

September 23, 2020

Senate President Bill Ferguson
State House, H-107
100 State Circle
Annapolis, MD 21401

Speaker Adrienne Jones
State House, H-101
100 State Circle
Annapolis, MD 21401

Dear Senate President Ferguson and Speaker Jones,

As leaders from Maryland's business advocacy organizations, we write to thank you for your continued leadership during these unprecedented times. Looking forward to the upcoming 2021 legislative session, we recognize it will be different in many ways. We value our partnership with you, and we look forward to working together toward solutions that balance the challenges posed by the pandemic with the need for an open and transparent legislative process.

We would like to express our specific concerns over the recent letter of advice provided to you by the Maryland Attorney General's Office regarding the manner in which legislative business may be conducted by the General Assembly during the COVID-19 pandemic.

Our main concern stems from potential rule changes by either chamber which could severely curtail the transparency of the legislative process and drastically limit the input and participation from the public and advocacy organizations like ours. In the letter you received, the Attorney General's opinion states:

Although neither the courts nor the Open Meetings Compliance Board have addressed this specific issue, in my view, the legislature may hold committee hearings, either during the interim or during session, at which the public is prohibited from attending in person, so long as the hearings will be publicly broadcast.

The letter goes further saying:


Moreover, the Open Meetings Act (OMA) does not grant a right to the public to speak at meetings.

This is troubling to us, as it affords the legislature the opportunity to broadcast meetings without allowing public participation. A legislative process that safeguards public health, while providing for continued public input and involvement at bill hearings, is critical for transparency, inclusion and good policy.

Further, the letter outlines that either chamber may adopt rules for the committee process provided they meet the criteria of "reasonable advance notice" and "accessibility." We are concerned by these loosely defined terms, and the potential deviation from the traditional manner in which committees have conducted their business that provided for public participation to the Maryland legislative process.

The opinion goes on to state:





Nonetheless, recognizing the value to the public that media reports of their proceedings provide, the General Assembly may grant the press access even if the public is not allowed.

While we firmly support the important role the press plays in our legislative process, we are troubled by the suggestion of the Attorney General that the General Assembly may selectively shut out meaningful participation in the legislative process.

Finally, the AG's opinion leaves the question of legality on the interpretation of presence on the floor for voting unanswered. It is our concern that, without clarification, any legislative business or votes conducted in a remote setting could mire the state in legal challenges which could prove costly in terms of dollars and in effective dates of legislative changes.

We know that as the leaders of the Maryland General Assembly you have the same concerns in mind. Therefore, we respectfully request that a working group be formed to evaluate and address these challenges for the upcoming legislative session. Through this process, our joint concerns regarding transparency and public participation could be addressed more effectively. In addition to key members of the General Assembly, we urge that representatives from the Department of Legislative Services, the Department of General Services, and the undersigned organizations be included in this effort.

Sincerely,

AAA Mid-Atlantic
Apartment & Office Building Association of Metropolitan Washington (AOBA)
Building Owners and Managers Association of Greater Baltimore
Insurance Agents and Brokers of Maryland
Maryland Association of CPAs, Inc.
Maryland Association of Health Underwriters
Maryland Association of Mutual Insurance Companies
Maryland Chamber of Commerce
Maryland DC and Virginia Solar Energy Industries Association
Maryland Farm Bureau
Maryland Hotel Lodging Association
Maryland Retailers Association
National Association of Insurance and Financial Advisors of Maryland
National Federation of Independent Business (NFIB)
Restaurant Association of Maryland
Washington, Maryland, Delaware Service Station and Automotive Repair Association (WMDA)

cc: Senator Nancy King
Senator J.B. Jennings
Delegate Eric Luedtke
Delegate Nicholas Kipke

