

collected by the Commission are paid over to the State Treasurer "and shall become general funds of the State." They may, thereafter, be disbursed by the Comptroller "only pursuant to an appropriation made in accordance with §§32 and 52 of Article 3 of the Constitution or pursuant to the provisions of §§1 through 15, inclusive, of Article 15A of this Code..." The Constitutional sections referred to are those relating to the required methods and procedures for appropriating and expending State funds; the statutory references pertain to approved budget amendments.

The bill repeals the requirement that the Comptroller disburse the moneys from the general funds in accordance with these Constitutional or statutory provisions. In substitution therefor, it provides that the Comptroller shall disburse such of these moneys as will provide the Commission with sufficient funds to administer the subtitle, in accordance with these Constitutional and statutory sections. It provides further, however, that at the end of the fiscal year, the Comptroller shall disburse the balance to the subdivisions in accordance with a formula set forth in the bill. There is no requirement that these excess proceeds be appropriated by the General Assembly, but merely a direction to the Comptroller to distribute them.

Article III, Section 32 of the Constitution provides that "no money shall be drawn from the Treasury of the State, by any order or resolution, nor except in accordance with an appropriation Law..." Section 52 of Article III prohibits the General Assembly from appropriating any money out of the Treasury except through either the Budget Bill or a supplementary appropriation bill.

Clearly, this bill is neither. As stated by the Court of Appeals in the analogous, and, in my judgment, controlling, case of Baltimore v. O'Connor, 147 Md. 639, 646 (1925), "once these excess fees are paid into the treasury, as contemplated by the act itself, they must remain in the treasury until withdrawn therefrom in accordance with the provisions of [Section 52]."

This bill, as noted, purports to direct the Comptroller to disburse funds out of the State Treasury which have not otherwise been appropriated in accordance with law, which is the very thing the Court said in Baltimore v. O'Connor may not be done. In my judgment, House Bill 1054 is clearly unconstitutional; and for that reason, I have vetoed it.

Sincerely,  
/s/ Marvin Mandel