

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1047

(Delegate James)

Appropriations and Environmental Matters

Budget and Taxation

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**Transfer of State Real Property - Long-Term Lease of Protected Lands**

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This bill gives the General Assembly budget committees, local delegations, and local elected officials 45 days to review any lease of at least 20 years for any protected land owned by the Department of Natural Resources (DNR) before the Secretary of General Services may approve the lease.

The bill takes effect July 1, 2006.

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**Fiscal Summary**

**State Effect:** Potentially minimal fiscal effect on DNR to the extent that the bill results in the delay or cancellation of long-term leases of protected DNR land.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Leases of State property to State employees, agents, or servants who wish to maintain a residence on or in the property are subject to approval by the Secretary of General Services. There is no provision for the General Assembly to review those leases.

Each unit of State government is required to notify the Maryland Department of Planning (MDP) in writing of any real property that is in excess of the needs of the unit or any substantial change to any real property owned by the State. After MDP receives notice,

MDP must study the proper disposition of the property, determine whether any local government or unit of State government is interested in the property, and make an appropriate recommendation to the unit of State government and to BPW.

Chapter 473 of 2005 established additional requirements for specified property owned by the State in fee simple, including Program Open Space lands, Rural Legacy Program lands, public park land and recreational areas, wildland and open areas, heritage conservation areas, forest conservation areas, GreenPrint areas, and other specified lands (these are the same lands affected by this bill). Specifically, the using unit must provide additional information regarding the property to MDP with its notice. MDP must: (1) notify specified committees and members of the General Assembly as well as adjacent property owners; (2) either hold a public hearing or accept and consider written public comments, depending on the estimated value of the property; (3) determine whether any proposed disposition would conform to the local comprehensive plan; and (4) consolidate the information into a public record and submit it to the using unit. After review of the record, the using unit may rescind the notice of excess property. If the using unit does not do so, MDP must make an appropriate recommendation to the using unit and BPW and notify specified entities of the recommendation.

Chapter 473 of 2005 also established additional provisions relating to the surplus of real property in the State, but specifically did not address leasing of State land. These additional provisions apply to State-owned real property identified in the excess-process portions of Chapter 473 and State-owned real or personal property funded pursuant to an appropriation act of the General Assembly that has an appraised value of over \$100,000. For such property, BPW may not approve the sale, transfer, grant, or exchange until: (1) the Department of General Services (DGS) has submitted to BPW two independent appraisals; (2) BPW submits information to specified committees of the General Assembly; and (3) 45 days have elapsed since the committees received the notice and BPW declared the property as surplus. If BPW has declared the property as surplus, BPW must sell the property to the federal government, a local government, or a unit of federal or local government for \$1 if the government or unit has indicated an interest in acquiring the land and a restrictive covenant is placed on the deed of transfer.

In general, for property that meets both of the above conditions, the Legislative Policy Committee or the full General Assembly must approve any proposed disposition.

**Background:** In 2002, DNR entered into a 60-year lease (with two 10-year renewal options) with the Erickson Foundation for the exclusive use of 98 acres at Elk Neck State Park in Cecil County. The foundation had submitted an unsolicited proposal to DNR to construct a youth environmental education and recreation center at the site instead of paying rent for the land. The lease was ultimately approved by BPW.

In a February 2005 audit of DNR, the Office of Legislative Audits (OLA) noted that the availability of the land for development was not publicly advertised, and that the lease agreement had not been subject to legislative review. While OLA indicated that there was no specific requirement to obtain legislative approval for the lease, State law at the time required that the sale of any State-owned land valued at more than \$100,000 be subject to legislative review and comment. OLA expressed the opinion that long-term leases that involve the development of State parkland should be subject to some form of legislative review.

**State Fiscal Effect:** DNR advises that this bill would have minimal or no fiscal impact on the agency. However, the Department of Legislative Services (DLS) believes that the bill could have a minimal effect on DNR. A review by DLS of DNR's current lease agreements identified more than 20 current lease agreements of at least 20 years that would have been subject to review by the General Assembly budget committees, local delegations, and local officials had this bill been in effect when the leases were signed. The vast majority of those leases either had no rent or \$1 annual rents. Accordingly, while the additional layer of review and approval for such leases created by this bill could delay or result in the cancellation of similar leases in the future, any reduced revenue to the agency for the handful of leases with significant rents or maintenance costs incurred while the review process proceeds are not expected to be significant.

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### Additional Information

**Prior Introductions:** SB 306 of 2005, as introduced, included legislative review of leases as part of a larger bill. These provisions were amended out of the enrolled bill.

**Cross File:** None.

**Information Source(s):** Department of General Services, Department of Natural Resources, Board of Public Works, University System of Maryland, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2006  
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