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April 23, 2008

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

Re: House Bill 483 and Senate Bill 793

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency House Bill 483 and Senate Bill 793, identical bills entitled "Harford County - Special Taxing Districts - Creation." We have considered whether the bills are inconsistent with Charter County Home Rule. While not without doubt, it is our view that the bills are not clearly unconstitutional and thus may be signed into law.

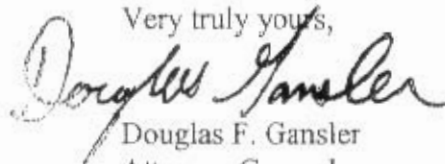
House Bill 483 and Senate Bill 793 add Harford County to a list of 12 other counties granted the authority to create special taxing districts, levy ad valorem or special taxes, and issue bonds and other obligations. The bills further restricts the creation of special taxing districts to certain areas, specifies certain procedures for creating special taxing districts, and specifies certain notice requirements regarding the sale of property which is subject to a tax of a special taxing district.

Harford County is a charter county and thus enjoys charter home rule under Article XI-A of the Maryland Constitution. Generally, the General Assembly is prohibited from enacting a public local law for a single charter county on any subject covered by the express powers granted to charter counties under Article 25A, § 5 of the Annotated Code. Art. XI-A, § 4. As the express powers already confers the power to create special taxing districts, Art. 25A § 5 (O), the bill could be found to violate the constitutional prohibition. The Express Powers Act, however, expressly grants only the authority to impose property taxes, but does not grant general taxing authority, thus such power may be conferred by public local law. *Montgomery County v. Maryland Soft Drink Ass'n, Inc.*, 281 Md. 116, 130-31 (1977); *City of Annapolis v. Anne Arundel County*, 347 Md. 1, 10 (1997).¹

¹This office has previously approved a similar bill, which added Anne Arundel County to this section. (See HB 537 (Ch. 625 of the Laws of 1996)).

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Further, this office has advised that a local law which merely confers additional authority (as opposed to restricting it) may not violate charter home rule. *See* Letter to the Honorable Barbara A. Hoffman from Assistant Attorney General Richard E. Israel, dated March 23, 1995. Thus, it is our view that, while not free from doubt, HB 483 and SB 793 are not clearly unconstitutional and may be signed into law.

Very truly yours,

Douglas F. Gansler
Attorney General

DFG/BK/kk

cc: The Honorable Barry Glassman
The Honorable Susan K. McComas
The Honorable Dennis C. Schnepfe
Joseph Bryce
Karl Aro