

SENATE BILL 738

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2004 Regular Session
4r1009
CF 4r1010

By: **The President (By Request - Administration)**

Introduced and read first time: February 6, 2004

Rules suspended

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: March 24, 2004

CHAPTER 239

1 AN ACT concerning

2 **Higher Education - University System of Maryland - Governing Authority**

3 FOR the purpose of providing that the authority of the Board of Regents of the
4 University System of Maryland may not be superseded by any State agency or
5 office in certain management affairs except by a provision of law that
6 specifically references the University System of Maryland; repealing a certain
7 limitation on the number of positions that may be created; and generally
8 relating to the governing authority of the University System of Maryland.

9 BY repealing and reenacting, without amendments,
10 Article - Education
11 Section 12-102(a), 12-104(b), (c), and (l), 12-108(a) and (c), and 12-109(a) and
12 (e)(5)
13 Annotated Code of Maryland
14 (2001 Replacement Volume and 2003 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Education
17 Section 12-104(a) and 12-109(g)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2003 Supplement)

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

1 **Article - Education**

2 12-102.

3 (a) (1) There is a body corporate and politic known as the University System
4 of Maryland.5 (2) The University is an instrumentality of the State and a public
6 corporation.

7 (3) The University is an independent unit of State government.

8 (4) The exercise by the University of the powers conferred by this
9 subtitle is the performance of an essential public function.

10 12-104.

11 (a) In addition to any other powers granted and duties imposed by this title,
12 and subject to the provisions of Title 11 and any other restriction [expressly] imposed
13 by law[,] BY SPECIFIC REFERENCE TO THE UNIVERSITY SYSTEM OF MARYLAND, or
14 by any trust agreement involving a pledge of property or money, the Board of Regents
15 has the powers and duties set forth in this section.16 (b) In addition to the powers set forth elsewhere in this title, the University
17 may:18 (1) Exercise all the corporate powers granted Maryland corporations
19 under the Maryland general corporation law;

20 (2) Adopt and alter an official seal;

21 (3) Sue and be sued, complain, and defend in all courts;

22 (4) Maintain an office at the place the Board of Regents may designate;

23 (5) Enter into contracts of any kind, and execute all instruments
24 necessary or convenient with respect to its carrying out the powers in this subtitle to
25 accomplish the purposes of the University;26 (6) Subject to the provisions of subsection (h) of this section, acquire,
27 hold, lease, use, encumber, transfer, exchange, or dispose of real and personal
28 property;29 (7) Borrow money from any source to acquire personal property as
30 provided in § 12-105(c) of this subtitle; and31 (8) In addition to the powers set forth in Title 19 of this article and
32 subject to the approval of the Board of Public Works, borrow money from any source
33 for any corporate purpose, including working capital for its operations, reserve funds
34 or interest, and mortgage, pledge, or otherwise encumber the property or funds of the

1 University, and contract with or engage the services of any person in connection with
2 any financing, including financial institutions, issuers of credit, or insurers.

3 (c) The Board of Regents:

4 (1) Is responsible for the management of the University System of
5 Maryland and has all the powers, rights, and privileges that go with that
6 responsibility, including the power to conduct or maintain any institutions, schools, or
7 departments in the University at the locations the Board determines;

8 (2) Shall consult with the presidents in developing policies, guidelines,
9 and plans for the University System of Maryland; and

10 (3) May not be superseded in its authority by any other State agency or
11 office in managing the affairs of the University System of Maryland or of any
12 constituent institutions and centers under the Board's jurisdiction.

13 (l) By September 1 of each year, the Board shall submit an annual position
14 accountability report to the Department of Budget and Management, Department of
15 Legislative Services, the Maryland Higher Education Commission, and, in accordance
16 with § 2-1246 of the State Government Article, the General Assembly, reporting the
17 total positions created and the cost and the funding source for any positions created
18 by the University in the previous fiscal year.

19 12-108.

20 (a) (1) The Board of Regents shall appoint a Chancellor of the University
21 System of Maryland.

22 (2) The Chancellor is the Chief Executive Officer of the University
23 System of Maryland and the Chief of Staff for the Board.

24 (c) The Chancellor may:

25 (1) Have the additional staff provided in the University budget; and

26 (2) (i) Create any position within the system administration office and
27 within existing funds available to the system administration office, to the extent the
28 cost of the position, including the cost of any fringe benefits, is funded from existing
29 funds.

30 (ii) This paragraph may not be construed to require any additional
31 State General Fund support.

32 (iii) The total number of positions authorized under this paragraph
33 shall be limited as specified annually in the State budget bill.

1 12-109.

2 (a) In consultation with the Chancellor and after a thorough search, the Board
3 of Regents shall appoint a qualified person as president of each constituent
4 institution.

5 (e) Subject to the authority and applicable regulations and policies of the
6 Board of Regents, each president shall:

7 (5) Subject to the provisions of subsection (g) of this section, have
8 authority to create any position within existing funds available to the University, to
9 the extent the cost of the position, including the cost of any fringe benefits, is funded
10 from existing funds;

11 (g) [(1)] Subsection (e)(5) of this section may not be construed to require any
12 additional State General Fund support.

13 [(2) The total number of positions authorized under subsection (e)(5) of
14 this section shall be limited as specified annually in the State budget bill.]

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2004.