

DOUGLAS F. GANSLER  
ATTORNEY GENERAL

KATHERINE WINFREE  
Chief Deputy Attorney General

JOHN B. HOWARD, JR.  
Deputy Attorney General



DAN FRIEDMAN  
Counsel to the General Assembly

SANDRA BENSON BRANTLEY  
BONNIE A. KIRKLAND  
KATHRYN M. ROWE  
Assistant Attorneys General

THE ATTORNEY GENERAL OF MARYLAND  
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 22, 2009

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

**RE: House Bill 520**

Dear Governor O'Malley:

We have reviewed and hereby approve House Bill 520, "Calvert County - Length of Service Award Program - Burial Benefits and Rescue Dive Team" for constitutionality and legal sufficiency. We write to discuss an interpretive issue raised by Section 2 of the bill.

House Bill 520 increases the burial benefits payable to persons in the Calvert County Length of Service Award program ("LOSAP"), and also expands that program to include members of the rescue dive team. The bill amends provisions of the Local Public Laws for Calvert County to add members of the Calvert County rescue dive team to those eligible for various facets of the LOSAP, including monthly payments for members who have reached the age of 55 and completed a minimum of 25 years of certified active volunteer service, smaller monthly payments for those who do not have 25 years of service but reach the age of 70 years, disability benefits for those disabled while actively providing volunteer services, and burial benefits for those who die while receiving benefits or who are killed while providing volunteer services.<sup>1</sup>

<sup>1</sup> The bill does not amend § 14-101(b), which provides that "[t]here is a length of service award program for qualified active volunteer members of the Calvert County volunteer fire, rescue, and emergency medical services departments." In addition, the existing law does not mention emergency medical services departments in any other portion of the Title other than § 14-101(b).

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Section 2 of the bill provides:

AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any member of a Calvert County rescue dive team before the effective date of this Act.

Section 3 provides an effective date of October 1, 2009.

It is not clear from this language whether it simply requires that a person have been a member of the rescue dive team after the effective date of the bill in order to qualify for benefits, or whether the intent is that only time spent after the effective date can be counted toward years of service. The Fiscal and Policy Note on the bill takes the latter view. Because the Fiscal and Policy Note was before the General Assembly when it passed the bill, it would be considered as strong evidence of legislative intent. *Melton v. State*, 379 Md. 471, 485-486 (2004). Thus, if the intent was not to limit eligibility credit to membership after October 1, 2009, which is the effective date of the bill, it may be advisable to clarify this language in a future session.

Very truly yours,

  
Douglas F. Gansler  
Attorney General

DFG/KMR/kk

cc: The Honorable Sue Kullen  
The Honorable John P. McDonough  
Joseph Bryce  
Karl Aro