

former § 94 that enabled the representative "only to represent the ... Fund under the direction of the Director". This substitution reflects that Md. Constitution, Art. V, § 3 together with SG § 6-106 imposes on the Attorney General a responsibility for "legal work" of the State government that clearly extends to the Board, which is a statutory creature funded through a General Fund appropriation.

The status of the "Fund" is less clear, partially because the "Fund" is at times an entity with statutorily imposed duties, *e.g.*, § 10-316(b) of this subtitle, and is at other times an account comprised of money. Nonetheless, in 70 Op. Att'y Gen. 30 (1985), the Attorney General recognized that the applicability of SG § 6-106 depends on the status of an entity as a State unit or instrumentality for a particular purpose. The Labor and Employment Article Review Committee believes that the General Assembly intended for the Attorney General to represent the Fund fully and did not intend for this duty to be abrogated by a failure of the Director to "request" representation or by "direction of the Director".

This belief is predicated, in part, on the practice with regard to representation. Although the Director has requested assignment of additional staff, there has not been a "request" for representation in particular cases. The General Assembly was aware of this practice, since, when it enacted the prohibition against the representative acting for another "party in interest", the General Assembly was apprised that, on occasion, an assistant attorney general who was assigned to the Workers' Compensation Commission had appeared before the Commission, representing simultaneously the Subsequent Injury Fund and the Uninsured Employers' Fund. See the bill file for Senate Bill 690 (1982). Separation of the Funds from the Commission and from each other reduced the conflict. As to any residual conflict, in Commission on Medical Discipline v. McDonnell, 56 Md. App. 391, 406-07 (1983), rev'd on other grounds, 301 Md. 426 (1984), the Court of Special Appeals recognized that the constitutional duties of the Attorney General entail, at times, potentially conflicting responsibilities but suggested that those conflicts may be mitigated by the internal structuring of and assignment of duties within the Office of the Attorney General.

Furthermore, during the past several years, the General Assembly has studied recovery on debts to the Fund by the Central Collection Unit of the Department of Budget and Fiscal Planning. SF § 3-302 delineates the responsibility of the Unit to collect a debt "owed to the State or any of its officials or units". Thus, the General Assembly has been aware that the "Fund" has been regarded as a State unit for debt collection purposes.

Subsection (a)(2) of this section is new language derived without substantive change from the third sentence of former Art. 101, § 94. The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that subsection (a)(2) creates a gap since it seems to limit the authorization of the Attorney General to represent the Fund. The Committee considered whether the intent of the language, which was enacted