

based upon a judgment that it fails to comply with the legislative intent of the law authorizing its promulgation. This can only help to thwart the purpose of the State Documents Law by negating the public input which it currently guarantees. In those instances in which a majority of the members of the General Assembly finds that an agency rule has exceeded the legislative grant to that agency, the General Assembly can and should pass a law to correct the situation, and the Chief Executive will then execute that policy judgment.

My objections to House Bill 619 also are grounded in my reading of the provisions of Article II, Section 17 of the Maryland Constitution. It provides that in order to "guard against hasty or partial legislation and encroachment of the Legislative Department upon the co-ordinate Executive and Legislative Departments...", each bill passed by the General Assembly shall be presented to the Executive for his decision to sign it into law or to veto it. The power of gubernatorial veto was granted to the Executive of the State when the Constitution of 1867 was adopted by the people. The purpose of that grant is, as stated in the Constitution, to guard against the encroachment of the Legislature upon the Executive branch of government. I believe that the power of a legislative committee to disapprove a rule is the equivalent of making law. It is the equivalent of a policy decision and therefore constitutes legislation.

The contrary argument is that such a disapproval of a rule is not law making because the Executive could have vetoed the legislation which established the legislative veto mechanism. A second argument is that the disapproval is not new legislation, but a guarantee that the original legislative policy is fulfilled. As for the first contention, it assumes that the Executive, by signing the legislative veto mechanism into law, has waived any future objections to the exercise of the legislative veto. I cannot subscribe to that theory. As for the second argument, I believe that the Legislature may guard against a violation of its original policy decision by means of the safeguards afforded by the current provisions of the State Documents Law and by the oversight function performed by the AELR Committee. Finally, if a policy decision is violated, the General Assembly may pass and present to the Executive a bill to correct the situation, and the Executive may act in accordance with the mandate of Article II, Section 17.

The Maryland Constitution mandates that the Chief Executive manage the Executive Branch of government. In my judgment, the duties and functions of the Legislative and Executive Branches are clearly delineated in the Constitution. I believe that House Bill 619 oversteps the boundary drawn by the people between these two branches of our government by injecting the Legislature into the role of managing the Executive Branch.