

State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 283.

House Bill 283 would add the Northeast Maryland Waste Disposal Authority to the definition of local government under the Local Government Tort Claims Act. The bill also includes language adding an employee of a county who is assigned to a local department of social services to the Maryland Tort Claims Act.

House Bill 283 was introduced as a departmental bill by the Northeast Maryland Waste Disposal Authority after regulations promulgated by the Treasurer's Office made it clear that the Authority's employees are not protected under the State Tort Claims Act. Currently, the Authority's staff of 10 employees have no protection under State law and must rely on a commercial insurance policy that covers only automobile accidents and does not cover professional liability.

I support these provisions, but I am troubled by the amendment to the bill that adds county employees of local department of social services to the Maryland Tort Claims Act. These provisions were originally included in Senate Bill 430, a bill that received an unfavorable report by the House Judiciary Committee. In testimony on Senate Bill 430, the Treasurer's Office raised important distinctions between the Maryland Tort Claims Act and the Local Government Tort Claims Act. The distinction is based not on who supervises the employee, but rather depends upon who actually pays the employee. The language of the amendment to House Bill 283 makes it very clear that these are "county employees."

The amendment was offered to allow county-funded employees who work in local departments of social services side by side with State funded employees to use State vehicles in the performance of their duties. While I understand that the lack of motor vehicle insurance has posed administrative problems for local departments of social services, I am not certain that this legislation is the best solution for the problem.

I have been advised that the problem is a budget issue that could be solved by an agreement between State and local government authorities on how to finance the necessary motor vehicle insurance. The local governments have argued that the State should pay since these employees are under the control of the local director of social services. However, the local governments now pay for all other expenses associated with county employees, including the costs of social security and benefits.

The language in House Bill 283 goes far beyond simply providing motor vehicle insurance to county employees of local departments of social services. It shifts the entire responsibility for tort liability claims against these county employees to the State. In recent years, tort claims against social services agencies have been one of the fastest growing areas of litigation and liability for the State.

I continue to support legislation that would add the Northeast Waste Disposal Authority