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May 22, 2012

The Honorable Herb McMillan
Maryland House of Delegates
217 House Office Building
Annapolis, Maryland 21401

Dear Delegate McMillan:

You have requested advice concerning Senate Bill 848, "Education – Maintenance of Effort." Specifically, you asked whether SB 848, now Chapter 6 of the Laws of 2012, "purport[s] to enact a local public law that would override the grant of express powers to charter counties that have, by referendum, enacted a cap on property taxes, which was upheld by the Maryland Court of Appeals." Chapter 6 is a public general law that does grant to all charter counties the authority to set a tax rate that is higher than the rate authorized under the county's charter, essentially "overriding" the county's tax cap.

Chapter 6 revises the law relating to local maintenance of effort ("MOE") requirements in education funding. In addition to other changes, Chapter 6 adds a new provision of law that provides:

> Notwithstanding any provision of a county charter that places a limit on that county's property tax rate or revenues and subject to paragraph (2) of this subsection, a county governing body may set a property tax rate that is higher than the rate authorized under the county's charter or collect more property tax revenues than the revenues authorized under the county's charter for the sole purpose of funding the approved budget of the county board.

Education Article ("ED"), § 5-104(d)(1).

Property tax caps have been adopted by charter amendment in several Maryland jurisdictions. Only charter counties have the authority to enact such tax caps without prior approval by the General Assembly under their charter home rule authority pursuant