

3. The Phase I Plan.

In 63 Opinions of the Attorney General ____, supra, we noted, "the reorganization which the Phase I Plan would achieve constitutes merely the transfer of a function ... from one department to another and not the abolition or transfer of a program." Thereupon, we conclude that that the Budget Bill, although perhaps not the more desirable, would nevertheless be an "adequate vehicle" for implementing the Plan. Furthermore, we conclude that nothing in either federal or State law prohibits the implementation of the Phase I Plan.

Section 2 of House Bill 948 specifically directs the Department of Budget and Fiscal Planning shall, in the reorganization of State data processing operations, adhere to a three-phased schedule which clearly is the very same plan that we addressed in our earlier Opinion and expressly provides Phase I thereof shall involve the Annapolis Data Center, the Baltimore Computer Utility, and the Public Safety Data Center. Thus, although exempting the Department of Public Safety and Correctional Services from the additional authority which it would vest in the Secretary of Budget and Fiscal Planning, this bill envisions the continuing inclusion of the Public Safety Data Center in the Plan. It is, therefore, apparent to us that the Legislature intended for the Plan to proceed as generally described in our earlier Opinion. Indeed, we note that the Legislature passed a Budget which also provided for the implementation of the Plan. See, Laws of 1978, Ch. 44.

4. Severability.

Under certain conditions the valid portions of a partially invalid act may be given effect. Sands, Sutherland Statutory Construction §44.01 (4th Ed. 1973). Indeed, the General Assembly has generally provided for the severability of its acts (see, Code, Art. 1, §23) and has expressly so provided with respect to this measure; see Section 6. However, although a severability clause such as that contained in House Bill 948 has been held to be a "positive declaration of the legislature's intention," Heubeck v. City of Baltimore, 205 Md. 203 (1954), the existence of such a clause is neither an inexorable command nor dispositive of the question of severability; rather, it merely provides a rule of construction which may aid in determining legislative intent; State v. Schuller, 280 Md. 305, 319 (1977). Thus, when confronted with a partially invalid statute, the courts must still determine whether the valid portion is sufficiently independent to justify separate enforcement. Consequently, although the Court of Appeals has formulated certain guidelines,² we are never able to conclude that the balance of any bill will be valid regardless of which portion thereof is held to be