



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

February 20, 2014

Senator Ted Ferrioli
Senate Republican Leader
900 Court Street NE S323
Salem OR 97301

Re: Authority of Legislative Assembly to "sweep" moneys in Legal Aid Supplementary Account

Dear Senator Ferrioli:

You asked whether the Legislative Assembly would have the authority to "sweep" moneys held in the Legal Aid Supplementary Account established in A-engrossed House Bill 4143 (2014). The answer is yes.

A-engrossed House Bill 4143 modifies procedural rules regarding the disposition of damages awarded in class-action lawsuits that are not paid to class members because the class members were not located or opted out of the class, or because the court determines that payment to class members is not practicable. Under current law, such damages are returned to the defendant. A-engrossed House Bill 4143 directs that these damages be deposited in a new account in the State Treasury: the Legal Aid Supplementary Account. Interest earned by the Legal Aid Supplementary Account is distributed to the Oregon State Bar for use only in funding the Legal Services Program. The Legal Services Program provides legal services to the poor. ORS 9.572.

If the Legislative Assembly passes HB 4143-A, the Legal Aid Supplementary Account would be established as an "other fund" in the State Treasury. Other funds are those that are separate and distinct from the General Fund. Because the Legal Aid Supplementary Account is established by statute, the Legislative Assembly is free to modify or repeal the statute and direct the disposition of funds in the account. In legislation passed subsequent to the enactment of HB 4143-A, the Legislative Assembly could transfer the moneys in the Legal Aid Supplementary Account to the General Fund. The Legislative Assembly has enacted this type of fund sweep legislation in the past. See chapter 21, Oregon Laws 2009 (Senate Bill 581).

Please advise if you need any further assistance with this matter.

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and rely upon the advice and opinion of the Attorney General, district attorney, county counsel, city attorney or other retained counsel. Constituents and other private persons and entities should seek and rely upon the advice and opinion of private counsel.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dexter A. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dexter A. Johnson
Legislative Counsel