (CUSAS) was implemented on July 1, 1974.<sup>79</sup> Illinois thus became the first state in the Union to have a truly uniform system of accounting for all state agencies. As required by the Act, the system was devised in accordance with generally accepted accounting principles and applied the encumbrance method of accounting.<sup>80</sup> The system applies to all state agencies, including the various state colleges and universities.<sup>81</sup>

One by-product of CUSAS has been the creation of a truly remarkable data bank on state finance. Through data processing the Comptroller's office is now able to determine within a matter of seconds the exact balances of any of the state's numerous funds and the current balances of any given agency's appropriation line

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ILL. CONST. art. VIII, § 1(c) (1970). The same Act goes on to state that such records cannot be transferred or removed except as provided by law. ILL. REV. STAT. ch. 116, § 43.14 (1973).

A related statute authorizes all state officers to duplicate any documents in their possession. The Comptroller, of course, falls within this definition. Any such copies constitute original records "for all purposes, including introduction in evidence in all courts or administrative agencies." ILL. REV. STAT. ch. 116, §§ 35-37 (1973).

Because of these statutory provisions, it is the policy of the Comptroller's office to give over certified copies of warrants and other documents where the circumstances do not require an original document. Certification is accomplished through the affixing of the Comptroller's seal. In the Comptroller's view, the only times when an original document would be necessary are those in which a scientific analysis must be conducted on the document itself. In all other cases where the document is needed only to show such things as knowledge, notice, sequence of endorsement, and other factual items, the Comptroller retains the original in his files.

78. ILL. REV. STAT. ch. 15, §§ 207-08 (1973).

79. See ILL. REV. STAT. ch. 15, § 222 which provides:

The complete implementation of the new uniform accounting system and of the forms and procedures for reporting and documentation by all State agencies and the handling of warrants and payroll, as provided by this Act, must be finalized and in effect no later than July 1, 1974.

80. ILL. REV. STAT. ch. 15, § 207 (1973). The encumbrance method of accounting is a system by which expenditures for contractual obligations are set aside (encumbered) until the contract is fully performed, at which time the obligation becomes a liability. Under CUSAS, in applicable cases, expenditures are not permitted unless the given appropriation line item or other spending authority has previously been encumbered.

The standards and procedures adopted by the Comptroller's office for CUSAS are outlined in the Manual on the Comptroller's Uniform Statewide Accounting System, issued by George W. Lindberg (Springfield, Illinois, July, 1974).

81. ILL. REV. STAT. ch. 15, § 207 (1973). The system does not, however, apply to units of local government and school districts. Those units of government are to have uniform systems of accounting, auditing and reporting as mandated by article VIII, section 4 of the 1970 Constitution.



items. The net effect is a degree of accountability which far surpasses any other state. By comparing the rate of encumbrance and expenditure to current revenue receipts, the Comptroller has assumed a pivotal position in controlling and charting state finance.<sup>82</sup>

Section 8 of the Act permits the Comptroller to establish a uniform system of code numbers to be used for each appropriation made by the General Assembly, for each fund in the state treasury, and for each fund held by the state Treasurer outside the state treasury as *ex officio* custodian.<sup>83</sup> Like CUSAS, these code numbers were instituted on July 1, 1974.<sup>84</sup>

The theme of uniformity recurs elsewhere in the Comptroller Act. For example, additional provisions direct the Comptroller to initiate uniformity in reporting on various state fiscal matters. Section 12 of the Act requires the Comptroller to design payroll voucher forms and payroll distribution schedule forms.<sup>85</sup> Section 14 gives the Comptroller the authority to require the use by all state agencies of forms for all documents required by law in the performance of the Comptroller's duty or such additional documents that he may reasonably require.<sup>86</sup> Section 16 allows the Comptroller to prescribe the forms for monthly fiscal reports by state agencies.<sup>87</sup>

### *Pre-Audit Powers*

Perhaps the most interesting provisions of the Comptroller Act are to be found in section 9.<sup>88</sup> This is the section which establishes the Comptroller's pre-audit powers and is of key importance in distinguishing his office from that of the Auditor

82. Thus, the Comptroller has been able to establish an "economic model" for the State of Illinois based on the past 20 years' experience of revenues and expenditures. Through a series of computer programs, the Comptroller is able to pinpoint the available balance of the state's general operating funds at any point in the immediate future depending upon any series of given premises on spending and revenue. Thus, as an example, the model recently revealed that Illinois would have a deficit balance in 17½ months if the sales tax were removed from food purchases.

83. ILL. REV. STAT. ch. 15, § 208 (1973).

84. *Id.* In section 8 the General Assembly gave the Comptroller's office the authority to institute the code numbers; the Comptroller, by instituting the numbers, accepted that authority. See also note 79 *supra* for the provision requiring that complete implementation of the new uniform accounting system be finalized no later than July 1, 1974.

The code numbers identify each agency, division or institution, the purpose of each appropriation, the program, and the character of the expenditure. The "character of expenditure" refers to its classification—capital operating expenses, grants, loans, refunds, debt services and other expenditures.

85. ILL. REV. STAT. ch. 15, § 212 (1973).

86. *Id.* § 214.

87. *Id.* §§ 216.

88. *Id.* § 209.

General, who has the primary post-audit responsibility.<sup>89</sup> It has been argued that section 9 also furnishes the basis for a broad power of inquiry within the office of the Comptroller to scrutinize state spending, since it provides:

The comptroller shall examine each voucher and all other documentation required by or pursuant to law to be filed with him and shall ascertain the legality of the transaction. The comptroller shall also determine whether unencumbered appropriations or unencumbered obligational or expenditure authority other than by appropriation are available to incur the obligation or to make the expenditure of public funds. If he has reason to believe from the documents filed in connection therewith that such obligation or expenditure of public funds is contrary to law or unauthorized, or if he determines that unencumbered appropriations or other obligational or expenditure authority are not available from which to incur the obligation or make the expenditure, the comptroller shall refuse to draw a warrant . . . .<sup>90</sup>

In making refusals to issue warrants where vouchers have been improperly prepared or where inadequate funds exist, the Comptroller is exercising a conventional pre-audit function. The refusal to pay can also be generated by a simple determination that the expenditure requested by the voucher is on its face contrary to law. In fact, the Comptroller has refused to issue payments where a requested expenditure is violative of the Illinois Constitution or of a specific statute.<sup>91</sup>

Obviously, there are situations where no apparent violations of law are reflected on the face of the voucher submitted. In such instances, the Comptroller has taken the initiative to investigate the circumstances of underlying transactions where he has received credible notice of a suspected violation of law.

Efforts in this area, however, have been quite modest. Most have related to suspected payroll irregularities. For example, the Comptroller is currently cooperating with the State Legislative Audit Commission to isolate and evaluate personnel transfers by the Governor following massive appropriation cuts by the General Assembly. It may be that these "peekaboo pay-rollers" are exercising functions foreign to their new agencies and, therefore, in contravention of the applicable appropriation statutes.

Another area under investigation is that of "ghost pay-rollers." It has long been suspected that fictitious or departed workers may be fraudulently carried on state payroll vouchers. As paychecks go out, they are allegedly intercepted and cashed

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89. ILL. CONST. art. VIII, § 3(b) (1970).

90. ILL. REV. STAT. ch. 15, § 209 (1973).

91. See *People ex rel. Kirk v. Lindberg*, No. 46966 (Ill., Sept. 27, 1974).

by agency conspirators. Attempts to check any such instances are currently being studied by the Comptroller.

Other examples outside of the payroll area which may be subjects for future Comptroller investigations include fraud in the preparation of contracts, conflicts of interest with government officials, bribes or kickbacks in the conduct of state business, deliveries of goods and services which do not meet contract specifications, and other illegalities which would be prejudicial to the State of Illinois.

Section 9 can also be read in conjunction with other relevant sections of the Comptroller Act. Section 21, for instance, gives the Comptroller complete authority to promulgate rules and regulations to implement the exercise of his powers and the performance of his duties under the Act.<sup>92</sup> Section 14 permits the Comptroller to prescribe and require the use by state agencies of forms for all documents required by law in the performance of his duties or which may reasonably be required in the exercise of his responsibilities.<sup>93</sup>

These provisions offer assistance to the Comptroller in the exercise of his pre-audit and investigative functions under section 9. That section makes reference to his analysis of vouchers "and all other documentation required by or pursuant to law to be filed with him . . . ."<sup>94</sup> Thus, these "documents" include those which are required to be forthcoming pursuant to Illinois statutes or under the various rules and regulations adopted by the Comptroller. Under this interpretation, the Comptroller has the authority to adopt rules and regulations requiring additional reports and documentation (along with appropriate explanations) as a part of his pre-audit function.

It has been suggested that the power to demand written explanations in the form of reports, affidavits and other documentation carries with it a companion authority to interview people, examine records, and otherwise demand answers. It is argued that the power to decide necessarily contemplates the power to inquire. This power is believed to be inherent in the modern function of a Comptroller. He must possess a broad investigative authority to permit him to make informed judgments on the legality of state fiscal transactions as a prelude to his decision to pay.<sup>95</sup>

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92. ILL. REV. STAT. ch. 15, § 221 (1973).

93. *Id.* § 214.

94. *Id.* § 209.

95. It should again be emphasized that the powers of the Comptroller differ substantially from those of the Auditor General. Because of his close connection with the appropriation process, the Auditor General has the authority to conduct management and program audits of state agencies. No power whatever is given to the Comptroller in this area.

Two other sections of the Comptroller Act relating to contracts entered into by state agencies have special relevance to the pre-audit responsibilities described under section 9.<sup>96</sup> Section 11 provides that no voucher can be submitted to the Comptroller on account of any conduct for services involving professional, technical, or artistic skills unless there has been compliance with section 9.01 of the Illinois Purchasing Act.<sup>97</sup> Section 15 provides that whenever a contract liability, except for personal services, of \$500 or more is incurred by a state agency, a copy of the contract, purchase order, lease or requisition must be filed with the Comptroller within five days thereafter. Further, any cancellation or modification of the contractual liability must also be filed with the Comptroller within five days of its execution. Payments are not permitted in appropriate circumstances where copies of such contracts are not on file with the Comptroller's office.

### *The Use of Warrants*

A decision by the legislature implementing the constitution is also reflected in section 9. Hidden among the various pre-audit procedures is the clear election of the General Assembly that only *warrants* be used to order payments into and out of the treasury. As discussed above, the legislature was not required to retain the warrant system, and under the new policies of the Federal Reserve System, the warrant system will probably cease to exist.<sup>98</sup>

In practice, the Comptroller has used the vehicle of state warrants both for technical payments and for transfers of funds held either by the Treasurer or in separate funds. This is illustrated by the funding procedure for the university imprest ac-

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The Comptroller's decision-making process centers on the decision to pay and is confined to basic issues of legality. His analysis occurs before the fact of payment. The Auditor General begins his work after the fact and has much broader concerns than mere compliance with the law.

96. ILL. REV. STAT. ch. 15, §§ 211, 215 (1973).

97. *Id.* ch. 127, § 132.9a (1973). The section provides that whenever any state agency contracts for services involving professional or artistic skills and involving an expenditure of more than \$2,500 for the same type of service at the same location during any fiscal year, a copy must be filed with the Comptroller. These contracts are then kept by the Comptroller in separate files and are available as public records. The special attention given to these contracts is due to their exemption from competitive bidding under section 6 of the Act. The theory is that such open disclosure will tend to discourage conflicts of interest.

98. See note 67 *supra*. This is not to say, however, that no other medium of payment or transfer is permitted for state funds. As will be discussed, a number of state agencies possess checking accounts and the Treasurer uses his own drafts to transfer funds within the treasury. Petty cash funds are also recognized under Illinois statute in certain cases. Nevertheless, payments into and out of the treasury must be through the use of warrants.

counts.<sup>99</sup> On July 1, 1974, imprest accounts were established with the various state colleges and universities.<sup>100</sup> The imprest system provides a controlled program of transfers of state money to the various colleges and universities as advances for the purpose of handling minor disbursements and other expenditures where benefits can be derived through prompt payment.<sup>101</sup>

The warrant processing system requires that in order for money to be withdrawn from funds held by the Treasurer, an itemized voucher must be presented to the Comptroller.<sup>102</sup> Before drawing a warrant, the Comptroller first ascertains that the voucher has been properly prepared and that the obligation or expenditure is authorized and is pursuant to law.<sup>103</sup> He further determines whether unencumbered appropriations or unencumbered obligation or expenditure authority are available to incur the obligation or to make the expenditure of public funds.<sup>104</sup> If the Comptroller draws the warrant, it is then countersigned by the state Treasurer and issued.<sup>105</sup>

### *Warrant Procedures*

The state "checks" or warrants<sup>106</sup> issued by the Comptroller comprise a major portion of the daily output of his office. Hence, it is not surprising that the provisions of the Comptroller Act relating to warrants occupy a substantial portion of the legislation. Sections 10 through 10.17 cover the powers and duties of

99. ILL. REV. STAT. ch. 15, § 221 (1973).

100. See note 79 *supra*.

101. ILL. REV. STAT. ch. 15, § 221 (1973). All expenditures are made in accordance with the purposes specified in their appropriations. Disbursements from the various imprest accounts are made from time to time as needed through each university's checking account. Expenditures from imprest accounts are posted against the various line item appropriations of the various state colleges and universities. Advances of like amounts are then transferred into the various imprest accounts by means of state warrants. Warrants are thus used to transfer funds rather than to effect true "payments."

A similar example can be seen in the revolving trust fund maintained by the Illinois Legislative Investigating Commission (ILIC). ILL. REV. STAT. ch. 63, § 306 (1973). Under the law, the Commission's employees may expend sums from a revolving trust fund not to exceed \$3,000 for investigative expenses. Following payment, vouchers are prepared by the Commission and the expenditures are charged against the appropriate line item. Warrants are then issued by the Comptroller to reimburse the fund in the amount of the expenditure. Again, warrants are used to effect these transfers. The "payee" is the ILIC Revolving Trust Fund.

102. ILL. REV. STAT. ch. 15, § 209 (1973).

103. *Id.*

104. *Id.*

105. *Id.*

106. Even though the net result is the same, there is a key difference, of course, in that a check is a draft drawn upon a bank. A warrant is a draft drawn upon a fund other than a bank. In the case at hand, the fund is the state treasury—hence, the technical distinction between a check and a warrant.

the Comptroller regarding warrants.<sup>107</sup> The theme that the Comptroller serves as the chief fiscal control officer recurs on many occasions in the warrant provisions of the Act. As already indicated, the procedure followed by the Comptroller is to first ascertain the amount due a payee from the treasury or from other funds held by the Treasurer. The Comptroller then draws a warrant directing the Treasurer to pay the sum due.

Currently, the Comptroller is issuing approximately 50,000 warrants per day, totalling \$30 million, or 12 million warrants per year, totalling more than \$7 billion.<sup>108</sup> Because of the massiveness of the warrant issuing process, the Comptroller Act permits the use of facsimile signatures on warrants.<sup>109</sup> In almost every case, warrants issued by the Comptroller's office are a product of computerization.<sup>110</sup> All state warrants must bear the countersignature of the state Treasurer.<sup>111</sup> As a practical matter, after the warrants are prepared by the Comptroller's office and signed, they are delivered to the state Treasurer for his countersignature and for any filing and data storage which is deemed appropriate by the Treasurer's office. After the Treasurer signs the warrants, they are returned to the Comptroller for a final audit and then delivered in person or by mail to the appropriate payee.<sup>112</sup>

### *Fiscal Data*

The legislative mandate that the Comptroller must compile fiscal data is one of the key features which distinguishes the Comptroller's office from that of the former Auditor of Public Accounts. The State Comptroller Act provides for an extensive system of reports to be filed with the Comptroller which enable him to keep tabs on the overall fiscal picture of the state. The reporting requirements are embodied in sections 16, 17 and 18 of the Comptroller Act.<sup>113</sup>

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107. ILL. REV. STAT. ch. 15, §§ 210-210.17 (1973).

108. See note 14 *supra*.

109. ILL. REV. STAT. ch. 15, § 210.03 (1973).

110. One of the rare exceptions to this can be seen at State Lottery Drawings when the Comptroller is present. In such cases, the warrants are prepared manually and signed by the Comptroller, as was done in the "bad old days" prior to electronic data processing.

111. ILL. REV. STAT. ch. 15, § 210.04 (1973).

112. *Id.* § 10.08. The need for a countersignature by the Treasurer and for duplicative filing was questioned by the Constitutional Convention's Executive Committee, which noted:

[T]he State should repeal statutory requirements creating duplicative activity of little value. Formalities such as the independent counter-signature of warrants by the Treasurer, and the maintenance by him of fully duplicative appropriation and account ledgers are generally conceded to be in this category.

*Committee Proposals, Committee on the Executive*, vol. VI at 356.

113. ILL. REV. STAT. ch. 15, §§ 216-18 (1973).

Obviously, however, the prodigious quantum of information which is gathered by the Comptroller is meaningless unless it can be assembled and disseminated to those parties who require the information in order to make rational financial decisions. As the Citizens' Advisory Committee on the Implementation of the Comptroller's Office noted:

If the reports maintained by the Comptroller are to have maximum value, they must not only be comprehensive and effectively presented but also consistently be issued on a timely basis.<sup>114</sup>

The duty to disseminate the information gathered by the Comptroller is found in sections 19 and 20 of the Act.<sup>115</sup> The Governor, Treasurer, Director of the Bureau of the Budget, the Director of Finance, the Auditor General, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate have access to all records and reports received by the Comptroller from state agencies.<sup>116</sup> All other state executive officers and heads of state agencies have access to reports and accounts relating to their individual agency or office.<sup>117</sup>

#### A COMPARISON OF THE POWERS OF THE COMPTROLLER WITH THE FORMER AUDITOR OF PUBLIC ACCOUNTS

The Comptroller's office has done far more than merely supplant the office of Auditor of Public Accounts. In addition to enumerating all of the above duties and responsibilities, the State Comptroller Act makes reference to unprecedented requirements for "expanded reporting and accountability for public funds."<sup>118</sup> Moreover, the legislature in passing the Comptroller Act dubbed the person delegated to discharge these duties as the "chief fiscal control officer" of Illinois.<sup>119</sup> As such, the Comptroller is a vastly different state official than the former Auditor of Public Accounts.

#### *Former Handicaps*

Under the Auditor of Public Accounts, each state agency

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114. See note 44 *supra*.

115. ILL. REV. STAT. ch. 15, §§ 219-20 (1973).

116. *Id.* § 219.

117. *Id.* A substantial amount of data is available for public inspection. Examples include records relating to state funds and other public funds and assets available to state agencies and other monies not subject to appropriation, as well as records indicating revenues, charges against funds, fund and appropriation balances, intra-fund transfers, warrants outstanding, and assets and encumbrances. This data is freely available at the Comptroller's Information Center in Springfield, Illinois.

118. ILL. REV. STAT. ch. 15, § 222(b) (1973).

119. *Id.* § 202.

maintained its own system of accounts.<sup>120</sup> Various agencies, such as the universities and the Department of Revenue, were able to issue state warrants. The pre-audit function of the Auditor was extremely limited, amounting to little more than a check of the accuracy of the figures which each agency compiled during the course of its internal audit.<sup>121</sup>

No regularity in reporting fiscal data to the Auditor was required. Perhaps the major reason for the limited range of information flowing into the Auditor's office was the fact that the Auditor had no responsibility to disseminate any information with the exception of an annual report.<sup>122</sup>

Even this annual report was not as extensive as the annual report which must issue from the Comptroller's office. The Auditor of Public Accounts was only required to include in his annual report the amount of warrants drawn on the treasury and the amount of money received by the treasury.<sup>123</sup> In comparison, the Comptroller must additionally include a summary of financial records relating to state and public funds available to the state agencies,<sup>124</sup> summarizations of the monthly reports required from each state agency,<sup>125</sup> and financial records relating to state funds which the Comptroller is required to keep.<sup>126</sup>

Another crucial distinction between the Auditor of Public Accounts and the Comptroller lies in the directive of the 1970 Constitution that the Comptroller carry out numerous duties designed to promote control and uniformity in state financial transactions.<sup>127</sup> The most outstanding accomplishment of "control" thus far has been the establishment of a Comptroller's Uniform Statewide Accounting System (CUSAS) under which Illinois became the first state to have a single accounting system for all state agencies.<sup>128</sup>

As alluded to above, the Comptroller's warrant-issuing function is much broader and more controlled than that of the Auditor of Public Accounts.<sup>129</sup> The Comptroller is now responsible for issuing Illinois income tax refund checks (about 2.8 million a year) and for the payment of salary warrants to the 43,600

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120. ILL. REV. STAT. ch. 127, § 171 (1971).

121. *Id.* § 175.

122. *Id.* ch. 15, § 18 (1971).

123. *Id.*

124. ILL. REV. STAT. ch. 15, § 219 (1973).

125. *Id.* § 216.

126. *Id.* § 220.

127. ILL. CONST. art. V, § 17 (1970).

128. See notes 79-81 *supra*.

129. ILL. REV. STAT. ch. 15, §§ 209-11 (1973).



employees of Illinois tax-supported higher education institutions.<sup>130</sup>

#### A CULMINATION OF NEED

The Comptroller's office represents the culmination of a need for financial accountability that has existed since Illinois gained statehood in 1818. For decades, countless persons have sought to establish strong fiscal control in Illinois. Their efforts reached fruition in the new Illinois Constitution of 1970. Out of the Constitutional Convention came a mandate that Illinois should have one person who would be directly responsible for the fiscal activities of the state and all of its agencies. This mandate was accepted by the people of Illinois when they adopted the new constitution, and by the General Assembly in its enactment of the State Comptroller Act.

Thus, the Comptroller has been established as the chief fiscal control officer of the state. Illinois now has a single public official, elected by the people, to keep the taxpayers' checkbook and to carefully review state spending. All public funds go through his office as they are ordered into and out of the treasury, and all of the state's bills are paid by him.

During its brief existence, the new office of the Comptroller has formulated modern fiscal controls over state spending. It has developed an unprecedented financial resource data bank. Regular reports are issued, and specific information is available on a split-second basis through electronic data processing. A central accounting system for all of state government has made the state's financial status clear to the public and its elected officers.

Today each expenditure by the state is verified and balanced against available funds. Payments by the state are screened for legality and correctness. New payroll and accounting procedures have been designed and put into use to keep pace with growing demands.

State warrants are now issued at a rate of more than 12 million per year. Computers with printing capabilities of 1,100 lines per minute and facsimile signatures have vastly speeded up the warrant issuance process.

State contracts for goods and services are daily indexed, analyzed and kept as public records. Monthly, annual, and specific financial information reports are issued containing unprecedented insight on state fiscal affairs.

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130. *Id.* § 213. This is in addition to the 74,900 regular state employees.

Millions of financial documents are microfilmed and stored yearly for quick public access. A monthly average of 5,600 document requests are answered. Audit reports from 4,500 local government units are reviewed and analyzed in yearly summaries. These are published and distributed to aid local government units.

In view of these accomplishments, it is clear that financial accountability has now become a reality in the State of Illinois.

