

April 2, 2010

Week 12

Greetings from Annapolis,

Impeachment Charges Against Attorney General Gansler

This week was historic in the House of Delegates. On Wednesday, Del. Don Dwyer from Anne Arundel County introduced a House Simple Resolution bringing Articles of Impeachment of Attorney General Douglas F. Gansler. Impeachment is not removal from office, but authorizes the Senate to sit as a court to hear the charges and render a ruling.

By way of background, Section 2-201 of the Family Law Article (Maryland Law) states that “Only a marriage between a man and a woman is valid in this State.” This law has not been changed for almost four decades by the Maryland General Assembly, despite numerous pieces of legislation introduced each legislative session. In addition, on February 24, 2004, Attorney General J. Joseph Curran, Jr. informed the General Assembly that the above stated law currently prohibits the recognition of a same-sex marriage validly contracted in another state. On September 18, 2007, the Maryland Court of Appeals upheld Maryland’s marriage law as constitutional, strongly confirming that the Maryland General Assembly is the only body that can decide if Maryland legally recognizes same-sex marriage in the State.

With no action on the part of the Maryland General Assembly, Mr. Gansler wrote an opinion stating that a same-sex marriage valid in another State would be recognized in Maryland and that the Maryland Court of Appeals was “likely” to respect the law of other States and recognize a same-sex marriage contracted in another jurisdiction. This opinion is now being relied on by State agencies in setting policies.

Citing these issues and other details, the articles of impeachment charge the Attorney General overstepped his authority by making policy, which is constitutionally delegated to the General Assembly. This action is deemed to usurp the powers of the elected legislature. Rather than have a vote on actually impeaching, which is prescribed by the Constitution, the articles of impeachment were referred to the Judiciary Committee. As a result, the vote taken on the House floor became a procedural vote and, having failed, the Articles were erroneously referred to the Judiciary Committee for a public hearing that same afternoon. The committee, after a short hearing, quickly rejected the charge and gave the resolution an unfavorable report.

ObamaCare Has Come to Maryland

Much of ObamaCare may not take effect until 2014, but here in the State House the effects are already being felt. Almost before the ink was dry, legislation made its way through the Maryland House of Delegates to accelerate implementation of the National High Risk Pool.

HB 1564 establishes a program that creates high risk pools for people who are uninsured or unable to purchase health insurance. It is mandated by the Health Care Reform bill to be completed within 90 days of the signing of the bill in order to obtain part of the \$5 billion in

Federal dollars to fund it. Once more, Maryland policy is being driven by the promise of Federal funds. Long-term cost of the program is unknown and is dependent almost entirely upon the Federal government. With constitutional challenges underway, creating just another potentially unsustainable program for our state seems premature.

Budget Leadership in Action

New Jersey Governor Chris Christie has a \$29.3 billion budget with a \$11 billion dollar deficit (37%) and according to Christie, "It is a massive deficit, the largest deficit of any state in America." So, some might wonder why he, in a recent address, was criticizing Gov. Martin O'Malley's handling of his budget, saying that Maryland's \$13 billion spending plan depends on borrowing to cover current obligations, reducing the creditworthiness of our state, and creates a credit crisis that will grow exponentially in the very near future.

While it is true that Maryland is undergoing tough times as the state faces a \$2 billion budget deficit that O'Malley is temporarily fixing by using a combination of cuts, fund swaps, cutting payments to local governments and Federal stimulus funds that will expire next year. One might wonder why we are not taking the same serious steps that NJ is taking like closing Motor Vehicle offices one day a week, canceling their expensive bilingual systems, saving nearly \$800 million from local school aid, increasing prescription drug co-pays for seniors and reducing tax rebates, or do we have to wait until we are actually rivaling NJ to be the state with the worst deficit?

Contrasted with New Jersey, Maryland's Governor has opted to shift tough choices to next year, after the dust of the election has settled. Even the budget as passed by the House of Delegates, only reduces the Governor's FY 2011 budget by only \$12 million out of the \$13 billion general fund. Serious decisions still need to be made as to how to fund retiree health care and bring our pension investments up to full actuarial level. With the concerns detailed by Moody's, these issues need to be addressed if we are to maintain our coveted AAA bond rating.

Session is winding to an end, with much difficult work still ahead. It continues to be an honor to serve you. I appreciate the comments I receive each week.

Serving you in Annapolis,

Gail Bates