

This is to advise you that we have reviewed for constitutionality and legal sufficiency Senate Bill 408, a bill requiring schedules of court costs and fees to be submitted to the General Assembly for approval, disapproval or modification by joint resolution. Although we are aware that recent court cases in other states have held against the legislative veto principle and that a legislative veto case is pending before the Supreme Court, we are still persuaded of the validity of this principle under the Maryland Constitution.

However, Senate Bill 408, like Senate Bill 58, vetoed following the 1981 session, contains a legislative veto provision which we believe is unconstitutional. As we noted in our May 5, 1981 letter on Senate Bill 58, authorization "to modify proposed court costs and fees is much more in the nature of lawmaking, which must follow the procedures prescribed by the Constitution for enacting legislation." Even though Senate Bill 408 permits such modification by the full General Assembly, rather than by its committees, it would nevertheless permit modification of fees and costs without resort to lawmaking and thus, this feature of the bill is unconstitutional. Except for this provision, we approve the bill for constitutionality and legal sufficiency.

Very truly yours,
Stephen H. Sachs
Attorney General

Senate Bill No. 436

AN ACT concerning

Compensatory Special Education
Services - Termination Date

FOR the purpose of altering the termination date of certain programs which provide compensatory special education services to handicapped persons.

BY repealing and reenacting, with amendments,

Article - Education
Section 8-401.1
Annotated Code of Maryland
(1978 Volume and 1981 Supplement)