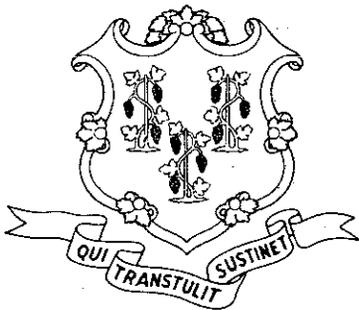


PERFORMANCE AUDIT OF STATE PROPERTIES REVIEW BOARD

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

January 1989

CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "Sunset" performance reviews. The committee was given bill raising and reporting authority in 1985.

The program review committee is composed of 12 members. The president pro tempore of the senate, the senate minority leader, the speaker of the house, and the house minority leader each appoint three of those members.

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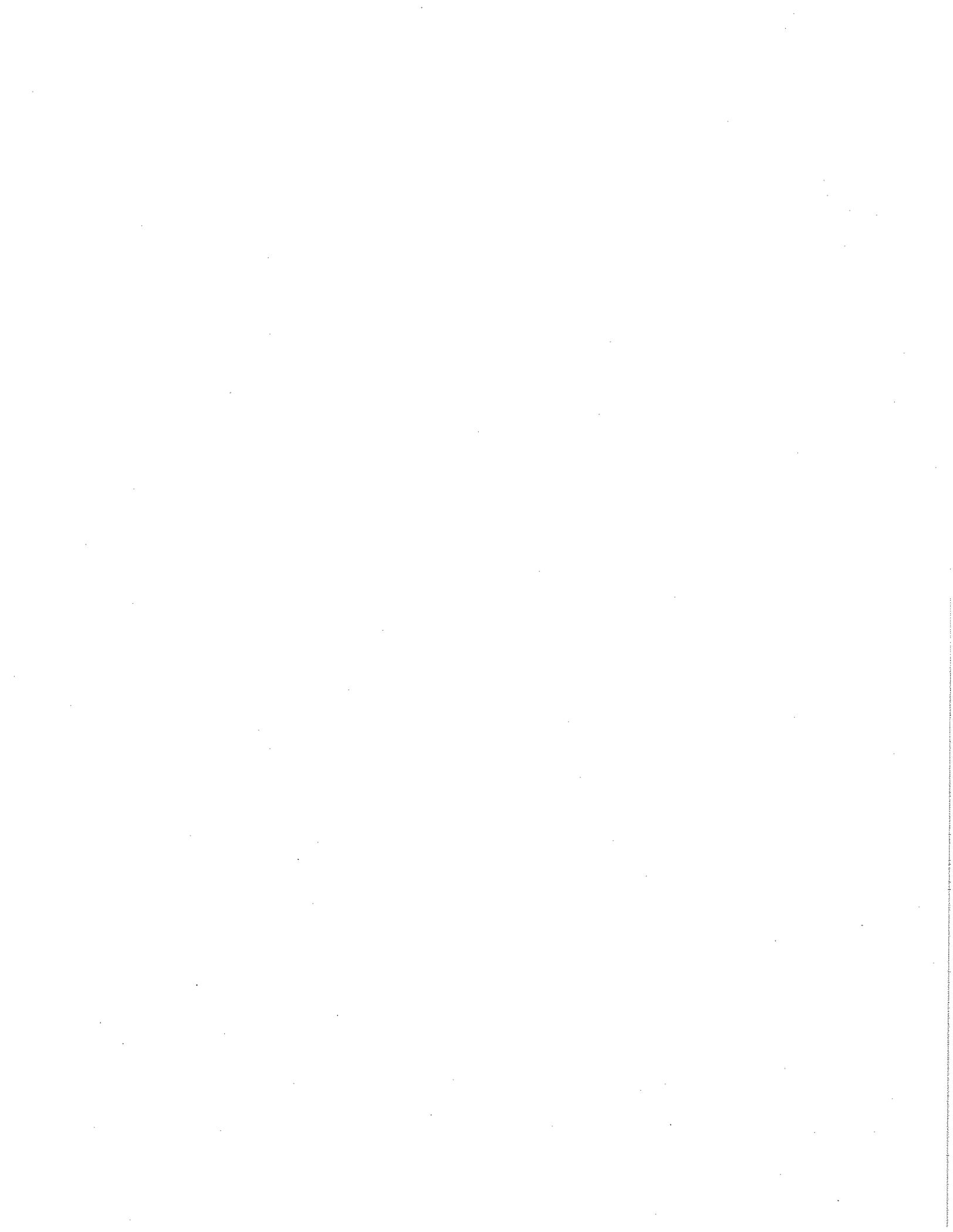


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SUMMARY

The State Properties Review Board fulfills two distinct functions. It reviews proposals for real estate transactions and design professional services to determine whether proper procedures were followed in their development and if they are sound from a business perspective.

The board reviews about 550 proposals per year and approves over 90 percent. An analysis of rejected proposals found the board was far more likely to reject a proposal on its merits as a business deal (65% of the reasons cited) than for procedural violations (35% of the reasons cited).

Based on a sample of proposals, the committee found the board's average processing time to be approximately 11 days. In state FY 88, costs and savings attributable to the board accounted for a net loss of nearly \$29,000. This figure does not include over \$525,000 in court-ordered payments that would have been avoided if the board had accepted a proposal submitted to it.

However, 1988 is the only year in the board's history that its actions resulted in a net loss to the state. In fact, the board has averaged a net savings of about \$1.27 million annually over the past five years.

RECOMMENDATIONS

1. THE STATE PROPERTIES REVIEW BOARD SHOULD RETAIN THE AUTHORITY TO REJECT ANY PROPOSAL THE BOARD FINDS TO HAVE VIOLATED STATE STATUTES OR REGULATIONS.
2. ON A QUARTERLY BASIS, THE STATE PROPERTIES REVIEW BOARD SHALL PUBLISH ITS RECOMMENDATIONS ON EACH PROPOSAL REVIEWED DURING THE PRECEDING QUARTER AND ANY AGENCY RESPONSES RECEIVED DURING THE QUARTER.

CHAPTER 1

INTRODUCTION

On June 8, 1988, the Legislative Program Review and Investigations Committee, responding to a request from Senate President Pro Tempore John Larson and Speaker of the House Irving Stolberg, voted to authorize a study of the operations of the State Properties Review Board. The study focused on the actions taken by the State Properties Review Board in carrying out its legislative mandate.

The scope of the review was divided into four areas: (1) identification of the statutes, regulations, and procedures governing the board's operation; (2) description of the process the board follows in carrying out each of its statutory responsibilities; (3) impact of the board on proposals submitted to it for review; and (4) the extent to which actions taken by the board are consistent with the spirit and letter of the statutes and regulations governing the board's operation.

Methodology

In conducting the study, the committee reviewed its 1983 sunset review of the State Properties Review Board, its 1986 performance audit of the state's property acquisition process, and the General Assembly's 1974 investigation of the state's leasing practices. The committee conducted a detailed analysis of a sample of proposals reviewed by the board during state fiscal year 1988. All proposals rejected by the board that year were also examined.

Based upon that analysis and information obtained from interviews of board members and staff as well as officials of agencies that submit proposals to the board, a briefing paper was prepared and distributed to the committee. Subsequently, a public hearing was held at which representatives of the board and the Departments of Public Works and Transportation were invited to address the issues under study.

Format

The committee's report is organized into four chapters, including this introduction. The second chapter describes the history, structure, powers, and duties of the board. Also included are budgetary information and an outline of the process used by the board to review proposals. Chapter three describes the activities of the board in numerical terms. It summarizes the number, type, source, and outcome of transactions processed by the board. The final chapter presents the committee's recommendations.

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CHAPTER 2
BACKGROUND

History of the State Properties Review Board

The State Properties Review Board was established in 1975 (P.A. 75-425) after a legislative investigation of improprieties in leasing. The bipartisan board is charged with approving the acquisition, construction, development and leasing of real estate; reviewing most leases and real estate sales by state agencies; approving the selection of design professionals and their contracts; and overseeing the conduct of property management tasks.

In May 1974, the Appropriations Committee established a bipartisan subcommittee to examine the state's leasing practices. The action was in response to a number of events and rumors that arose around questionable leasing practices. After nine months of investigation, the Special Subcommittee on Leasing recommended that the state completely revise its capital facilities planning process and its procedures for fulfilling real estate needs and that it establish a "citizen's advisory committee" to review and approve state real estate purchase, lease, and construction activities.

The 1975 General Assembly passed "An Act Implementing the Report of the Appropriations Committee's Special Subcommittee on Leasing," which, among other things, established the State Properties Review Board to review real estate acquisitions and to cooperate with, advise, and assist the public works commissioner.

In 1980, the board was authorized to approve or disapprove the agriculture department's acquisition of development rights of agricultural land. In 1982, the board was required to review certain Department of Transportation's acquisitions and settlements. Subsequent legislation made minor modifications in the statutes related to the board.

Structure

The State Properties Review Board is an independent body within the executive branch. Its six members are appointed by the legislative leaders of both political parties. The speaker of the house and the senate president pro tempore jointly appoint three members, and the House and Senate minority leaders jointly appoint three members. Members serve four-year staggered terms.

Each member of the board is required by statute to have expertise in a specific area. One of each of the three members appointed by the majority leadership must have experience in one of three separate areas--architecture, building construction, and engineering. The members appointed by the minority leadership must be experienced in: the purchase, sale and lease of real estate and buildings; business matters generally; and the management and operations of state institutions.

No more than three of the six members can be of the same political party. In addition, members of the board and their staff are prohibited from: (1) holding another state or any municipal government position; (2) being directly or indirectly involved in any enterprise that does business with the state; and (3) being directly or indirectly involved in any real estate acquisition or development enterprise. All properties review board members and employees must file with the board and the State Ethics Commission a financial statement indicating all sources of business income and business affiliations, including those of their spouses.

Powers and Duties

The primary purpose of the State Properties Review Board is to oversee acquisitions, leasing and sales of state property and the selection of architect or engineer professionals for state capital projects (except for highways and bridges). The board's review must "consider all aspects of the proposed actions, including feasibility and method of acquisition and the prudence of the business method proposed" (C.G.S. Sec. 4-26a(f)).

The board is authorized to review and approve all proposed actions involving:

1. acquisition, construction, development or leasing of real estate or buildings for state agency use including most highway and mass transit-related purposes;
2. lease or sale of real estate by any state agency to third parties;
3. the agriculture commissioner's acquisition of farmland development rights under the Agricultural Lands Preservation Program; and
4. selection of and contracts for design professionals selected by the commissioners of public works and transportation.

With regard to the design professionals--architects, engineers, land surveyors, and landscape architects--selected by the Departments of Public Works and Transportation (except for highway and bridge projects), approval by the properties review board is required whenever a state capital project involves: (1) \$25,000 or more in design consultant fees, or (2) \$250,000 or more in construction costs.

The board does not have a review and approval role in the award of construction contracts, a process governed by competitive bidding and other statutory requirements. However, the board's approval is required to continue capital projects that overrun their estimated costs by 10 percent or more.

Additional functions and duties of the State Properties Review Board include requirements to:

1. cooperate with and advise and assist the commissioners of public works and transportation;
2. review and comment on the annual state agency real estate report of the Department of Public Works; and
3. review and make recommendations on the Statewide Facilities Plan prepared by the Office of Policy and Management.

Staff and Budget

The properties review board is staffed by five full-time employees. The board's professional employees include an executive director and a real property examiner. Three secretaries handle the administrative and clerical aspects of the board's activities.

Board members are compensated \$150 per day up to an annual maximum of \$25,000. Table II-1 shows budget items for the board's personnel expenses and the members' per diem charges (which constitute most if not all of the amount in the board's line item for professional service fees). The agency's total expenditures for all items, not just personnel and professional service fees, are included.

Table II-1. State Properties Review Board Expenses.

CATEGORY	FY 87	FY 88	FY 89*
Full-time Positions	\$141,497	\$151,283	\$175,329
Prof. Services	123,500	126,650	150,000
Other Expenses	<u>32,474</u>	<u>35,835</u>	<u>32,050</u>
Agency Total	\$297,471	\$313,768	\$357,379

*Appropriated

Source: Office of Fiscal Analysis

Methods of Operation

The State Properties Review Board holds regular meetings on Mondays and Thursdays of every week. A subcommittee meets when necessary on Wednesdays to initially consider professional consultant contracts. Typical regular meetings of the board last from two to five hours, depending on the number and complexity of items on its agenda.

Upon the advice of the attorney general, the properties review board holds all meetings in executive session. This is due to the frequently confidential nature of the matters discussed and the fact that the statutes permit only the commissioner of public works to disclose or authorize disclosure of decisions on state real estate transactions (C.G.S. Sec. 4-26b (e)). Unauthorized disclosure of state real estate information is a class A misdemeanor.

Typical meeting. A typical meeting begins with the acceptance of minutes and a report by the board's executive director on communications (letters and telephone calls) received since the last meeting date. Unfinished business (review items that have been held over from a previous agenda) is taken up prior to discussion of new items received since the last meeting date.

Discussions of new review items generally begin with a presentation by one of the two professional staff. Items concerning leases, sales, and acquisitions generally are handled by the board's real property examiner, an attorney with extensive real estate experience. The executive director, a professional engineer and land surveyor, reviews all items submitted to the board, and takes primary responsibility for outlining any projects involving engineering matters for the board.

Board members, who have received a complete file on every scheduled item prior to the meeting, then ask questions and discuss specific aspects of proposed transactions. If the information contained in the agency submission is incomplete or questionable, the board will direct the staff to gather additional data, request additional information from the appropriate agency, and/or arrange to have agency personnel appear before the board to explain a proposal.

Occasionally, staff members from the agency proposing a lease, sale, or acquisition attend a portion of a meeting to answer board members' questions on a particular proposal. This occurs most often when the board reviews a new (rather than a renewal) lease proposal or one that is especially complex.

A site visit by one or all members of the board is often part of the review and follow-up process. Frequently, a board member with expertise in a subject under review will further investigate a questionable or complicated proposal.

The board always takes its final action through a formal vote. Few items are acted upon without some comment and debate by board members.

Review process. All transactions under the jurisdiction of the State Properties Review Board are handled in a similar way. One of the board's secretaries logs in each submission on the day it is received. She assigns a file number and, using a "checklist," determines if all required materials have been included and all established procedures followed. Incomplete items are returned immediately for correction.

The board's executive director reviews all submissions; then the director or the real property examiner develops additional information or investigates questionable items in preparation for presenting the proposed transactions to the board. When the board acts on items, the chairperson signs them on that meeting day. On the following business day, a memorandum outlining the action taken is sent to the requestor agency. By law, the State Properties Review Board has 30 days to review and act on architect and engineering contracts and 90 days to take action on all other types of transactions.

CHAPTER 3

ANALYSIS OF BOARD ACTIVITIES

This chapter presents quantitative data related to the activities of the State Properties Review Board. The data were obtained from annual statistics published by the board, a randomly selected sample of the board's state fiscal year 1988 transactions, and a review of proposals that were rejected by the board during the 1988 fiscal year.

Workload

Table III-1 summarizes the number of proposals reviewed by the board in each of the past five fiscal years and the distribution of those proposals among the various types of transactions that are under the board's jurisdiction. A close examination of the numbers reveals there is very little year-to-year variation in either the total number of proposals processed or their distribution among the various categories.

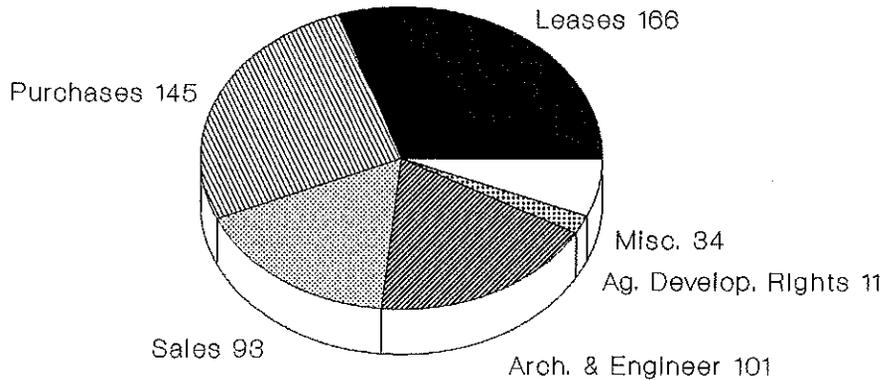
Table III-1. Number of Transactions Reviewed by the Board.

<u>TYPE</u>	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>
Leases	186	170	150	145	178
Purchases	154	187	151	95	137
Sales	71	79	112	105	101
Arch. & Eng.	102	104	88	107	102
Agri. Devel. Rights	4	5	11	16	19
Misc.	<u>35</u>	<u>37</u>	<u>30</u>	<u>47</u>	<u>19</u>
TOTAL	552	582	542	515	556

Source: State Properties Review Board

Typically, the board reviews 550 proposals distributed such that approximately 30 percent are leases, 26 percent are property purchases, 17 percent are property sales, 18 percent are architectural and engineering fees, 2 percent are the purchase of agricultural development rights, and the remaining 6 percent are miscellaneous transactions. This is distribution is presented graphically in Figure III-1.

**Figure III-1. Distribution of Proposals
By Type**



Based on average of FY85-FY88

As previously noted, proposals are submitted to the board from state agencies authorized to negotiate property transactions or contract fees for design professionals working on capital projects other than highways and bridges. Table III-2 shows the total number of proposals submitted from each of the authorized agencies over the past four fiscal years.

The table illustrates that the largest number of proposals come from the Department of Public Works and the Department of Transportation. Also apparent is the fact that the types of proposals submitted by the two agencies are very different. The vast majority from the Department of Transportation are for the purchase and sale of property related to highway rights of way. In contrast, the Department of Public Works submissions are dominated by leases and architectural and engineering contracts.

Table III-2. Total Transactions By Submitting Agency:
FY 85 - FY 88

TYPE	DOA	DEP	DOL	DOT	DPW
Leases	--	--	24	70	551
Purchases	--	--	--	390	34
Sales	--	--	--	374	12
Arch. & Eng.	--	--	--	39	362
Agri. Dev.	57	--	--	--	--
Rights					
Misc.	2	16	--	96	19
	—	—	—	—	—
TOTAL	59	16	24	969	978

DOA = Department of Agriculture
 DEP = Department of Environmental Protection
 DOL = Department of Labor
 DOT = Department of Transportation
 DPW = Department of Public Work

Board Decisions

An analysis of the decisions made by the State Properties Review Board for the state fiscal years 1985 through 1988 found that overall 92.3 percent of the submitted proposals were approved. This ratio varied only slightly from year to year, ranging from a high of 94 percent to a low of 90 percent.

When the approval rates were analyzed by type of proposal, they ranged from a high of 100 percent for the purchase of agricultural development rights, down to 83.9 percent for leases. The board's approval rates for the other categories were: property purchases, 98.8 percent; property sales, 98.2 percent; architectural and engineering fees, 90.5 percent; and miscellaneous transactions, 97.1 percent.

The variation in approval rates among the submitting agencies was also quite wide. The range was from a high of 98.9 percent for proposals from the Department of Transportation, to a low of 85.6 percent for those submitted by the Department of Public Works. The others were 98.3 percent for the Department of Agriculture, 93.8 percent for the Department of Environmental Protection, and 85.7 percent for the Department of Labor.

Table III-3 shows the board's approval rates by type of proposal for each of the agencies. Clearly, proposals submitted by the Department of Public Works perform the poorest in the board's reviews regardless of the type of submission. In every category except miscellaneous, public works proposals have the lowest approval rates, and in that category, the 50 percent rating of the Department of Agriculture is misleading because it is based on only two proposals.

TABLE III-3. Approval Rates of the Properties Review Board by Agency and Type of Proposal (in percentages).

TYPE	DOA	DEP	DOL	DOT	DPW	TOTAL
Leases	--	--	85.7	94.3	82.6	83.9
Purchases	--	--	--	100.0	85.3	98.8
Sales	--	--	--	98.4	91.7	98.2
Arch. & Eng.	--	--	--	97.4	89.8	90.5
Agri. Dev. Rights	100.0	--	--	--	--	100.0
Misc.	<u>50.0</u>	<u>93.8</u>	<u>--</u>	<u>100.0</u>	<u>98.5</u>	97.1
TOTAL	98.3%	93.8%	85.7%	98.9%	85.6%	

It is also worthy of note that leasing transactions receive the lowest rating of any category no matter which agency submits the proposal. Even the Department of Transportation, which has high ratings in all categories, receives its lowest acceptance marks in the leasing area.

Properties Review Board's Impact

To analyze the activities of the State Properties Review Board in greater detail, a random sample of all transactions processed during state fiscal year 1988 was selected. The sample size was set at 10 percent of the proposals handled by the board in a typical year. Excluded from the sample, because they represented a small proportion of the board's transactions, were proposals falling into the categories of the "purchase of agricultural development rights" and "miscellaneous." The sample itself was stratified to ensure that the number of proposals included in each category was at least 10 percent of the proposals reviewed in that category in a typical year.

In total, the sample consisted of 55 proposals including 20 leases, 15 property purchases, 10 property sales, and 10 architectural and engineering contracts. The Department of Public Works accounted for 32 of the submissions, 22 were

from the Department of Transportation, and one was from the Department of Labor.

Board activity. The committee's analysis found that the board held a total of 76 meetings related to proposals in the sample. This amounted to an average of 1.4 meetings per proposal, although the vast majority (41) required only one meeting. In eight instances, the board requested additional information be provided. In at least five cases, one or more board members visited the site of the proposal under review.

Board decisions. In 40 of the 55 proposals the initial decision of the board was to approve the proposal. An additional seven proposals were conditionally approved at the completion of their initial review. Eight proposals were initially rejected or returned to the submitting agency, with six of these being approved when later resubmitted with changes.

Two proposals were found in which decisions of the board led to an increase in costs. In one instance, the board rejected a proposal to lease parking spaces because in the board's view insufficient information was presented to justify the need. After additional information was provided the proposal was approved, but in the intervening time period a price change resulted in a \$3,500 annual increase.

In the other instance, the board rejected a proposal that contained a provision making the new rental rate retroactive to the date the old lease expired. The board's rejection emphasized that the rental price was too high. The landlord went to court and was granted a retroactive rate that was considerably higher than the one the board had rejected. The result was an increase of approximately \$525,000 over the cost of the rejected proposal.

Processing time. In terms of time, data from the sample indicate the board has a proposal in its possession for an average of 11 days. As with approval rates, there is considerable variation in the possession time depending on the type and source of the proposal. The differences are apparent in Table III-4, which shows that "leases" and "architectural and engineering" proposals are in the board's possession much longer than other types of proposals. The same is true of proposals from the Department of Public Works (14.3 days) as compared to those from the Department of Transportation (7.7 days).

There are two important points when considering the amount of time the board takes in reviewing a proposal. First, the data presented only deal with the actual time a proposal is in the possession of the board. Not taken into account is the amount of time agencies spend preparing proposals for submission to the board or obtaining, preparing,

and transmitting additional information requested by the board.

TABLE III-4. Properties Review Board's Possession Time of Proposals by Type and Source (in Days).

<u>TYPE</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>	<u>AVERAGE</u>
Lease	1	41	14.3
Purchase	3	13	7.6
Sale	5	11	8.1
A & E	2	32	13.9
<u>SOURCE</u>			
DOL	5	5	5.0
DPW	1	41	13.9
DOT	3	13	7.7

Source: LPR&IC Staff Analysis

The second point concerns the fact that the board's time of possession is relatively short when compared to the total time involved in developing and moving a proposal through the entire state system. For example, a prior study by the program review committee found the State Properties Review Board accounted for only slightly more than five percent of the total processing time for a lease.

Costs. Costs saved or incurred as a result of actions of the State Properties Review Board are frequently an issue in judging its merits. Based on the sample, savings attributable to actions of the board were \$11,640. Projecting this figure to the entire population of state fiscal year 1988 proposals would yield a savings of about \$62,000.

Of course, the dollar value would be greater if the savings to be achieved in each year covered by the proposals were totalled. Following a present value method of calculating future savings, the committee estimated the total savings attributable to the board in FY 88 to be approximately \$285,000.

It is critical to note that this figure does not represent net savings. Several adjustments would have to be made to arrive at a net figure. Most importantly, the cost of operating the board, which was approximately \$314,000 in the 1988 state fiscal year, would have to be subtracted.

Other changes on the cost side would include the expenses incurred by agencies in preparing proposals and responding to requests from the board for additional information. On the savings side would be such things as favorable changes in the responsibility for maintenance and repairs, the effective date of the lease, and the method of paying local taxes.

Using just the savings projected from the sample and the board's operating expenses, the committee estimated that the board in FY 88 accounted for a net loss to the state of \$29,000. It must be noted that based on data provided by the board this is the only year in its history that actions of the board have resulted in a net loss to the state. Whether this is the beginning of a trend or simply an anomaly is not known.

Additional cost information provided by the board for years prior to 1988 is contained in Appendix C. However, the value of the savings presented in the appendix are somewhat overstated because the board does not use the present value method of calculating total savings. Instead of discounting future savings, the board simply multiplies the annual savings by the number of years the proposal would be in effect.

Rejected Proposals. In addition to the data collected from a sample of proposals, information was also collected on all proposals rejected by the board in FY 88. As previously noted, a total of 18 transactions were rejected. However, due to multiple rejections of the same basic proposal these transactions represented only 10 unique projects.

A breakdown of the type of proposals rejected by the reason for rejection is shown in Table III-5. The table presents only the primary reason for rejection as determined by the committee's staff. In reality when the board rejects a proposal it typically cites numerous reasons. In fact, a total of 70 separate reasons were given by the board in rejecting the 18 different proposals during FY 88. Where the committee staff could not determine a primary reason as to why a proposal was rejected it was coded as "other".

Six of the 10 proposals initially rejected were approved on subsequent submissions. Of these, three were approved on their first resubmission and three on their second. It is possible that one or more of the remaining proposals could be resubmitted and approved during the 1989 state fiscal year.

Table III-5. Proposal Rejections by Type and Reason.

<u>Type</u>	<u>Money</u>	<u>Terms Other than Money</u>	<u>Improper Procedures</u>	<u>Other</u>	<u>Total</u>
Lease	2	0	1	1	4
Purchase	1	0	0	0	1
Arch. & Eng.	0	0	0	1	1
Other	1	0	0	3	4
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTAL	4	0	1	5	10

Source: LPR&IC Staff Analysis

CHAPTER 4

RECOMMENDATIONS

The program review committee's study found that the State Properties Review Board fulfills two distinct functions. It reviews proposals for real estate and design professional services to determine whether proper procedures were followed in their development and it reviews the proposed transactions to see if they are sound from a business standpoint.

An examination of transactions reviewed by the State Properties Review Board in fiscal year 1988 indicated that the board was far more likely to reject a proposal on its merits as a business deal than for any alleged impropriety. Only 19 of the nearly 70 separate reasons cited by the board for rejecting 18 proposals indicated something improper.

However, the committee found that it could not measure in quantifiable terms the extent to which the board's mere presence prevents impropriety of one kind or another. While the issue of the board's value as a preventative force has been vigorously debated over its lifetime, the argument has been waged in purely speculative terms.

Given that the full scope of the board's impact on the detection and prevention of improprieties could not be measured, it follows that consequences of any changes in the board's power in this area cannot be predicted. Therefore, the program review committee concluded the board's authority in this area should not be changed. Stated formally, the program review committee recommends:

THE STATE PROPERTIES REVIEW BOARD SHOULD RETAIN THE AUTHORITY TO REVIEW AND REJECT ANY PROPOSAL THE BOARD FINDS TO HAVE VIOLATED STATE STATUTES OR REGULATIONS.

As previously noted, the State Properties Review Board is not limited to reviewing a proposal's compliance with state statutes and regulations. The board is authorized to review all aspects of a proposal including "the prudence of the business method proposed"[C.G.S. Sec. 4-26b(f)].

A review of the statutes found they are not specific and leave to the board the right to determine what constitutes a good business method. To date, the board has not opted to specify in regulation what it considers good business practices. As a result, the board is able to apply any standard it chooses when reviewing a proposal.

Thus, the board can raise an infinite number of questions concerning any aspect of a proposal and reject it by simply citing dissatisfaction with the responses. While such instances are rare, their occurrence can generate considerable ill feelings between the board and the agency whose proposal is being reviewed.

As a means of reducing this source of friction the committee discussed the possibility of clearly defining the board's decision-making criteria and limiting its review to specified areas. For example, the board's review of a proposal could be limited to its compliance with statutory and regulatory provisions, its cost relative to the cost of comparable properties or services, and any other conditions that would result in a contractual obligation for the state if the proposal were accepted.

However, the committee concluded that merely defining the board's decision-making criteria or limiting its areas of review would not necessarily reduce friction between the board and agencies submitting proposals. This conclusion was based on the belief that when conflict occurs it is rooted in the fact that the board is statutorily authorized to substitute its judgment for that of the submitting agency.

Determining whether the benefits of having the board review business judgments made by agencies renders the resulting conflict tolerable is difficult. A cost-benefit approach was used in analyzing this question. The program review committee, through its staff, examined budgetary data, board statistics, and a sample of 55 proposals acted upon by the board in state FY 88.

The committee staff analysis found the board's performance in reviewing the business aspects of proposals to be mixed. Overall, the board's actions did result in a net savings in all but the 1988 state fiscal year. However, its judgment has not been better than that of the agencies in every instance. In one case reviewed, the decision of the board to reject a proposal resulted in over a half-million dollar increase in cost to the state.

In the final analysis, the program review committee concluded that because the board's business judgments have generally proven to be better than those of the agencies, the board's authority in this area should not be diminished. Therefore, the committee rejected a staff proposal to make decisions of the board that did not cite specific statutory or regulatory violations, advisory.

One major problem the committee found was that the decision-making process is so diffuse it is nearly impossible to fix accountability. For example, in the real estate area

no less than four agencies (i.e., the requesting agency, the Office of Policy and Management, the implementing agency, and the review board) can reject a proposal on the basis of need, size, and cost. The committee concluded that the best way to hold agencies submitting proposals and the board accountable is to assure that a record of their actions exists and is routinely made available to the public. Specifically, the committee recommends:

ON A QUARTERLY BASIS, THE STATE PROPERTIES REVIEW BOARD SHALL PUBLISH ITS RECOMMENDATIONS ON EACH PROPOSAL REVIEWED DURING THE PRECEDING QUARTER AND ANY AGENCY RESPONSES RECEIVED DURING THE QUARTER.

APPENDICES

APPENDIX A

1974 Legislative Investigation of Leasing

In 1974, an analysis of leasing procedures of the State of Connecticut was conducted by a subcommittee of the 1973-74 General Assembly's Joint Standing Committee on Appropriations. The study was recommended by the Appropriations Committee following the public disclosure of certain leasing practices that brought the state's entire space acquisition process under critical scrutiny.

Assertions by the news media that the state leasing system was cost-inefficient and an inadequate solution to long-range space problems raised questions concerning the organizational constructs within the leasing system. Fifty-four leases were examined based upon responses received from questionnaires as well as from interviews of individuals in the public and private sector who were remotely or directly involved in the leasing process. While these leases were but one-quarter of all the active leases of the state, they comprised 46.6 percent of the total amount spent on leasing per year--\$3,333,383 out of a total \$7,157,561.

Findings

The subcommittee discovered that long-term space needs were being satisfied through leasing, not by construction. State agencies found that their space needs were seldom met in a timely manner through construction. Although the study did not specify what percentage of space needs were met through construction, it maintained that most of the space that was constructed for state use was being leased, not purchased, by the state. In almost every occurrence in which the state leased space over 15 years, lease purchase options were only available at high rates.

While rental rates were generally discovered to be consistent with market rates, the study indicated that the state did not attempt to procure lower rents for leases exceeding 10 years.

More significant, however, were problems within site selection and negotiation process. Mechanisms used to prevent favoritism were circumvented by the unofficial disclosure of agency space needs to potential lessors by individuals within the requesting agency. Lessors favored with information in this manner were then able to submit a proposal tailored to an agency's space needs and fiscal limitations. Compounding this problem was the fact that agencies were selecting and negotiating their own sites, rather than submitting their requests to the Department of Public Works as had

been required in 1967 under Governor John Dempsey. Such deviation from standard procedure led to two incidents where the state entered into leases with lessors who did not own the property they leased.

While the subcommittee believed leasing to be an appropriate solution to short-range space problems, it favored a process whereby the state would gain equity. The committee felt that long-term leasing was not in the best financial interests of the state in that it was found to be a costly alternative to construction.

As a result of these findings, the subcommittee made the following recommendations.

- 1) A new "operational entity" should become the sole negotiator for space acquisition for the state. An agency's role in the leasing process would be limited to alerting the entity of their needs. The new division would be responsible for compiling an inventory of all property owned or leased by the state.
- 2) For real estate leased by the state in excess of five years, the new division would purchase the site or be certain that all leases include a lease/purchase option.
- 3) Sealed bidding should be implemented as a means to reestablish impartiality when selecting potential sites.
- 4) Disclosure of state realty needs by unauthorized officials should be discouraged by making such action a felony.

In response to the subcommittee's recommendations, the General Assembly in 1975 passed Public Act 75-425. Major provisions of the act included:

- 1) creation of the State Properties Review Board, an independent bipartisan body empowered to review and approve or disapprove state leases;
- 2) designation of the commissioner of public works as the sole person authorized to represent the state in the acquisition, construction, or leasing of real estate for housing state offices or equipment;
- 3) a requirement that the commissioner of public works attempt to purchase, lease-purchase, or build to meet state realty needs projected to last more than five years;

- 4) a requirement that in all real estate dealings with the state, the owner of record or beneficial owner shall be disclosed to the commissioner, the proposed agreement be revealed to the owner, and the commissioner be empowered to void any subsequent contract if these provisions have not been adhered to; and
- 5) a requirement making it a class A misdemeanor for anyone to disclose information about the state's realty needs without authorization by the commissioner.

APPENDIX B

Transactions Reviewed by the State Properties Review Board
January 1, 1976 - June 30, 1988

TOTAL TRANSACTIONS: 6,757

FISCAL YEAR	LEASES	ACQUISITIONS	SALES	ARCHITECT/ENGINEERS	MISCELLANEOUS	DEVELOPMENT RIGHTS	TOTAL
1/76-6/76	100		62	25	10		197
76/77	191	84	122	56	18		471
77/78	275	131	103	77	5		591
78/79	234	196	72	75	3		580
79/80	205	232	88	109	2		636
80/81	171	95	84	57	25		432
81/82	168	188	105	90	14		565
82/83	156	166	94	90	34	9	552
83/84	186	154	71	102	35	4	552
84/85	170	187	68	104	37	5	571
85/86	150	151	112	88	30	11	542
86/87	145	95	105	107	47	16	515
87/88	176	137	101	101	19	19	553
TOTAL:	2,327	1,816	1,190	1,081	279	64	6,757

APPENDIX C

STATE PROPERTIES REVIEW BOARD

Calculable Savings to the State as a Result of the Board's Action (From 1/1/77)
Compared to Budget Expended to Date:

<u>FISCAL YEAR</u>	<u>SAVINGS</u>	<u>BUDGET EXPENDED</u>
1975-1976	No records kept	\$ 48,183.00
1976-1977	\$ 274,862.61	85,333.00
1977-1978	1,271,948.94	128,930.00
1978-1979	282,083.22	131,269.00
1979-1980	1,865,227.18	149,820.00
1980-1981	1,379,432.96	166,664.00
1981-1982	5,765,518.06	164,461.00
1982-1983	291,858.96	187,329.00
1983-1984	528,025.57	197,919.00
1984-1985	918,614.15	211,242.00
1985-1986	3,887,739.68	244,932.00
1986-1987	2,112,558.76	295,753.00
1987-1988	<u>178,003.12</u>	<u>313,768.00</u>
TOTAL	\$ 18,755,873.21	\$ 2,325,603.00