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May 3, 2010

The Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401

Re: House Bill 1389

Dear Governor O'Malley:

We have reviewed and approve for constitutionality and legal sufficiency House Bill 1389, "Traffic Cases – State Police Helicopters and Ambulance, Fire, and Rescue Companies." We write to discuss the bill's interaction with Senate Bill 141, the "Budget Reconciliation and Financing Act of 2010" ("BRFA").

House Bill 1389 requires the application of the \$7.50 District Court surcharge, currently applied to a traffic case in which points are assessed as a result of conviction, to all other traffic cases, except as otherwise specified. The bill also amends the distribution of the surcharge revenue under Section 7-301(f) of the Courts and Judicial Proceedings Article ("CJ") which currently provides:

(2) Subject to paragraph (3) of this subsection, the surcharges collected under this subsection shall be credited as follows:

(i) 50% to the Volunteer Company Assistance Fund to be used in accordance with the provisions of Title 8, Subtitle 2 of the Public Safety Article; and

(ii) 50% to the State Helicopter Replacement Fund to be used in accordance with the provisions of § 2-801 of the Public Safety Article.

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(3) After \$20,000,000 is credited to the Volunteer Company Assistance Fund in accordance with paragraph (2) of this subsection, 100% of the surcharges collected under this subsection shall be credited to the State Police Helicopter Replacement Fund to be used in accordance with the provisions of § 2-801 of the Public Safety Article.

The bill, which will become effective October 1, 2010, repeals the current distribution set out above in its entirety and provides:

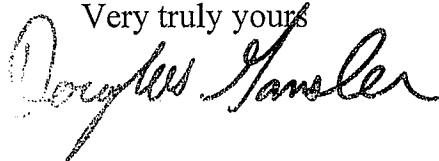
(3) THE COMPTROLLER ANNUALLY SHALL CREDIT THE SURCHARGES COLLECTED UNDER THIS SUBSECTION TO:

(I) THE VOLUNTEER COMPANY ASSISTANCE FUND TO BE USED IN ACCORDANCE WITH THE PROVISIONS OF TITLE 8, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE; AND

(II) THE GENERAL FUND AFTER \$20,000,000 IS CREDITED TO THE VOLUNTEER COMPANY ASSISTANCE FUND IN ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH.

The BRFA also amends subsection (f) to provide a different distribution, but only for FY 2010. It is our view that the bills may be harmonized and both be given effect. Under the BRFA, at the end of FY 2010 (June 30, 2010), the distribution should revert to the distribution required under current law. That distribution should continue for three months, and then beginning October 1, 2010, the distribution required under HB 1389 will take effect and should be followed.

Very truly yours



Douglas F. Gansler
Attorney General

cc: The Honorable Joseph F. Vallario, Jr.
The Honorable John P. McDonough
Joseph Bryce
Karl Aro