
By: Chairman, Economic and Environmental Affairs Committee (Departmental - Morgan State University)

Requested: October 4, 1995

Introduced and read first time: January 10, 1996

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education - Morgan State University Governing Board - Powers and**
3 **Responsibilities**

4 FOR the purpose of authorizing the Board to establish certain procurement standards
5 and procedures; exempting Morgan State University from certain procurement
6 provisions; and altering certain provisions relating to the Department of General
7 Services authority over public improvement projects of Morgan State University.

8 BY repealing and reenacting, with amendments,
9 Article - State Finance and Procurement
10 Section 4-402 and 4-410
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1995 Supplement)

13 BY repealing
14 Article - State Finance and Procurement
15 Section 4-406(h)
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1995 Supplement)

18 Preamble

19 WHEREAS, In 1988, the General Assembly enacted legislation to reorganize
20 Maryland public higher education; and

21 WHEREAS, It is the intent of the Administration and General Assembly to
22 reaffirm the commitment to the provisions of Chapter 246 of the Acts of the General
23 Assembly of 1988 and the pursuit of educational excellence at all of Maryland's public
24 colleges and universities; and

25 WHEREAS, It is the intent of the Administration and General Assembly to
26 ensure that Maryland's public colleges and universities are managed in a manner
27 consistent with good business practices, in the best interest of the citizens of Maryland;
28 and

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1 WHEREAS, With the exception of Morgan State University, the governing boards
2 of all other 4-year Maryland public colleges and universities have been granted expanded
3 authority for managing procurement matters; and

4 WHEREAS, It is the intent of the General Assembly to grant the Governing
5 Board of Morgan State University broader management authority and flexibility; and

6 WHEREAS, Granting the Governing Board of Morgan State University the
7 authority for managing procurement matters will assist the University in meeting its
8 educational mission, allow for more efficient and effective management of the
9 University's operation, and assist the University in meeting the goals established in the
10 1988 reorganization legislation; now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - State Finance and Procurement**

14 4-402.

15 (a) (1) Except as provided in § 4-409 of this subtitle, this subtitle does not apply
16 to any public improvement made by:

17 (i) the Department of Transportation or a unit in that Department;

18 (ii) any housing authority created under Article 44A of the Code;

19 (iii) the Maryland-National Capital Park and Planning Commission;

20 (iv) the Washington Suburban Sanitary Commission;

21 (v) the Baltimore County Metropolitan District; or

22 (vi) a county, municipal corporation, or unit of a county or municipal
23 corporation.

24 (2) Except as provided in §§ 4-406, 4-410, and 4-410.1 of this subtitle or as
25 otherwise provided by law, the University of Maryland System, MORGAN STATE
26 UNIVERSITY, and St. Mary's College of Maryland are subject to the provisions of this
27 subtitle.

28 (b) The Board of Public Works may exempt specific projects of a unit of the State
29 government from the provisions of this subtitle.

30 (c) The Board of Public Works shall adopt regulations in accordance with Title
31 10, Subtitle 1 of the State Government Article establishing procedures for the exemption
32 of specific projects of units of State government under subsection (b) of this section.

33 [4-406.

34 (h) (1) Before a construction contract is let by the Department of General
35 Services on behalf of Morgan State University, the Board of Regents of Morgan State
36 University shall provide a written recommendation for acceptance or rejection of the
37 contract award.

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1 (2) During construction, an official representative of Morgan State
2 University shall attend the job initiation, progress, punch-out, and any other meeting
3 convened to expedite or review the development of the project and to assure that the
4 project meets the requirements of the University.

5 (3) For an unresolved dispute between the Department of General Services
6 and the Board of Regents of Morgan State University under this subsection, on request of
7 the Board, the Department and the Board shall:

8 (i) jointly select a consultant knowledgeable about the disputed issue;

9 (ii) share equally in the costs of retaining such a consultant; and

10 (iii) resolve the disputed issue within 30 days of the Board's request.]

11 4-410.

12 (a) This section applies to any public improvement project of the University of
13 Maryland System AND MORGAN STATE UNIVERSITY.

14 (b) For purposes of this section, the University of Maryland System consists of the
15 constituent institutions and centers specified in § 12-101 of the Education Article.

16 (c) In this section, "University" means the University of Maryland System AND
17 MORGAN STATE UNIVERSITY.

18 (d) For any public improvement project regardless of the source of funds:

19 (1) architectural and engineering services shall be procured in accordance
20 with Title 13, Subtitle 3 of this article;

21 (2) for architectural and engineering services costing more than \$100,000,
22 the Department shall make a recommendation for the award of a contract;

23 (3) for architectural and engineering services costing less than \$100,000, the
24 Department shall make the procurement;

25 (4) for all design projects exceeding \$100,000 in contract value, the
26 University shall submit periodic status reports to the Department; and

27 (5) for all projects exceeding \$500,000 in contract value, the University shall
28 submit periodic status reports to the Department.

29 (e) For any public improvement project financed in whole or in part with
30 proceeds of a consolidated capital bond loan or with State General Fund appropriations,
31 the following additional procedures shall apply:

32 (1) for architectural and engineering contracts exceeding \$100,000, the
33 Department must request the Board of Public Works to authorize the transfer of the
34 contract amount to University funds. Any additional funds that may be needed may be
35 transferred by an action of the Board of Public Works upon review by the Department;

36 (2) plans, specifications, schematics, design development, contract and bid
37 documents shall be reviewed by the Department concurrent with University review;

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1 (3) the Department may have a representative present at bid openings;

2 (4) the University shall analyze construction bids, recommend contractor
3 selections, and notify the Department of its recommended selection and the date the item
4 will be on the Board of Public Works' agenda;

5 (5) the Department shall prepare an agenda item for the Board of Public
6 Works authorizing transfer to the University of the funds equal to the contract, plus 5%
7 for use as a contingency fund for change orders. If the 5% contingency fund is insufficient
8 to complete the project, the Department shall review the change conditions and make a
9 recommendation to the Board of Public Works concerning the transfer of additional
10 funds;

11 (6) all program changes not authorized in the original scope of the project
12 shall be approved by the Department of Budget and Fiscal Planning and the Department
13 prior to commitment by the University;

14 (7) at completion of the project, any unused amount of construction
15 contingency funds or planning fund authorization shall be returned to the Board of Public
16 Works by an action agenda item of the University; and

17 (8) the Department shall be part of the final inspection of the project and
18 final acceptance may not occur without the Department's concurrence.

19 (f) (1) For any public improvement project funded solely from funds other than
20 State general funds or the proceeds of a general obligation bond loan, the University is
21 responsible for procuring public improvement and public improvement-related services,
22 for planning, and for management of all aspects of the project.

23 (2) Any contract under this subsection is subject to approval by the Board of
24 Public Works.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 1996.