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April 15, 2014

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

RE: House Bill 1205 and Senate Bill 993, "Frederick County – Transition to Charter Government – Corrections to References in the Annotated Code of Maryland"

Dear Governor O'Malley:

We have reviewed and hereby approve House Bill 1205 and Senate Bill 993, identical bills relating to Frederick County and its transition to the charter form of government, for constitutionality and legal sufficiency. We write to point out four minor issues with the bills.

1) Both bills make identical changes to Courts and Judicial Proceedings Article, § 2-309(1)(5) and (6), which are parallel provisions relating to collective bargaining by full time deputy sheriffs (paragraph 5) and full time correctional officers (paragraph 6) in the Frederick County Sheriff's Office. *See* House Bill 1205 Page 4, lines 11-30, Senate Bill 993, lines 12-31. Despite the parallel nature of the provisions revised, the language of § 2-309(1)(5)(ii)2 is amended differently than § 2-309(1)(6)(ii)2. Specifically, § 2-309(1)(5)(ii)2 is amended as follows:

Any additional funding required as a result of a negotiated collective bargaining agreement shall be [subject to approval by the Board of County Commissioners] IN THE Frederick County BUDGET.

In contrast, § 2-309(1)(6)(ii)2 is amended as follows:

Any additional funding required as a result of a negotiated collective bargaining agreement shall be subject to the approval of the [Board of County Commissioners] GOVERNING BODY of Frederick County.

The latter version would appear to be more accurate. In light of the provisions in § 2-309(1)(5)(iv), however, the approval of the governing body would appear to be required in any case. This can be clarified in next year's corrective bill.

2) Election Law Article, § 13-504 is amended as follows:

As to contributions to the COUNTY EXECUTIVE OF Frederick County [Board of County Commissioners] OR TO A MEMBER OF THE FREDERICK COUNTY COUNCIL or a candidate for [that office] ELECTION AS THE COUNTY EXECUTIVE OF FREDERICK COUNTY OR TO A MEMBER OF THE FREDERICK COUNTY COUNCIL, Title 15, Subtitle 8, Part VIII of the State Government Article may apply.

It would appear that the last "to" in the provision, which appears on page 6, line 20 of both bills, should be "as." This should be fixed in next year's corrective bill.

3) Local Government Article § 1-1007(a)(1)(ii) provides for appointment of a citizens nursing home board by the county commissioners or county council of any county. As amended by both bills on page 12, appointments are to be made "subject to confirmation of the Frederick County Council, the County Executive of Frederick County." This establishes a method of appointment different than that applicable in other charter counties. Because it is part of a public general law, however, and could not be altered by the County itself, it is our view that it does not violate Maryland Constitution Article XI-A, § 4.

The Honorable Martin O'Malley
April 15, 2014
Page 3

4) Both bills amend Local Government Article, § 12-806, which is applicable only in Calvert, Frederick, and Washington counties to provide that a “governing body of a county” rather than the “county commissioners” may adopt regulations with respect to alarm system contractors. *See* Page 15, line 28 in both bills. While the term can properly be used for both types of counties, Frederick County, as a charter county, would have this authority without inclusion in the provision.

Very truly yours,

A handwritten signature in cursive script, reading "Douglas F. Gansler". The signature is written in black ink and is positioned above the printed name and title.

Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable John P. McDonough
Jeanne D. Hitchcock
Karl Aro