

- 1) the claimant submits a written claim to the State Treasurer within 180 days after the injury to person or property that is the basis of the claim;
- 2) the Treasurer denies the claim finally; and
- 3) the action is filed within one year after the claim is denied finally or three years after the cause of action arises, whichever is later.

Senate Bill 406 would provide an exception to the 180-day notice requirement and allow a claim to proceed upon a motion and for good cause shown. Such a claim would be disallowed only if the defendant (the State) could affirmatively show that its defense has been prejudiced by the lack of notice.

The 180-day rule is an important procedural limitation that helps prevent frivolous claims; this is because meritorious claims are usually made promptly. Six months is adequate time to determine whether or not to submit a claim, and no evidence has been presented to show that this rule needs to be relaxed. The benefit of the rule will certainly be lost through the exception created in this bill, and the State will expend more time and resources litigating the additional claims. In Fiscal Year 92, there were 2,631 tort claims cases, 1,161 of which were closed without payment. It is estimated that the change made in Senate Bill 406 will increase the caseload by 484 cases. According to the Treasurer's Office, this in turn would result in an estimated additional \$1,988,920 in claims costs.

The second purpose of the bill, which was added by amendment, was to reestablish a statutory cap on claims against the State, reversing an action of the General Assembly dating from 1985. Under the 1985 law, the cap is set by the budgetary process and has been set at \$50,000 per claim. The bill provides for a cap of \$100,000 per claim and \$500,000 per total claims that arise out of the same occurrence.

I agree with those who argue that the \$50,000 cap is outdated and should be raised. Further, it is my understanding that the Treasurer intends to request the cap be raised in the Fiscal Year 1995 budget to the level established by Senate Bill 406. I support this change and have indicated to the sponsor of the bill and the sponsor of the amendment relating to the cap that this will be reflected in the Fiscal Year 1995 budget. However, the authority for establishing the cap has been with the Executive since 1985 and should remain part of the budgetary process. The current practice maintains the flexibility to respond to unexpected claims and circumstances and, often, uncertain fiscal situations.

For these reasons, I have vetoed Senate Bill 406.

Sincerely,
William Donald Schaefer
Governor

Senate Bill No. 406

AN ACT concerning

Maryland Tort Claims Act —~~Waiver of Notice~~

FOR the purpose of authorizing a court under certain circumstances to entertain an