



JOHN CHIANG
California State Controller

August 11, 2014

Diane L Harkey, Assemblymember
Seventy-Third District
State Capitol
PO Box 942849
Sacramento, CA 94249-0073

Re: Legislative Salary Suspension
Assemblymember Harkey

Dear Assemblymember Harkey:

Your letter to the State Controller, John Chiang, dated August 5, 2014, has been forwarded to me for reply.

In your letter you requested that the State Controller "suspend" your pay until such time as the court has an opportunity to reconsider a garnishment order issued against your salary. As you probably know, a wage garnishment order is enforceable against the "earnings" of an employee or public officer and, once earned, the amounts are subject to execution whether or not the earnings are actually paid to the public officer.

Moreover, Code of Civil Procedure 706.153, prohibits an employer from deferring or accelerating any payment of earnings to an employee with the intent to defeat or diminish the judgment creditor's rights under an earnings withholding order. If an employer violates this section or otherwise fails to withhold or pay over the amount required to be withheld, the judgment creditor may bring an action against the employer to recover the amount that would have been withheld.

Consequently, while this office can accommodate your request to suspend your pay until further notice it cannot administratively choose to ignore the wage garnishment order. As explained above, to do so may have the unintended consequence of passing the liability onto the State and the taxpayers.

Very truly yours,


RICHARD J. CHIVARO
Chief Counsel

RJC/sw