

Report on Public Policy Position**Name of section:**

Administrative Law Section

Contact person:

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[HB 4799](#) (Meadows) Public employees and officers; other; restrictions on expenditure of proceeds of lawsuit settlements; establish. Amends sec. 33 of 1846 RS 12 (MCL [14.33](#)).

Date position was adopted:

April 16, 2009

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

13

Number who voted in favor and opposed to the position:

10 Voted for position

0 Voted against position

0 Abstained from vote

3 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

This bill, if adopted as written, would harm Michigan consumers and taxpayers. It would preclude any settlement or order reached by the Attorney General unless all proceeds go either to the state treasury or directly to consumers. In particular, it precludes monies or other contribution to charities for the benefit of consumers. This is not wise. We note that the possibility that the legislature could specifically authorize charitable participation is not viable. Nothing could be done quickly enough in settlement negotiations.

This bill would make settlements harder to obtain, especially where the other party does not admit liability. A charitable contribution may seem much less than an admission of fault than a direct payment to the state would. Furthermore, it is often advantageous for tax purposes for a party to give away items or services rather than pay money. A charitable intermediary is a cost-effective means of accomplishing this.

It would prevent Michigan from participating in many multi-state settlements, where attorneys general of other states without such a restriction reach an agreement that includes payments to some charity for the benefit of their citizens.

It would increase transaction costs for the state in a period of severe budgetary pressure. The state would have to administer costs that are borne by charities or would have to pay the extra costs of contracting with a charity to administer certain remedial orders, such as conducting educational programs. It would also eliminate the need for the state to create equivalent programs within state government. There are simply many things that charities do well and the state should not try to duplicate this expertise.

Sometimes, direct payments to consumers are inadvisable. Affected consumers may have disabilities that prevent management or may even be deceased at the time of distribution. Sometimes, the relief per consumer is so low as to make direct payments economically unwise. The administrative supervision and distribution costs may outweigh the rewards.

We certainly recognize that there are risks of abuse and of political controversy if the attorney general allows some charity to participate in a settlement, but the proposed bill is not the solution.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2009-HB-4799>