

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 219.

House Bill 219 requires the Office of Legislative Audits of the Department of Fiscal Services to audit each unit of State government at least once every 3 years, instead of the current 2-year audit cycle. In addition, the bill makes numerous changes to the law governing legislative audits, including: authorizing the Legislative Auditor to audit a corporation or association which has received funds from an appropriation; granting the Auditor access to the records of contractors and subcontractors that perform work under State contracts; authorizing the Legislative Auditor to move all or a portion of an audit to the Office of Legislative Audits; and imposing a duty on any public or private entity audited to provide any information that the Legislative Auditor "requests" for the audit.

The Legislative Auditor plays an important role in assuring that State agencies run properly and efficiently and that private entities expend State funds in accordance with law. While I have no objections to extending the audit cycle or many of the changes intended to clarify the Auditor's role, I have concerns regarding where an audit can take place and the apparent expansion of the Legislative Auditor's access to records and information. My concerns are not with present practice but with the possible future misconstruction of this legislation.

Current law requires that an audit take place "at the offices of the State unit, county officer or unit, corporation, or association that is subject to audit." House Bill 219 gives the Legislative Auditor unilateral authority to move the audit to the Office of Legislative Audits. Such a move without the consent of the agency or contractor being audited could cause significant disruptions to operations, result in increased costs to the entity, and place the safety of original documents at risk. To address these concerns, the 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