

November 15, 2006
OPINION NUMBER 06-0187

Mr. James H. Napper, II
Executive Counsel
Treasurer of the State of Louisiana
P.O. Box 44154
Baton Rouge, Louisiana 70804

3 APPROPRIATIONS

The appropriations from the Sex Offender Registry Technology Fund contained in House Bill No. 1 should be funded by the Treasury pursuant to Act 663 of the 2006 Regular Session.

Dear Mr. Napper:

You requested an Attorney General's opinion regarding two specific appropriations from the Sex Offender Registry Technology Fund. You indicate that on Lines 27 through 32 of Page 88 of House Bill No. 1¹, under Schedule 08-415, an appropriation of \$185,000 is made in the following provisions thereof, to-wit:

Payable out of the State General Fund by Statutory Dedications out of the Sex Offender Registry Technology Fund for additional support, *in the event that House Bill No. 695* of the 2006 Regular Session of the Legislature *is enacted into law*. (Emphasis added)

On Lines 52 through 59 of Page 92 of House Bill No. 1 under Schedule 08-419, an appropriation of \$1,000,000 is made in the following provisions thereof, to-wit:

Payable out of the State General Fund by Statutory Dedications out of the Sex Offender Registry Technology Fund to the Operational Support Program, for distribution to the sheriff of each parish in accordance with C.C.P. Art. 895.1(F) *in the event that House Bill No. 695* of the 2006 Regular Session of the Legislature *is enacted into law*. (Emphasis added)

House Bill No. 695 of the 2006 Regular Session was not enacted into law by the Legislature.

However, Senate Bill No. 612 of the 2006 Regular Session, which was passed by the Legislature and signed by the Governor into law as Act No. 663, effective June 29, 2006, as to Sections 4 and 5 thereof, contains the following provisions in Section 5 thereof, to-wit:

¹ House Bill No. 1 was passed by the Legislature and was signed by the Governor into law as Act No. 17, effective as of July 1, 2006.

Section 6. The funds payable out of the State General Fund by Statutory Dedications out of the Sex Offender Registry Technology Fund for additional support and the Operational Support Program for distribution to the sheriff of each parish in accordance with C.C.P. Art. 895.1(F), as appropriated in Schedule 08-419, Office of State Police, Public Safety Services, of House Bill No. 1 of the 2006 Regular Session of the Legislature contingent upon the enactment of House Bill No. 695 of the 2006 Regular Session [sic] Legislature, *shall be payable as so appropriated if the provisions contained in the reengrossed version of House Bill No. 695 are enacted into law regardless of the instrument in which such provisions are enacted.* (Emphasis added)

The "... provisions contained in the reengrossed version of House Bill No. 695 ..." are contained in Section 4 of Act No. 663, effective as previously mentioned on June 29, 2006, and therefore apparently have been enacted into law.

You question the validity and effectiveness of the two above identified specific appropriations from the Sex Offender Registry Technology Fund contained in House Bill No. 1, and whether they should be funded by the Treasury despite the contingency provisions thereof, in view of the above-stated factual situations regarding House Bill No. 695, the Act 663 and any other applicable, relevant facts or law.

House Bill 1 (Act 17) and Act No. 663 both contain specific provisions regarding the subject, the appropriation from the Sex Offender Registry Technology Fund. While these two Acts appear to be in conflict, the conflict is not non-reconcilable. Act 17 provides for a conditional appropriation; the condition being that House Bill No. 695 of the 2006 Regular Session of the Legislature be enacted into law. That condition was not met. However, the failure of that condition does not prohibit the appropriation from ever being paid. It simply means the appropriation is not payable based upon that particular condition. Act 663 provided for a separate condition under which the same appropriation could be paid. As we indicated, "... provisions contained in the reengrossed version of House Bill No. 695 ..." have been enacted into law. Thus, the condition contained in Act 663 has been met. Therefore, it is the opinion of our office that the specific appropriations from the Sex Offender Registry Technology Fund contained in House Bill No. 1 should be funded by the Treasury.

Trusting this adequately responds to your request, we remain

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
KENNETH L. ROCHE, III
Assistant Attorney General

CCF, JR/KLR, III/crt

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Date Received:

Date Released: November 15, 2006

Kenneth L. Roche, III
Assistant Attorney General