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April 25, 2017

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

RE: *House Bill 1317 and Senate Bill 488, "Prince George's County – Alcoholic Beverages Regulation Reform Act of 2017" and House Bill 1386, "Maryland Public Ethics Law – Members and Employees of Boards of License Commissioners and Liquor Control Boards."*

Dear Governor Hogan:

We have reviewed and hereby approve for constitutionality and legal sufficiency House Bill 1317 and Senate Bill 488, entitled "Prince George's County – Alcoholic Beverages Regulation Reform Act of 2017,"¹ and also House Bill 1386, "Maryland Public Ethics Law – Members and Employees of Boards of License Commissioners and Liquor Control Boards."

House Bill 1317 and Senate Bill 488 each provide, at Alcoholic Beverages Article, § 26-209(a), that "[a]ll members, employees, and inspectors of the Board [of License Commissioners for Prince George's County] are subject to the county's public ethics laws enacted under § 5-807 of the General Provisions Article to the same extent as a local official of the county." House Bill 1386 amends General Provisions Article, § 5-103(b)(6) to provide that, "except in counties in which a county council or board of county commissioners sits as a board of license commissioners or a liquor control board, a member or employee of a board of license commissioners or a liquor control board" are public officials and thus subject to the State ethics laws. The combined effect of the two bills is to make members and employees of the Prince George's County Board of License Commissioners subject to both the State and local ethics provisions and subject to the jurisdiction of both the State and local ethics boards.

In addition, House Bill 1317 and Senate Bill 488 each provide, at State Government Article, § 2-1220(g), that the Office of Legislative Audits is to conduct a performance audit of the Board of License Commissioners for Prince George's County at least once every three years to

¹ House Bill 1317 and Senate Bill 488 are identical except that the phrase "requiring certain audit reports to be sent to certain persons" appears twice in the House Bill.

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evaluate the effectiveness and efficiency of the management practices of the Board and of the economy with which the Board uses resources. House Bill 792, which was approved by form letter dated April 19, 2017, amends State Government Article, § 2-1220(f) to provide that the Office of Legislative Audits shall conduct a performance audit of any board of license commissioners in the State at the request of the President or the Speaker. This audit would also be for the purpose of evaluating the effectiveness and efficiency of the management practices of the board and of the economy with which the board uses resources. It is our view that these provisions are not in conflict and that the intent most likely was to make Prince George's County subject to both, as was done for the Baltimore City Board of License Commissioners.

Finally, House Bill 1317 and Senate Bill 488 provide that the members of the Board of License Commissioners, who are currently appointed by the Governor with the advice and consent of the Senate, are instead to be appointed by the County Executive, subject to confirmation by the Senate. The bills also state further qualifications for the members of the Board, impose a three term limit, and add restrictions on the solicitation of commissions, political contributions, remuneration, and gifts. The bills also provide that the terms of the current members of the Board terminate on the bills' effective date, which is the date that either or both bills are signed. The terminated members continue to serve, however, until a successor is appointed. The General Assembly has the authority to end the terms of gubernatorial appointees to statutory boards or commissions as a part of this type of restructuring of a board. *State v. Falcon*, 451 Md. 138, 171-175 (2017).

Sincerely,



Brian E. Frosh
Attorney General

BEF/KMR/kd

cc: The Honorable John C. Wobensmith
Chris Shank
Warren Deschenaux