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April 21, 2008

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

*Re: Senate Bill 659*

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency, Senate Bill 659, entitled "Carroll County – Local Ordinance Creating a County Police Department – Submission to Local Referendum."

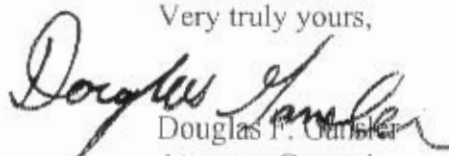
Counties employing the County Commissioner form of local government are granted the express powers set forth in Art. 25, §3 of the Maryland Code. Amongst those express powers is the power to transfer local law enforcement responsibility from a sheriff system to a county police system. Md. Ann. Code, Art. 25, §3(q). I understand that, in the potential exercise of this power, the Carroll County Commissioners are currently considering adopting a county police force, but as of April 15, 2008, had not done so.

Senate Bill 659 would require that, if the Carroll County Commissioners adopt a local law that creates a local police force, that law will be subject to a referendum by the voters of Carroll County. Senate Bill 659 was adopted as an "Emergency Bill," pursuant to Md. Const., Art. XVI, § 2, and thus will be effective immediately upon enactment. The Bill further provides that, if the Carroll County Commissioners adopt an ordinance to create a police department before SB 659 takes effect, "the ordinance shall have no effect and may not be implemented." See Senate Bill 659 at page 2, line 34 through page 3, line 3.

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In reviewing this bill, we have determined that the requirement of a referendum does not offend the State constitution. *Steimel v. Board of Elections Supervisors*, 278 Md. 1, 4-6 (1976). Moreover, we know of no reason that the termination provision, by which the local ordinance would not take effect if Carroll County adopts the ordinance before SB 659 takes effect, would not be valid.

Very truly yours,



Douglas F. Gansler  
Attorney General

DFG/BK/kk

cc: The Honorable David R. Brinkley  
The Honorable Susan Krebs  
The Honorable Dennis C. Schnepfe  
Kimberly A. Millender, County Attorney  
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