

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 984

(Senator DeGrange)

Budget and Taxation

Appropriations

Board of Public Works - Notification - Capital Leases

This bill prohibits the Board of Public Works from approving specified proposed leases unless the Capital Debt Affordability Committee (CDAC) certifies that State debt incurred by the lease can prudently be authorized or the General Assembly has approved the lease in the budget.

The bill takes effect June 1, 2008.

Fiscal Summary

State Effect: None. The Treasurer's Office, which staffs the CDAC, can carry out the bill's provisions with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A proposed lease brought before BPW that has not been approved in the State budget must be referred to the CDAC for review if the lease:

- transfers ownership of the property to the lessee on or before the termination of the lease;
- allows the lessee to purchase the property below fair market value or for a fixed amount;

- is for a term that is 75% or more of the estimated useful economic life of the property; or
- has payments with a present value that is 90% or more of the fair market value of the property.

Current Law: A capital lease is defined as any lease, conditional sale, installment sale, or similar agreement in accordance with generally accepted accounting principles that is used to finance • the acquisition or construction of improvements to real property; or • the acquisition of capital equipment. A capital lease includes a master lease.

The State Treasurer, with the approval of BPW, may enter into a capital lease on behalf of one or more units of State government. Prior to submitting the capital lease to BPW, the Treasurer must submit the financing request and any supporting information to the Legislative Policy Committee (LPC). LPC has 45 days to review and provide written comments on the financing.

The Treasurer must, at a reasonable market rate, capitalize the annual lease payments for each fiscal year the lease is in effect. The greater of the annual capitalized payments or the amount of any purchase value at the termination of a capital lease must be included as tax supported debt considered by the Capital Debt Affordability Committee in its annual estimate for that fiscal year.

Chapter 43 of 1978 created the Capital Debt Affordability Committee. The committee is required to recommend a level of State debt to the General Assembly and the Governor. The Governor and the General Assembly are not bound by the committee's recommendations.

Background: BPW advises that it considers only a handful of leases each fiscal year.

To recommend an affordable level of debt, CDAC has developed two criteria. Total State debt outstanding should be limited to 3.20% of State personal income, and total State debt service should be limited to 8.00% of State revenues supporting debt service. In its October 2007 report, CDAC estimated State debt and determined that proposed authorizations were affordable.

Exhibit 1 shows that the State is now projected to exceed the affordability criteria beginning in fiscal 2011 when debt outstanding is projected to be 3.25% of State personal income.

Exhibit 1
Capital Debt Affordability Committee's Criteria
Proposed Debt Levels Exceed Limit
Fiscal 2008-2013

<u>Fiscal Year</u>	<u>Debt Outstanding/Personal Income</u>	<u>Debt Service/Revenues</u>
2008	2.79	5.68
2009	3.03	5.86
2010	3.14	5.98
2011	3.25 ¹	6.18
2012	3.29 ¹	6.37
2013	3.27 ¹	6.44

¹ Projected to exceed CDAC limit.

Source: Department of Legislative Services' Computation of Department of Budget and Management Data

Additional Information

Prior Introductions: None.

Cross File: HB 1596 (Delegate Jones) – Rules and Executive Nominations.

Information Source(s): Board of Public Works, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2008
mcp/rhh Revised - Senate Third Reader - March 28, 2008

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