

May 24, 1984

The Honorable Harry Hughes
Governor of Maryland
State House
Annapolis, MD 21401-1991

Re: House Bill 840

Dear Governor Hughes:

This is to advise you that we have reviewed House Bill 840, a bill which provides for the establishment of school board residence districts in Montgomery County by joint resolution of the General Assembly. As such a resolution can not have the force of law, House Bill 840 would be ineffective to accomplish its purpose.

As a general rule, a joint resolution of the General Assembly merely expresses the opinion of the Legislature and does not have the force and effect of law. 22 Opinions of the Attorney General 585 (1937) and 47 Opinions of the Attorney General 28, 31 (1962). Clearly the lawmaking power of the General Assembly can only be exercised by the enactment of a statute that is subject to the veto of the Governor. See 36 Opinions of the Attorney General 95, 96 (1951). We have, of course, recognized that the lawmaking power is only one species of legislative power. Another species of legislative power is the power of oversight concerning power which has been delegated to another Branch. This office has said that such oversight power may be exercised by reserving to the Legislature or its committees the authority to disapprove of the exercise of such delegated power and this could take the form of a joint resolution. See 63 Opinions of the Attorney General 125 (1978). However, this power can not be used to modify or alter actions, as distinguished from approving or disapproving, as this would be regarded as lawmaking. See letter of May 28, 1982 from Attorney General Sachs to Governor Hughes concerning Senate Bill 408.

House Bill 840 provides, in relevant part, for the members of the General Assembly from Montgomery County to periodically introduce a joint resolution "proposing a plan for the division of Montgomery County into five residence districts for the election of school board members." The bill also provides that "The School board districts shall become law after the adoption of the joint resolution of the Maryland General Assembly". In establishing residence districts for purposes of electing school board members, the Legislature is clearly not exercising its oversight power. It is exercising its lawmaking power and can do this only by the enactment of a statute, which is subject to the veto of the Governor, and not by a joint resolution.