

ST. MARY'S COUNTY GOVERNMENT
COMMISSIONERS OF
ST. MARY'S COUNTY



James R. Guy, President
Michael L. Hewitt, Commissioner
Tom Jarboe, Commissioner
Todd B. Morgan, Commissioner
John E. O'Connor, Commissioner

February 28, 2017

Senator Edward J. Kasemeyer, Chair
Budget and Taxation Committee
3 West
Miller Senate Office Building
Annapolis, MD 21401

Re: **SB 736**

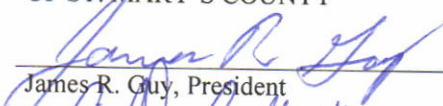
Dear Chairman Kasemeyer:

The Commissioners of St. Mary's County support, **with amendment**, SB 736 - St. Mary's County – Public Facility Bonds, currently scheduled for hearing at 1:00 p.m. on March 2, 2017.

The Commissioners respectfully request the removal of "Section 10", in its entirety, from this Bill. The Commissioners of St. Mary's County do not support the repeal of the ordinance imposing the sales and use tax on energy or fuel in St. Mary's County. Per the attached letter from McGuireWoods LLP, bond counsel for St. Mary's County Government, "it is strongly advised that Section 10 be removed from the Bill as it would prohibit (our) ability to sell bonds".

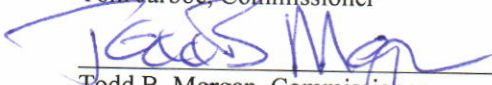
We appreciate your support of our position with regard to SB 736.

Sincerely,
COMMISSIONERS
OF ST. MARY'S COUNTY


James R. Guy, President


Michael L. Hewitt, Commissioner


Tom Jarboe, Commissioner


Todd B. Morgan, Commissioner


John E. O'Connor, Commissioner

CSMC/cf
T:All/Consent/2017/63

cc: Senator Stephen Waugh
Delegate Deborah Rey
Delegate Gerald Clark
Delegate Matthew Morgan
Dr. Rebecca Bridgett, County Administrator
George Sparling, County Attorney

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February 21, 2017

Commissioners of St. Mary's County
Chesapeake Building
41770 Baldrige Street
Post Office Box 653
Leonardtown, Maryland 20650-0653

Gentlemen:

You have asked this firm to review SB736 "St. Mary's County -- Public Facilities Bonds" (the "Bill"), and in particular Section 10 of the Bill attached hereto as Annex A, and advise you regarding whether the inclusion of Section 10 in the Bill would impair the County's ability to issue bonds pursuant to the Bill. As set forth below, we have concerns about the impact of Section 10 of the Bill on the County's ability to issue bonds.

Section 10 of the Bill provides that the Bill "shall take effect contingent on the County Commissioners of St. Mary's County repealing the ordinance imposing the sales and use tax on energy or fuel used or consumed in St. Mary's County authorized under § 20-606 of the Local Government Article." Section 10 of the Bill goes on to state that if the County does not repeal such tax on or before June 1, 2022, the Bill "with no further action required by the General Assembly, shall be null and void and of no further force and effect."

We understand that based upon the language in Section 10 of the Bill, the County could not issue bonds pursuant to the Bill until the requirements set forth in Section 10 were met, in particular, that the tax referenced in the Bill was repealed and evidence of such repeal was delivered to the State.

However, even if the requirements of Section 10 are satisfied, the County likely could not issue bonds due to the potential future re-enactment of the tax by the County. Section 10 of the Bill is reasonably interpreted to provide that if the tax is in effect at any time after June 1, 2022, the Bill becomes null and void. Therefore, under such interpretation, if the County issued bonds pursuant to the authority of the Bill after the tax is repealed, and subsequently the tax is reinstated, the Bill would become null and void, and the bonds would become unenforceable, since the authority pursuant to which they were issued no longer exists. The risk of bonds becoming unenforceable would preclude the County from issuing bonds pursuant to the Bill.

It is also likely that the Bill violates Article III, Section 29 of the Maryland Constitution, as it embraces more than one subject, making the Bill and any bonds issued

pursuant to the Bill subject to legal challenge. This also would preclude the County from issuing bonds pursuant to the Bill.

Based on all of the above, we do not believe that this firm or any other bond counsel in the State would deliver an unqualified bond counsel opinion approving the issuance of bonds pursuant to the Bill. Without such a bond counsel opinion, bonds could not be issued and sold.

Based on the foregoing, it is strongly advised that Section 10 be removed from the Bill as it would prohibit your ability to sell bonds.

Sincerely,



Cheryl O'Donnell Guth

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