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April 29, 2009

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

RE: HB 1051

We hereby approve HB 1051 for constitutionality and legal sufficiency. Because the bill appears to provide a benefit to a single person, we have analyzed the bill under Article III, §33 of the Maryland Constitution which prohibits special legislation. For the reasons that follow, we conclude that the bill does not violate this provision.

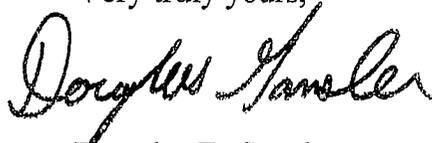
House Bill 1051 applies to any individual who (1) on or after February 1, 2000 was enrolled in the Employees Pension System ("EPS") as an employee of the City of Annapolis; (2) on or after July 1, 2003 became a contractual employee of the City; and (3) on or after July 1, 2008, became a permanent employee again of the City of Annapolis. In addition, the individual, while a contractual employee (and, thereby, not legally permitted to be a member of the EPS) had member contributions deducted from pay, and the City paid employer contributions on behalf of the individual to the EPS. This bill will permit such an individual to receive service credit for the interim period in which the person was a contractual employee.

The Court of Appeals has recognized the propriety of individual grants of retirement benefits for employees who do not meet the requirements of the general law. *Police Pension Cases*, 131 Md. 315 (1917). Although that case involved statutes passed to provide certain retirement benefits to named individuals, the Court found there was no general law to cover the specific circumstances of the case and the statutes "would seem peculiarly meritorious and just," and, therefore, they did not violate Article III, Section 33.

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Based upon this case and because this bill is intended to serve a particular need and promote some public interest for which the general laws may have been inadequate, and because similar types of pension bills have been determined to be constitutional in the past, we do not believe a finding of unconstitutionality is required.

Very truly yours,

A handwritten signature in black ink, appearing to read "Douglas F. Gansler". The signature is written in a cursive, flowing style.

Douglas F. Gansler
Attorney General

DFG/DF/kk

cc: The Honorable Melony G. Griffith
The Honorable John P. McDonough
Joseph C. Bryce
Karl Aro