

HB 1557 - Procurement - Real Estate Advisory Committee and Property Acquisition and Lease Requirements

Position: Letter of Concern

Committee: Senate Budget and Taxation Committee

Date: April 1, 2026

From: John R. Woolums, Esq.

The Department of General Services (DGS) is providing this Letter of Concern for the Committee's consideration of HB 1557, as amended.

As introduced, House Bill 1557 proposed to establish an independent Real Estate Advisory Committee (Advisory Committee) within DGS to conduct reviews and make recommendations regarding real estate transactions. The bill would have required that DGS recommendations to the Board of Public Works (BPW) be accompanied by the recommendations of the Advisory Committee. While DGS appreciates the bill's intent to expand the state's access to real estate expertise, we requested that the bill be amended to clarify the committee's role as an advisory body that provides policy recommendations but does not have authority over operational decisions.

DGS greatly appreciates the amendments adopted by the House Government, Labor, and Elections Committee to address these concerns. As amended, the bill would establish an Advisory Committee with a representative of the House and Senate, and members appointed by the Secretary of DGS, to meet at least three times annually to advise the Department, BPW, and General Assembly on industry trends and best practices.

However, DGS has serious concerns regarding the fiscal and policy impacts of other amendments to HB 1557; amendments that would mandate very detailed and labor-intensive cost-benefit analysis and reporting requirements for nearly all real estate transactions. HB 1557 would prohibit the BPW from approving a lease totaling at least \$500,000 annually unless the BPW has provided to the Legislative Policy Committee the following information and justifications.

- Real Estate Term Information: 1. real estate terms of time or cost in excess of ordinary and regular state contract terms; 2. rent escalation rates in excess of market rates; 3. construction costs and costs for any other part of the real estate transaction, with consideration for the reasonableness and cost competitiveness of each item; 4. removal of any standard real estate provisions, including the right to terminate the lease or

transaction; and 5. why the transaction is in the best interest of the State. Construction cost information is not typically available at the time of securing a lease. Construction drawings are typically developed after BPW approval through the design phase. Landlords generally are not willing to pay for the cost of design without BPW approval of the lease, since construction costs are included in rent.

- Cost-Benefit Analysis (CBA): A cost-benefit analysis of the planned acquisition or lease that includes comparing similar or comparable properties and purchase options, including a comparison of lease options with purchase options, lease consolidation options and, if relevant, an analysis of state agency parking needs and costs. Expanding the CBA requirement to include all leases, including those the state already occupies, is resource-intensive. DGS typically processes 30 renewal leases and 10 new leases each year. The cost-benefit analysis process is labor-intensive and requires the collection of data from multiple parties, verification of the data, constructing the cost-benefit analysis (CBA) model, financial analysis, and documenting the findings in a memorandum.
- Renovation Cost Analysis, distinct from the overall acquisition or lease cost-benefit analysis, including: 1. a justification for noncompetitive procurement of goods and services; and 2. a demonstration that full funding is available for all renovations; if applicable, landlord payment documentation, including: 1. total payments made to the landlord to date; 2. prior lease payments; 3. tax credits or other state benefits granted to the landlord; and 4. tax credits or other state benefits for the location or the real estate transaction.
- Any other information the Legislative Policy Committee may need to complete their review. The Department requests certainty of the information to be provided in order to secure BPW approval.
- As amended, this bill would also impose the 45-day LPC review period on all leases over \$500,000. DGS is concerned that this lengthy time period could delay the efficient administration of new and renewed leases, which can be time-sensitive negotiations.

The State's commercial real estate portfolio is nearing approximately 6.5 million square feet of space, and the current staff is unable to take on additional workloads. If enacted, HB 1557 would require at least one additional administrator to be responsible for completing the required cost-benefit analyses and renovation cost analyses.

HB 1557 would have negative effects on DGS and BPW workload, procurement timelines, and the State's ability to execute time-sensitive real estate transactions. DGS is concerned that the bill's reporting requirements would likely result in significant delays in departmental and BPW decision-making on even routine real estate transitions. Such delays would impede the State's ability to attract and secure agreements from property owners to do business with the State.

Fortunately, several existing statutory and regulatory processes already provide a balance of structured oversight and streamlined procedures for different types of real estate decisions. For example:

- State law already requires DGS to obtain 2 independent appraisals for acquisitions, and to provide notification for acquisitions of \$500,000 or greater to the legislature, with the option for the Legislative Policy Committee to request a cost-benefit analysis (SFP §10-305). Final decisions are also contingent on a related BPW Advisory 2005-3 and verification that the funds have already been appropriated in the budget.
- State regulations appropriately authorize a streamlined procedure for routine decisions such as the renewal of leases without a competitive procurement (COMAR 21.05.05.02 (D)). In addition, sole-source renewal leases are permitted under COMAR.

Again, DGS agrees that there is merit in considering the proposal to create an Advisory Committee. State real estate procurements require a structured, transparent, and competitive process, and DGS is committed to upholding these standards.

DGS respectfully requests that the Committee consider this information during its deliberations on House Bill 1557.

Contact: John R. Woolums, Esq., Director of Government and Legislative Affairs
(410) 260-2908 (O), (667) 434-0008 (M), john.woolums@maryland.gov