

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 30, 2007

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

Re: Senate Bill 573 and House Bill 588

Dear Governor O'Malley:

We have reviewed and hereby approve the constitutionality and legal sufficiency of identical bills Senate Bill 573 and House Bill 588. The bills change, for a period of eight months, the definition of a "net tract area" for purposes of forest conservation plans on certain property,¹ to include "forested areas within the floodplain or wetland if a perpetual conservation easement is placed on the forested areas at the time the plat of the tract is recorded."

In reviewing the bills, we considered whether they violate Article III, § 33 of the Maryland Constitution, which prohibits special legislation. That section provides, in relevant part, that "the General Assembly shall pass no special Law, for any case, for which provision has been made, by an existing General Law." A special law is one that relates to particular persons or things of a class, as distinguished from a general law, which applies to all persons or all things of a class. *Cities Service Co. v. Governor*, 290 Md. 553 (1981). According to the Department of Natural Resources, the inspiration for the bills was a particular tract of land but there are other tracts of land that would fall into the revised definition. Even if motivation for legislation is "special," its application to similar entities, whether present or

¹That property is "a tract of land of at least 350 acres of which at 15% is within the boundaries of a 100-year floodplain or wetland."

in the future, “can be dispositive of a special law question.” 66 *Opinions of the Attorney General* 207, 209 (1981). The bills are not limited to any specific entity on its face, nor is there any qualification that would have that effect other than time window the bill would be in effect. Therefore, it is our opinion that the bills do not violate Article III, § 33 of the Maryland Constitution.

Sincerely,

/s/

Douglas F. Gansler
Attorney General

DFG:SBB:as
cc: Joseph Bryce
Secretary of State
Karl Aro