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April 28, 2014

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

RE: *House Bill 295, "Maryland Minimum Wage Act of 2014"*

Dear Governor O'Malley:

We have reviewed House Bill 295, entitled "Maryland Minimum Wage Act of 2014." In approving the bill, we have concluded that provisions of the bill increasing the State minimum wage as well as increasing the rate of reimbursement for community services providers, do not violate the single subject requirement of the Maryland Constitution.

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." To comply with this requirement "the several sections must refer to and be germane to the same subject matter, and that subject matter must be described in its title." *Delmarva Power and Light v. Public Service Commission*, 371 Md. 356, 370 (2002). The test of whether legislation violates the single subject requirement examines whether the provisions of the bill are all "germane" to each other. *Migdal v. State*, 358 Md. 308, 317 (2000). That is, whether they are "in close relationship, appropriate, relative, pertinent." *Porten Sullivan Corporation v. State*, 318 Md. 387, 402 (1990). Two matters can be regarded as a single subject "either because of a direct connection between them, horizontally, or because they each have a direct [vertical] connection to a broader common subject to which the Act relates." *MCEA v. State*, 346 Md. 1, 15 (1997).

This rule has traditionally been "given ... a liberal construction so as not to interfere with or impede legislative action." *Id.* at 13. "That liberal approach is intended to accommodate a significant range and degree of political compromise that necessarily attends the legislative process in a healthy, robust democracy." *Id.* at 14.

House Bill 295 relates to the determination of the State minimum wage rates under a variety of circumstances and across a range of employment settings, including private

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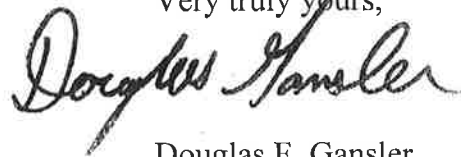
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caregivers to individuals with developmental disabilities. The bill also addresses increased rates of reimbursement paid by the State to caregivers of individuals with developmental disabilities, and specifically provides that a portion of the increased reimbursement rate “may be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by the Developmental Disabilities Administration [“DDA”].” *See* proposed Health-General Article, § 7-307(f).

Both sets of provisions reasonably relate to the payment of wages for employment services. The bill does not appear to be the product of legislative action that is indicative of a single subject violation. For example, the provisions addressing increased reimbursement rates for DDA providers did not appear to be the subject of earlier, rejected legislation that was resurrected by amendment onto another bill, or was added by a policy committee that is unfamiliar with the subject area, which are factors that contribute to a lack of “connection and interdependence” between issues that present single subject concerns. *See MCEA*, 346 Md. at 20, 22. In this instance, in the process of amending the bill passed by the House of Delegates, the Senate Finance Committee, a policy committee with partial jurisdiction over both wage issues and health care policy relating to individuals with developmental disabilities, added additional wage protections for a specific class of employees, similar to other amendments in the bill pertaining to training wages for younger employees. To the extent the provisions of the bill horizontally relate to the payment of wages for various employees in the State, those provisions appear to be germane and embrace, for constitutional purposes, one subject.

Very truly yours,

A handwritten signature in black ink that reads "Douglas F. Gansler". The signature is written in a cursive, flowing style.

Douglas F. Gansler
Attorney General

DFG/JMM/eb

cc: The Honorable Thomas McLain Middleton
The Honorable John P. McDonough
Jeanne D. Hitchcock
Karl Aro