

DOUGLAS E. GANSLER
ATTORNEY GENERAL

KATHERINE WINDRUP
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General



DAN FRIEDMAN
Counsel to the General Assembly

SANTRA BENSON BRANTLEY
BONNIE A. KIRILANI
KATHRYN M. ROWE
Assistant Attorneys General

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

April 22, 2008

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

RE: Senate Bills 368 and 612 and House Bills 805 and 881

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency Senate Bill 368 and House Bill 805, identical bills entitled "Procurement - Preferences - Employment Works Program," and Senate Bill 612 and House Bill 881, identical bills entitled "Procurement - Preference Procurement Program for Sheltered Workshops - Individual With Disability Owned Businesses." We write to recommend that Senate Bill 368 and House Bill 805 be signed before Senate Bill 612 and House Bill 881. We also note that certain inconsistencies between the two bills should be corrected in next year's corrective bill.

Senate Bill 368 and House Bill 805 amend sections of law relating to procurement from sheltered workshops. The bills establish the Employment Works Program in the Department of General Services, changes the term "sheltered workshop" to "community service provider" alters the qualifications for community services providers and makes certain changes in the duties of the Department.

Senate Bill 612 and House Bill 881 amend the same provisions amended in Senate Bill 368 and House Bill 805 in order to provide a procurement preference for a new category - individual with disability owned businesses. The bills amend the provisions as they appear in the current law, retaining the sheltered workshop terminology. However, there is no indication of an intention to retain that language, or other existing language that is amended, rather than to set it out for the purpose of adding individual with disability owned businesses to the provisions of the law.

It is our view that, if Senate Bill 368 and House Bill 805 are signed first, the changes in Senate Bill 612 and House Bill 881 can then be amended onto the new language with the new "community service provider" terminology. There are, however, two instances in which this does not work perfectly, and will need to be corrected in next year's corrective bill. The first of these is the entirely new language added as § 14-106(f) by Senate Bill 612 and House Bill 881 which continues to use the sheltered workshop terminology. The second is new § 14-108 in Senate


The Honorable Martin J. O'Malley

April 22, 2008

Page 2

Bill 368 and House Bill 805, which has no equivalent in Senate Bill 612 and House Bill 881 and, as a result, will appear without references to individual with disability owned businesses. Those references should be added in the corrective bill.

Very truly yours,



Douglas F. Gansler
Attorney General

DFG/KMR/kk

cc: The Honorable Joan Carter Conway
The Honorable Mike Lenett
The Honorable Richard B. Weldon, Jr.
The Honorable Dennis C. Schnepfe
Joseph Bryce
Karl Ar