

DOUGLAS F. GANSLER
Attorney General

Katherine Winfree
Chief Deputy Attorney General

John B. Howard, Jr.
Deputy Attorney General



ROBERT A. ZARNOCH
Assistant Attorney General
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 26, 2007

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

Re: House Bill 352

Dear Governor O'Malley:

We have reviewed for constitutionality and legal sufficiency House Bill 352, "Washington County - Public Facilities Bonds. While we approve the bill for signing, a portion of the bill is not reflected in the bill's title as required by Maryland Constitution Article III, § 29. As a result, we recommend that the title be revised in next year's curative bill.

HB 352 authorizes and empowers the County Commissioners of Washington County to borrow not more than \$80,000,000 to finance the costs of the construction, improvement, or development of certain public facilities in the County. In addition to spelling out requirements relating to the issuance, sale, and proceeds of the bonds, the bill in Section 11 contains a provision requiring the County Commissioners to present a plan to implement a County land preservation and landowner equity program to the members of the General Assembly representing the County, such plan to establish annual goals for financial support and acres of land preserved.

Article III, § 29 of the Maryland Constitution provides, in relevant part, that "every Law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title." Generally, this provision requires that the title "should not only fairly indicate the general subject of the Act, but should be sufficiently comprehensive in its scope to cover, to a reasonable extent, all its provisions and must not be misleading by what it says or omits to say." *Somerset County v. Pocomoke Bridge Co.*, 109 Md.1

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(1908).

While the short title and purpose paragraph of HB 352 adequately describe the portions of the bill relating to public facilities bonds, the provisions of Section 11 are not set out or otherwise described in the purpose paragraph. Further, while it is our view that this omission does not render the title clearly misleading or underinclusive, that portion encompassed in Section 11 may not be read as mandatory or given legal effect. Of course, there is nothing that would prohibit the County Commissioners from undertaking such a study and presenting the plan as described in Section 11. Finally, we recommend that the title be revised in next year's curative bill.

Very truly yours,

Douglas F. Gansler
Attorney General

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