

## Statement By Attorney General Peg Lautenschlager

January 31, 2003

I am pleased to announce that my office has reached an agreement with the Senate and Assembly leadership that resolves the legal controversy over payment of attorneys fees for State Legislators and staff in regard to the legislative caucus investigation.

Over the past few weeks, attorneys from my office and the Legislature carefully analyzed the Legislature's existing policies with respect to payment of attorney fees. After careful review, I identified changes that I concluded were necessary to bring the current policy into compliance with the law. The Senate and Assembly have agreed to implement those changes.

There are two constitutional principles that must be weighed and respected in this matter. First, the Legislature has inherent authority to adopt policies that in its judgment serve a public purpose and help the legislature carry out its business. As Attorney General, I must respect the inherent authority of the Legislature to act, whether or not I agree with the policy decisions the Legislature makes. It is appropriate for me to act only when and to the extent the Legislature's exercise of authority exceeds legal bounds.

The second constitutional principle that I had to weigh is that the Legislature may use public funds only for public purposes. For the reasons stated in the legal memorandum accompanying this statement, I have concluded that the payment of attorney fees to individuals who are ultimately charged and convicted of a crime does not serve a public purpose. As Attorney General I remain prepared to take any action necessary to ensure that the public purpose doctrine is not violated.

I have taken two steps. First, I **have reached** an agreement with the Senate and Assembly leadership that brings their current and future policies regarding attorney fee reimbursement into compliance with the law. The agreement provides:

First, that any person who receives **payment** of attorney fees in relation to a criminal investigation be required to reimburse the Legislature if the person is ultimately charged and convicted of a crime,

Second, that the Legislature cease payments upon a person being charged with a crime. If the person is ultimately exonerated, the person may request reimbursement after the fact, and

Third, that any person who receives up-front payment of attorney fees sign an agreement to pay back the fees in the event they are charged and convicted of a crime.

In addition, I have contacted the District Attorneys handling the pending caucus fees prosecutions. I have asked them to take all possible steps to ensure that any person

convicted is required to pay back fees they have received from the Legislature in relation to the caucus investigation.

This agreement ensures that the Legislature's current and future attorney fee payment policies will comply with the law. The Legislature may impose further restrictions in the exercise of its inherent authority to set policy.

This agreement ends what I believe to have been an illegal policy. I am please to have accomplished this without the need for litigation, which would have significantly increased the legal fees paid by taxpayers. This resolution is a victory for the citizens of the state.