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April 29, 2009

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

**Re: HB 872**

We hereby approve HB 872 for constitutionality and legal sufficiency. Because the bill appears to provide a benefit to a single person, we have analyzed the bill under Article III, §33 of the Maryland Constitution which prohibits special legislation. For the reasons that follow, we conclude that the bill does not violate this provision.

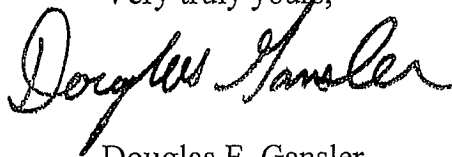
House Bill 872 applies to a very small group of employees who worked for a short time with the Washington Suburban Sanitary Commission ("WSSC") and, while there, were enrolled in the Montgomery County Government 401(a) retirement plan. Sometime between September 2005 and February 2006, these individuals became employed by the Maryland Transit Administration ("MTA") and enrolled in the Employees Pension System ("EPS"). This bill permits these individuals, for a limited period of time, to use funds deposited on their behalf in the Montgomery County 401(a) plan to purchase service credit in the EPS for their time at WSSC. Under existing laws, these individuals would have been required to wait until the time of retirement to purchase this service, at a far greater cost. The testimony at the bill hearing revealed that these individuals, while at WSSC, had acted under supervision of MTA and were essentially on loan by the MTA to WSSC.

The Court of Appeals has recognized the propriety of individual grants of retirement benefits for employees who do not meet the requirements of the general law. *Police Pension Cases*, 131 Md. 315 (1917). Although that case involved statutes passed to provide certain retirement benefits to named individuals, the Court found there was no general law to cover the specific circumstances of the case and the statutes "would seem peculiarly meritorious and just," and, therefore, they did not violate Article III, Section 33.

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Based upon this case and because this bill is intended to serve a particular need and promote some public interest for which the general laws may have been inadequate, and because similar types of pension bills have been determined to be constitutional in the past, we do not believe a finding of unconstitutionality is required.

Very truly yours,



Douglas F. Gansler  
Attorney General

DFG/DF/kk

cc: The Honorable Steve Schuh  
The Honorable John P. McDonough  
Joseph C. Bryce  
Karl Aro