

Administration and the Department of Fiscal Services agreed on compromise language that would require agency permission before original records could be removed to the Office of Legislative Audits. Unfortunately, the Legislature rejected this compromise. The adopted language is unacceptable because it gives agencies and contractors no meaningful input into where an audit shall be conducted. I am hopeful the Legislature will reconsider this position and adopt language more narrowly tailored to meet the needs of the Office of Legislative Audits.

An equally important concern is the requirement that entities being audited provide any information the Legislative Auditor "requests" for the audit, rather than "finds to be needed." In my view, this change creates ambiguities in terms of what information the Legislative Auditor can access from private entities. The current standard permits the Auditor access only to information directly related to the audit itself. My concern is that a broad interpretation of this legislation could open the door for potential fishing expeditions reminiscent of the Congress and its General Accounting Office. If used improperly, the State's contracting relationships with private businesses could be substantially negatively impacted. While I understand this is not the intent of the current Legislative Auditor, my concern is with future auditors and the future interpretation of this provision.

The State must and should monitor grants and contracts to assure compliance, legality and efficiency. The State Auditor, however, should not have the ability, without just reason, to intrude in private businesses in an unbridled fashion. This legislation inadvertently creates such opportunity. The existing legal standard of obtaining information on a "finds to be needed" basis is sufficient. Expanding that standard to include a record that "is requested" has the potential of creating unwarranted and costly intrusions into private enterprises' operations.

The Executive and Legislative branches have worked together to improve our State's pro-business environment and I am concerned that this bill may send an anti-business message. I will work with the General Assembly and support a more carefully crafted proposal that clarifies the Legislative Auditor's powers while providing appropriate safeguards for State agencies and private entities.

For the above reasons, I have vetoed Senate Bill 361.

Sincerely,
Parris N. Glendening
Governor

Senate Bill No. 361

AN ACT concerning

General Assembly -- Department of Fiscal Services -- Office of Legislative Audits

FOR the purpose of altering the time requirement within which the Office of Legislative Audits is mandated to conduct fiscal/compliance audits; clarifying that the Legislative Branch is exempt from the fiscal/compliance audit requirement; providing factors the Office shall take into consideration in determining the audit schedule for the units of government that are subject to the Office's audit authority;