

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

May 25, 2004

The Honorable Thomas V. Mike Miller, Jr.
Senate President
State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 87 – *Open Meetings Act – Standing to File a Petition Alleging Violation of the Act*.

Senate Bill 87 was passed by the General Assembly in reaction to a recent court decision dismissing a complaint filed in Howard County in which a taxpayer alleged a violation of the Open Meetings Act by the local board of education. Under current law, to have standing to maintain a suit alleging a violation of the Open Meetings Act, the plaintiff must show that he has been “adversely affected” by the alleged violation. The Circuit Court for Howard County dismissed the complaint on the grounds that the plaintiff did not have standing to sue. On appeal, the Court of Special Appeals heard oral arguments this month and will render a decision in this case. Senate Bill 87 would unilaterally remove the “standing” requirement and allow any person to sue.

In simplest terms, the purpose of the Open Meetings Act is to make sure that government operates openly in making public policy decisions. The primary reason, however, for the standing requirement that a plaintiff be “adversely affected” under the Open Meetings Act, is to prohibit the filing of frivolous lawsuits in the circuit court. Under Senate Bill 87, any person could file a complaint alleging a violation of the Open Meetings Act. For example, this bill would allow a resident of Cecil County to file a complaint against the Prince George’s County Board of Education, even though the Cecil County resident has no relation to Prince George’s County and would not be “adversely affected” by any violation of the Open Meetings Act.

Senate Bill 87 could result in an increase in litigation, which would require local boards of education and county and municipal governments to devote staff time and money for litigation expenses to defend against complaints. At a time of limited resources when local governments are struggling to meet local needs – including the educational needs of Maryland’s children – it would be inappropriate to impose these added litigation costs on our local public bodies.

It is important to note that under current law, there is a State Open Meetings Law Compliance Board (the “Board”) whose express purpose is to receive complaints from “any person” alleging a violation of the Open Meetings Law. A person does not have to be “adversely affected” to file a complaint in this nonjudicial forum. The Board is