
By: **Senators Hollinger, Dyson, Astle, Britt, Brochin, Conway, Currie, DeGrange, Della, Exum, Forehand, Frosh, Garagiola, Gladden, Green, Grosfeld, Hogan, Hughes, Jimeno, Jones, Kelley, Klausmeier, Lawlah, McFadden, Miller, Pinsky, Ruben, Stone, and Teitelbaum**

Introduced and read first time: January 31, 2005

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Public Works - Disposition of Protected Lands**

3 FOR the purpose of prohibiting the Board of Public Works, subject to certain
 4 conditions, from approving the sale, lease, transfer, exchange, grant, or other
 5 disposition of any State-owned or State-designated outdoor recreation, open
 6 space, conservation, preservation, forest, or other park land; authorizing the
 7 General Assembly to take action by enacting legislation with regard to certain
 8 land transactions; requiring the Board, within a specified period, to cause a
 9 notice of the proposed sale of certain property to be published in certain
 10 newspapers; requiring the Board to cause certain conservation easements to be
 11 placed on certain property prior to its disposition and to prohibit certain
 12 development of and adverse impact to certain environmental resources that are
 13 located on the property; requiring the Board to ensure that, with regard to the
 14 disposition of certain property to certain entities, the use of certain property
 15 conforms to the local government comprehensive plan; requiring that the
 16 revenues derived from certain transactions be used for the purposes of Program
 17 Open Space; requiring the Department of Natural Resources and the
 18 Department of Agriculture to adopt certain criteria for the assessment of certain
 19 property; requiring each department to prepare a written analysis of findings
 20 and recommendations regarding certain property subject to its jurisdiction and
 21 to maintain a public record of each analysis; making a stylistic change; and
 22 generally relating to the authority of the Board of Public Works with regard to
 23 the disposition of certain park and similar lands.

24 BY repealing and reenacting, without amendments,
 25 Article - State Finance and Procurement
 26 Section 5-310, 5-504, and 5-505
 27 Annotated Code of Maryland
 28 (2001 Replacement Volume and 2004 Supplement)

29 BY repealing and reenacting, with amendments,
 30 Article - State Finance and Procurement

1 Section 10-305
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2004 Supplement)

4 Preamble

5 WHEREAS, It is the intent of the General Assembly that the State maintain
6 and build upon its efforts to acquire and preserve undeveloped, outdoor recreation,
7 park, and open lands of the State for the enjoyment of current citizens and future
8 generations of Marylanders; and

9 WHEREAS, It is the intent of the General Assembly that the State set as its
10 goal that, should it become necessary or in the State's interests to dispose of any of its
11 park and open lands, the State should replace that land with land of equal or greater
12 acreage that possesses equal or greater public and resource value; now, therefore,

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - State Finance and Procurement**

16 5-310.

17 (a) Each unit of the State government shall notify the Department of:

18 (1) any real property that is in excess of the needs of the unit; or

19 (2) any substantial change to any real property owned by the State.

20 (b) For any real property identified under subsection (a) of this section, the
21 Department shall:

22 (1) study the proper disposition of the property;

23 (2) determine whether any local government or unit of the State
24 government is interested in the property; and

25 (3) make an appropriate recommendation to the using unit of the State
26 government and to the Board of Public Works.

27 5-504.

28 (a) The Department shall be a repository and clearinghouse for information
29 about real property available for public use.

30 (b) The Department shall correlate information concerning real property
31 owned by the State or any political subdivision of the State.

32 (c) (1) The Department shall maintain a list of real property owned by the
33 State or any political subdivision of the State.

1 (2) The list shall include pertinent details concerning size, facilities, and
2 value.

3 (3) A copy of the list and any related information shall be provided to any
4 State agency and the General Assembly upon request.

5 5-505.

6 (a) The Department shall prepare and periodically revise inventory lists of:

7 (1) the natural resources of the State; and

8 (2) major public works and private facilities that are important to the
9 development of the State as a whole.

10 (b) A copy of the inventory list shall be provided to any State agency and the
11 General Assembly upon request.

12 10-305.

13 (a) (1) [Any] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION,
14 ANY real or personal property of the State or a unit of the State government may be
15 sold, leased, transferred, exchanged, granted, or otherwise disposed of:

16 (i) to any person, to the United States or any of its units, or to any
17 unit of the State government, for a consideration the Board decides is adequate; or

18 (ii) to any county or municipal corporation in the State subject to
19 any conditions the Board imposes.

20 (2) The Board may not approve the sale of any [State owned]
21 STATE-OWNED real or personal property funded pursuant to an appropriation act of
22 the Maryland General Assembly if the property has an appraised value over \$100,000
23 until:

24 (i) a description of the real or personal property has been
25 submitted to the Senate Budget and Taxation Committee and the House
26 Appropriations Committee for review and comment; and

27 (ii) 45 days have elapsed since the description was submitted.

28 (3) (I) THIS PARAGRAPH APPLIES TO:

29 1. PROPERTY UNDER PROGRAM OPEN SPACE UNDER TITLE 5,
30 SUBTITLE 9 OF THE NATURAL RESOURCES ARTICLE;

31 2. PROPERTY UNDER THE RURAL LEGACY PROGRAM UNDER
32 TITLE 5, SUBTITLE 9A OF THE NATURAL RESOURCES ARTICLE;

33 3. PUBLIC PARK LAND AND RECREATIONAL AREAS UNDER
34 TITLE 5, SUBTITLE 10 OF THE NATURAL RESOURCES ARTICLE;

1 4. WILDLAND AND OPEN AREAS UNDER TITLE 5, SUBTITLE 12
2 OF THE NATURAL RESOURCES ARTICLE;

3 5. HERITAGE CONSERVATION AREAS UNDER TITLE 5,
4 SUBTITLE 15 OF THE NATURAL RESOURCES ARTICLE;

5 6. FOREST CONSERVATION AREAS UNDER TITLE 5, SUBTITLE
6 16 OF THE NATURAL RESOURCES ARTICLE;

7 7. GREENPRINT AREAS UNDER TITLE 5, SUBTITLE 15A OF
8 THE NATURAL RESOURCES ARTICLE;

9 8. MARYLAND AGRICULTURAL LAND PRESERVATION
10 FOUNDATION AREAS UNDER TITLE 2, SUBTITLE 5 OF THE AGRICULTURE ARTICLE;
11 AND

12 9. ENVIRONMENTALLY SENSITIVE FOREST, CONSERVATION,
13 OPEN SPACE, PARK, OR SIMILAR LAND SUBJECT TO THE CONTROL OF A STATE
14 INSTITUTION OF HIGHER EDUCATION.

15 (II) IN ADDITION TO OTHER REQUIREMENTS OF THIS ARTICLE
16 GOVERNING THE DISPOSITION OF STATE-OWNED REAL PROPERTY, THE BOARD MAY
17 NOT APPROVE THE SALE, LEASE, TRANSFER, EXCHANGE, GRANT, OR OTHER
18 DISPOSITION OF ANY STATE-OWNED OR STATE-DESIGNATED OUTDOOR
19 RECREATION, OPEN SPACE, CONSERVATION, PRESERVATION, FOREST, OR OTHER
20 PARK LAND, UNTIL:

21 1. IT HOLDS A PUBLIC HEARING ON THE PROPOSED SALE IN
22 THE COUNTY OR THE LEGISLATIVE DISTRICT IN WHICH THE PROPERTY IS LOCATED;

23 2. IT DETERMINES THAT ANOTHER ENTITY OF STATE OR
24 LOCAL GOVERNMENT DOES NOT DESIRE TO ACQUIRE THE PROPERTY;

25 3. IT HAS THE PROPERTY APPRAISED BY AT LEAST TWO
26 INDEPENDENT APPRAISERS;

27 4. IT CONDUCTS A PUBLIC AUCTION OF THE PROPERTY;

28 5. IT DETERMINES THAT THE AUCTION PRICE OFFERED IS
29 NOT LESS THAN THE APPRAISED VALUE OF THE PROPERTY; AND

30 6. THE GENERAL ASSEMBLY BY LEGISLATION APPROVES
31 THE TRANSACTION AT ITS NEXT SESSION.

32 (III) NOT LATER THAN 14 DAYS BEFORE THE DATE SET FOR THE
33 HEARING UNDER SUBPARAGRAPH (II)1 OF THIS PARAGRAPH, THE BOARD SHALL
34 CAUSE A NOTICE OF THE PROPOSED DISPOSITION OF THE PROPERTY TO BE
35 PUBLISHED IN AT LEAST:

1 1. ONE LOCAL NEWSPAPER OF GENERAL CIRCULATION IN
2 THE COUNTY OR THE LEGISLATIVE DISTRICT IN WHICH THE PROPERTY IS LOCATED;
3 AND

4 2. ONE NEWSPAPER OF STATEWIDE CIRCULATION.

5 (IV) PRIOR TO THE DISPOSITION OF PROPERTY SUBJECT TO THIS
6 PARAGRAPH, THE BOARD SHALL CAUSE TO BE PLACED ON THE PROPERTY
7 CONSERVATION EASEMENTS THAT:

8 1. ARE RETAINED BY THE STATE; AND

9 2. PROHIBIT THE DEVELOPMENT OF AND ANY ADVERSE
10 IMPACT TO SENSITIVE ENVIRONMENTAL RESOURCES THAT ARE LOCATED ON THE
11 PROPERTY.

12 (V) THE BOARD MAY NOT COMPLETE A TRANSACTION FOR THE
13 DISPOSITION OF PROPERTY SUBJECT TO THIS PARAGRAPH TO A
14 NONGOVERNMENTAL ENTITY UNLESS IT DETERMINES THAT THE PROPOSED USE OF
15 THE PROPERTY CONFORMS TO THE LOCAL GOVERNMENT COMPREHENSIVE PLAN IN
16 THE JURISDICTION WHERE THE PROPERTY IS LOCATED.

17 (VI) ANY REVENUES DERIVED FROM THE SALE, LEASE, TRANSFER,
18 EXCHANGE, GRANT, OR OTHER DISPOSITION OF PROPERTY SUBJECT TO THIS
19 PARAGRAPH SHALL BE DEPOSITED IN THE ADVANCE OPTION AND PURCHASE FUND
20 UNDER § 5-904(B) OF THE NATURAL RESOURCES ARTICLE.

21 (VII) WITH REGARD TO EACH CATEGORY OF PROPERTY SUBJECT TO
22 THIS PARAGRAPH, THE DEPARTMENT OF NATURAL RESOURCES OR THE
23 DEPARTMENT OF AGRICULTURE, AS APPROPRIATE, SHALL:

24 1. ADOPT OBJECTIVE, MEASURABLE CRITERIA TO ASSESS
25 THE ENVIRONMENTAL, AGRICULTURAL, AND OTHER SIGNIFICANT PUBLIC
26 FEATURES OF THE PROPERTY;

27 2. EVALUATE EACH PROPERTY THAT IS CONSIDERED OR
28 PROPOSED FOR DISPOSITION UNDER THIS SECTION AGAINST THOSE CRITERIA;

29 3. PREPARE A WRITTEN ANALYSIS OF ITS FINDINGS AND
30 DETERMINATIONS; AND

31 4. MAINTAIN A COMPLETE AND PUBLIC RECORD OF THE
32 ANALYSIS.

33 (b) Except as otherwise provided in this section:

34 (1) if any real or personal property disposed of under this section is not
35 under the jurisdiction or control of any particular unit of the State government, the
36 deed, lease, or other evidence of conveyance of the real or personal property shall be
37 executed by the Board; and

1 (2) if any real or personal property disposed of under this section is
2 under the jurisdiction or control of a unit of the State government, the deed, lease, or
3 other evidence of conveyance of the real or personal property shall be executed by the
4 highest official of the unit and by the Board.

5 (c) (1) Whenever any unit of the State government leases any State-owned
6 property under its jurisdiction and control to any State employee, agent, or servant,
7 or to any other individual in State service, for the purpose of permitting the
8 individual to maintain a residence on or in the property, the lease shall be:

9 (i) executed by the unit; and

10 (ii) approved by the Secretary of General Services.

11 (2) The lease is not valid unless the Secretary of General Services
12 approves it.

13 (3) Whenever any unit of the State government leases any State-owned
14 property under its jurisdiction and control to any lessee, the lease shall include a
15 provision which prohibits the lessee from assigning or subleasing that property
16 without the prior approval of the Board of Public Works.

17 (4) Whenever the State Highway Administration leases any
18 State-owned property under its jurisdiction and control to any person, the
19 Administrator of the State Highway Administration may execute the lease if:

20 (i) the lease is entered into on a 30-day renewable basis; and

21 (ii) the duration of the tenancy does not exceed 1 year.

22 (5) At least twice each year, the Administrator of the State Highway
23 Administration shall submit a report of the leases executed under the authority
24 granted in paragraph (4) of this subsection to the Board of Public Works.

25 (d) (1) On the sale, lease, transfer, exchange, or other disposition of any real
26 or personal property owned or controlled by the State Retirement and Pension System
27 or the State of Maryland for the use of the Board of Trustees of the State Retirement
28 and Pension System, any conveyancing document shall be executed in the manner
29 provided in Division II of the State Personnel and Pensions Article.

30 (2) Any sale, lease, transfer, exchange or other disposition of any real or
31 personal property owned or controlled by the State Retirement and Pension System or
32 the State of Maryland for the use of the Board of Trustees of the State Retirement and
33 Pension System by a conveyancing document executed by or for the Board of Trustees
34 of the State Retirement and Pension System before October 1, 1994 in the manner
35 provided under former Article 73B is ratified and confirmed.

36 (e) All conveyances under this section shall be made in the name of the State
37 of Maryland, acting through the executing authority provided for in this section.

1 (f) This section does not apply to any lease or other temporary transfer, grant,
2 or disposition of State real or personal property in connection with a procurement
3 made subject to § 11-202(3) of this article.

4 (g) The Department of Budget and Management and Department of General
5 Services, with the approval of the Board, shall adopt regulations in accordance with
6 Title 10, Subtitle 1 of the State Government Article to implement the provisions of
7 this section.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2005.