

WILLIAM DONALD SCHAEFER, Governor

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 460.

Senate Bill 460 establishes a new procedure for approving capital lease financing for the construction or substantial rehabilitation of all State buildings, except for certain higher education facilities. In general, the bill would apply to sale-leaseback arrangements and to long-term leases with a purchase option that the State might enter into with a private developer who undertakes to construct or rehabilitate the facility.

Under the new procedures established by the bill, approvals would have to be secured from the Senate Budget and Taxation Committee and the House Appropriations Committee on two separate occasions: once, at the time the initial proposal is first being sent to the Board of Public Works for approval, and again following the completion of the procurement process immediately prior to the consideration of the final proposal by the Board of Public Works. In this latter instance, the failure by the two Budget Committees to take action within 60 days is deemed the equivalent of approval. In effect, the Budget Committees would be reviewing and approving each separate capital lease project and would be reviewing and approving the Executive Branch's decision of which from among the competing bidders should be awarded the project.

The Attorney General of Maryland has advised me in the attached opinion that these approvals constitute legislative vetoes of "doubtful constitutionality" under the Maryland Constitution and may not be severable from the bill, thereby rendering the entire bill of doubtful constitutionality.

In addition, I must note that the General Assembly already has ample opportunity to consider the desirability of entering into capital leasing financing under current law and procedures without the additional procedures proposed by Senate Bill 460. All capital lease projects will be included either in the annual State capital budget or in the annual State operating budget. In either case, the General Assembly will have the opportunity to evaluate and make a decision on the desirability of the project and on the general parameters of its financing terms.

Sincerely,
William Donald Schaefer
Governor

May 24, 1988

The Honorable William Donald Schaefer
Governor of Maryland
State House