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To: The Honorable Vanessa E. Atterbeary
Chair, Ways and Means Committee

From: The Office of the Attorney General

Re: HB 0313 – Election Law – Recall Elections – Oppose

The Office of Attorney General (the “OAG”) urges this Committee to unfavorably report HB 0313.

HB 0313 would propose amending the Maryland Constitution to establish a procedure by which virtually any State, County or Municipal elected official could be subject to a recall election in the middle of the official’s term. The introduction of recall elections to Maryland is bad public policy that should be rejected by the General Assembly.

The OAG acknowledges that there is facial appeal to the concept of the recall election. If elected officials are agents of the popular will, then making them subject to recall by the voters during their terms of office would seem to enhance accountability and further “democracy,” that is, the rule by the people. But making elected officials subject to recall at virtually any time during the term — save for a 120-day “grace period” under the terms of the proposed bill — carries with it numerous unintended consequences that undermine those same principles.

First, a recall election provides a challenger the opportunity to re-litigate the issues that were the subject of the original election, but with the advantage of a smaller electorate likely weighted more heavily in favor of those who opposed the incumbent in the first place. Thus, the recall election becomes little more than a “do-over” election that undermines the integrity of the election that was previously won by the incumbent.

Second, the ever-present prospect of a recall election undermines the independence of elected officials, who may fear immediate reprisals as a result of difficult choices on particular issues without the benefit of a record of governance built over an entire term to show to the

voters. The existence of the recall election makes governing even more of a non-stop political campaign than it already is.

Third, the recall election necessarily requires that voters establish substantial support for the effort via the petition process before an election can be held. But petitioning is time-consuming and expensive. As a result, it may be subject to abuse by organizations or special interest groups with deep pockets and obscure agendas, undermining the very principles that purportedly support having recall elections in the first place.

Fourth, recall elections undermine stability of government, in that they contemplate a change in elected leadership and, sometimes, of much of the executive branch of the State, or county or municipality at issue. Our laws currently prescribed fixed terms of office to allow elected leaders to select or appoint the individuals they wish to help to implement their policies, and then to implement them. Mid-term recall elections upset the stability of government by inserting the inefficiencies associated with turnover into the middle of terms of office, not just at their beginnings.

Finally, recall elections are expensive in the way that elections in general are expensive. It costs money to open up polling places, to pay poll workers, to print and mail ballots, and more generally to administer elections. Adding recall elections to the regular schedule of State and local elections that already take place (not to mention the occasional special elections that arise to fill vacancies from time to time) would increase the costs and resources needed to govern.

For the foregoing reasons, the Office of the Attorney General urges an unfavorable report on House Bill 0313.

cc: Members of the Ways and Means Committee