

(ii) be available to the Legislative Auditor.” (Proposed new Section 10-903(7) of the State Government Article)

As the Attorney General properly indicates, “Maryland law recognizes a privilege for confidential executive communications of an advisory or deliberative nature.” May 19, 1992 Bill Review Letter of the Attorney General. For the reasons discussed in detail in the attached bill review letter, the Attorney General concluded that “to the extent that Section 10-903(7) would require the portions of internal audit reports of Executive Branch agencies that contain opinions and recommendations to be available to the legislative auditor, the provision [violates this privilege and] cannot be given effect.”

Not only does House Bill 443 suffer from a constitutional defect, it is simply unnecessary. Executive Branch agencies can upgrade and professionalize their internal audit capability without the mandates of this bill. No procedure required by House Bill 443 could not be required by an Executive Order issued by the Governor. Furthermore, while the procedures set forth in the bill are in many ways redundant with existing efforts of the Executive Branch, establishing these procedures by statute would remove all flexibility, both as to internal audit procedures and as to the qualifications of chief internal auditors.

House Bill 443 only applies to agencies that currently perform internal audits. It is possible, therefore, that the cumbersome and inflexible provisions of the bill could serve to discourage agencies that don't currently perform internal reviews from beginning these examinations. That would be an unfortunate result from legislation that was intended to improve internal self-assessment procedures among the agencies of State government.

I am also advised by the Department of Budget and Fiscal Planning that there may be costs associated with implementing House Bill 443 that have not been addressed in the budget.

In conclusion, House Bill 443 may have been introduced to achieve an admirable result, but in application it would not achieve the ends which its proponents' intended. It contains unconstitutional provisions that alone justify my veto but, in addition, the bill is not necessary. Its intended goals can be achieved through alternative procedures.

For these reasons, I have vetoed House Bill 443.

Sincerely,  
William Donald Schaefer  
Governor

#### House Bill No. 443

AN ACT concerning

#### State Agencies – Internal Audits

FOR the purpose of requiring State agencies that perform internal audits to employ a chief internal auditor and certain staff and to establish a certain internal auditing program; specifying the manner of appointment, qualifications, and duties of the chief internal auditor; creating certain exceptions to the qualifications of the chief