

SENATE BILL 254

P2, F2

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By: **Senators Hayes, Carter, Ferguson, McCray, and Washington**

Introduced and read first time: January 25, 2019

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City Community College – Procurement Authority**

3 FOR the purpose of exempting Baltimore City Community College from certain provisions
4 of State procurement law; requiring the Board of Trustees of the College, subject to
5 review and approval by the Board of Public Works and the Joint Committee on
6 Administrative, Executive, and Legislative Review, to develop certain policies and
7 procedures governing procurement; requiring the Board of Trustees to develop an
8 information technology plan that meets certain requirements; exempting the College
9 from certain provisions of law relating to the purchase, lease, or rental of information
10 technology or any changes to the purchase, lease, or rental of information technology;
11 exempting the College from certain provisions of law governing telecommunication
12 systems or services; exempting the College from certain provisions of law governing
13 the oversight of public improvement projects by the Department of General Services;
14 requiring the Department, on request of the Board of Public Works, to advise the
15 Board of Public Works on certain contracts for the College that exceed a certain
16 amount under certain circumstances; requiring the Board of Public Works to review
17 and approve certain contracts that exceed a certain amount under certain
18 circumstances; requiring certain procurements by the College to comply with certain
19 policies and procedures; establishing the authority of the State Board of Contract
20 Appeals over certain contract claims by the College before and after a certain date;
21 exempting the College from a certain review of a certain contract for certain
22 expenditures; subjecting a certain contract for certain expenditures to certain
23 approval; altering a certain definition; making stylistic changes; and generally
24 relating to the procurement authority of Baltimore City Community College.

25 BY repealing and reenacting, without amendments,
26 Article – Education
27 Section 16–505(c)(1)(x)
28 Annotated Code of Maryland
29 (2018 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Education
3 Section 16–505.3
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – State Finance and Procurement
8 Section 3A–302, 3A–402, 4–401(d), 4–402(a), 4–406(a), 11–203(e), and 12–202
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2018 Supplement)

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

13 **Article – Education**

14 16–505.

15 (c) (1) The Board of Trustees shall:

16 (x) Address the information technology and infrastructure needs of
17 the College, including whether oversight by the Department of Information Technology is
18 advisable;

19 **16–505.3.**

20 (A) (1) EXCEPT AS PROVIDED IN § 11–203(E) OF THE STATE FINANCE
21 AND PROCUREMENT ARTICLE, THE COLLEGE IS EXEMPT FROM DIVISION II OF THE
22 STATE FINANCE AND PROCUREMENT ARTICLE.

23 (2) (I) SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF
24 PUBLIC WORKS AND THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE,
25 AND LEGISLATIVE REVIEW OF THE GENERAL ASSEMBLY, THE BOARD OF TRUSTEES
26 SHALL DEVELOP POLICIES AND PROCEDURES GOVERNING PROCUREMENTS BY THE
27 COLLEGE.

28 (II) THE POLICIES AND PROCEDURES DEVELOPED UNDER
29 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROMOTE THE PURPOSES OF STATE
30 PROCUREMENT LAW AS SET FORTH IN § 11–201 OF THE STATE FINANCE AND
31 PROCUREMENT ARTICLE.

32 (B) THE BOARD OF TRUSTEES SHALL DEVELOP AN INFORMATION
33 TECHNOLOGY PLAN FOR THE COLLEGE THAT INCLUDES INFORMATION
34 TECHNOLOGY POLICIES AND STANDARDS, INCLUDING POLICIES AND STANDARDS

1 FOR INFORMATION MANAGEMENT AND TELECOMMUNICATION SYSTEMS, THAT IS
2 FUNCTIONALLY COMPATIBLE WITH THE STATEWIDE INFORMATION TECHNOLOGY
3 MASTER PLAN ESTABLISHED UNDER TITLE 3A, SUBTITLE 3 OF THE STATE FINANCE
4 AND PROCUREMENT ARTICLE, AND THAT MEETS THE REQUIREMENTS OF §
5 16-505(C)(1)(X) OF THIS SUBTITLE.

6 **Article – State Finance and Procurement**

7 3A-302.

8 (a) This subtitle does not apply to changes relating to or the purchase, lease, or
9 rental of information technology by:

- 10 (1) public institutions of higher education solely for academic or research
11 purposes;
- 12 (2) the Maryland Port Administration;
- 13 (3) the University System of Maryland;
- 14 (4) St. Mary's College of Maryland;
- 15 (5) Morgan State University; [or]
- 16 (6) the Maryland Stadium Authority; **OR**
- 17 **(7) BALTIMORE CITY COMMUNITY COLLEGE.**

18 (b) Except as provided in subsection (a) of this section, this subtitle applies to any
19 project of a unit of the Executive Branch of State government that involves an agreement
20 with a public institution of higher education for a portion of the development of the project,
21 whether the work on the development is done directly or indirectly by the public institution
22 of higher education.

23 (c) Notwithstanding any other provision of law, except as provided in subsection
24 (a) of this section and §§ 3A-307(a)(2), 3A-308, and 3A-309 of this subtitle, this subtitle
25 applies to all units of the Executive Branch of State government including public
26 institutions of higher education other than Morgan State University, the University
27 System of Maryland, [and] St. Mary's College of Maryland, **AND BALTIMORE CITY**
28 **COMMUNITY COLLEGE.**

29 3A-402.

30 (a) The provisions of this subtitle do not apply to a telecommunication system or
31 service that is owned or operated by the University System of Maryland, Morgan State
32 University, **BALTIMORE CITY COMMUNITY COLLEGE**, or a unit of the Legislative or

1 Judicial Branch.

2 (b) The provisions of this subtitle do not preempt the authority of the Maryland
3 Public Broadcasting Commission to own, operate, or manage telecommunication
4 equipment, systems, or services.

5 4–401.

6 (d) “Public improvement” includes any construction, maintenance, or repair of
7 any building, structure, or other public work:

8 (1) owned or constructed by the State or any unit of the State government,
9 including the University System of Maryland, St. Mary’s College of Maryland, [and]
10 Morgan State University, **AND BALTIMORE CITY COMMUNITY COLLEGE**; or

11 (2) acquired or constructed in whole or in part with State funds.

12 4–402.

13 (a) Except as provided in § 4–409 of this subtitle, this subtitle does not apply to
14 any public improvement made by:

15 (1) the Department of Transportation or a unit in that Department;

16 (2) any housing authority created under Division II of the Housing and
17 Community Development Article;

18 (3) the Maryland–National Capital Park and Planning Commission;

19 (4) the Washington Suburban Sanitary Commission;

20 (5) the Baltimore County Metropolitan District;

21 (6) a county, municipal corporation, or unit of a county or municipal
22 corporation;

23 (7) the University System of Maryland;

24 (8) Morgan State University; [or]

25 (9) St. Mary’s College of Maryland; **OR**

26 **(10) BALTIMORE CITY COMMUNITY COLLEGE.**

27 4–406.

1 (a) (1) The Department shall advise the Board of Public Works and any unit
2 of the State government in connection with any engineering question or matter concerning
3 a public improvement.

4 (2) The Department shall supervise any engineering question or matter
5 concerning a public improvement.

6 (3) Any contract, plan, or specification for any public improvement that
7 involves an engineering question:

8 (i) shall be submitted to the Department; and

9 (ii) is subject to the approval of the Department.

10 (4) At the request of the Board of Public Works, the Department shall
11 advise the Board of Public Works on any contract that exceeds \$500,000 if the contract
12 involves an engineering question or a matter concerning a public improvement undertaken
13 by the University System of Maryland, Morgan State University, [or] St. Mary's College of
14 Maryland, **OR BALTIMORE CITY COMMUNITY COLLEGE.**

15 11-203.

16 (e) (1) In this subsection, "University" means the University System of
17 Maryland, Morgan State University, or St. Mary's College of Maryland.

18 (2) Except as otherwise provided in this subsection, this Division II does
19 not apply to the University System of Maryland, Morgan State University, [or] St. Mary's
20 College of Maryland, **OR BALTIMORE CITY COMMUNITY COLLEGE.**

21 (3) (i) A procurement by a University shall comply with the policies and
22 procedures developed by the University and approved by the Board of Public Works and
23 the Administrative, Executive, and Legislative Review Committee of the General Assembly
24 in accordance with:

25 1. § 12-112 of the Education Article for the University
26 System of Maryland[,];

27 2. § 14-109 of the Education Article for Morgan State
28 University[, or];

29 3. § 14-405(f) of the Education Article for St. Mary's College
30 of Maryland; **OR**

31 4. **§ 16-505.3 OF THE EDUCATION ARTICLE FOR**
32 **BALTIMORE CITY COMMUNITY COLLEGE.**

(ii) 1. The review and approval of the Board of Public Works shall be required for the following types of contracts with a value that exceeds \$1,000,000 **FOR A UNIVERSITY OR \$500,000 FOR BALTIMORE CITY COMMUNITY COLLEGE:**

A. capital improvements; and

B. services.

2. In its review of a contract for services or capital improvements with a value that exceeds \$1,000,000 **FOR A UNIVERSITY OR \$500,000 FOR BALTIMORE CITY COMMUNITY COLLEGE**, the Board of Public Works may request the comments of the appropriate agencies, including the Department of Budget and Management and the Department of General Services.

(4) [A University's] **THE** policies **OF A UNIVERSITY OR BALTIMORE CITY COMMUNITY COLLEGE** shall:

(i) to the maximum extent practicable, require the purchasing of supplies and services in accordance with Title 14, Subtitle 1 of this article;

(ii) promote the purposes of the regulations adopted by the Department of General Services governing the procurement of architectural and engineering services;

(iii) promote the purposes of § 13-402 of the State Personnel and Pensions Article; and

(iv) to the maximum extent practicable, be similar to § 13-218.1 of this article.

(5) (i) Except as provided in paragraph (7) of this subsection, the following provisions of Division II of this article apply to a University **AND TO BALTIMORE CITY COMMUNITY COLLEGE:**

1. § 11-205 of this subtitle ("Collusion");

2. § 11-205.1 of this subtitle ("Falsification, concealment, etc., of material facts");

3. § 13-219 of this article ("Required clauses – Nondiscrimination clause");

4. § 13-225 of this article ("Retainage");

5. Title 14, Subtitle 3 of this article ("Minority Business Participation");

(7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

(i) procurement by a University **OR BALTIMORE CITY COMMUNITY COLLEGE** from:

1. another unit;

2. a political subdivision of the State;

3. an agency of a political subdivision of the State;

4. a government, including the government of another state, of the United States, or of another country;

5. an agency or political subdivision of a government; or

6. a bistate, multistate, bicounty, or multicounty governmental agency;

(ii) procurement by a University in support of enterprise activities for the purpose of:

1. direct resale;

2. remanufacture and subsequent resale; or

3. procurement by the University for overseas programs; or

(iii) procurement by the University System of Maryland for:

1. services of managers to invest, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article; or

2. expenditures to manage, maintain, and enhance, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, the value of gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article.

12–202.

(a) This section does not apply to capital expenditures:

(1) for public school construction under Title 5, Subtitle 3 of the Education Article; or

1 (2) by the Department of Transportation or the Maryland Transportation
2 Authority, in connection with State roads, bridges, or highways.

3 (b) Before execution, a contract for a capital expenditure other than in connection
4 with a State correctional facility, St. Mary's College of Maryland, Morgan State University,
5 **BALTIMORE CITY COMMUNITY COLLEGE**, or the University System of Maryland shall
6 be:

7 (1) reviewed by the Secretary of General Services; and

8 (2) except as provided in § 12–203 of this subtitle and § 13–108 of this
9 article, after that review, approved by the Board.

10 (c) Before execution, a contract for a capital expenditure in connection with a
11 State correctional facility shall be:

12 (1) reviewed by the Secretary of Public Safety and Correctional Services;
13 and

14 (2) except as provided in § 12–203 of this subtitle, after that review,
15 approved by the Board.

16 (d) Before execution, a contract for a capital expenditure in connection with the
17 University System of Maryland shall be:

18 (1) subject to the provisions of Title 4, Subtitle 4 of this article;

19 (2) approved by the Board of Regents of the University System of
20 Maryland; and

21 (3) approved by the Board of Public Works.

22 (e) Before execution, a contract for a capital expenditure in connection with St.
23 Mary's College of Maryland shall be:

24 (1) subject to the provisions of Title 4, Subtitle 4 of this article;

25 (2) approved by the Board of Trustees of St. Mary's College of Maryland;
26 and

27 (3) approved by the Board of Public Works.

28 (f) Before execution, a contract for a capital expenditure in connection with
29 Morgan State University shall be:

30 (1) subject to the provisions of Title 4, Subtitle 4 of this article;

1 (2) approved by the Board of Regents of Morgan State University; and

2 (3) approved by the Board of Public Works.

3 **(G) BEFORE EXECUTION, A CONTRACT FOR A CAPITAL EXPENDITURE IN**
4 **CONNECTION WITH BALTIMORE CITY COMMUNITY COLLEGE SHALL BE:**

5 **(1) SUBJECT TO THE PROVISIONS OF TITLE 4, SUBTITLE 4 OF THIS**
6 **ARTICLE;**

7 **(2) APPROVED BY THE BOARD OF TRUSTEES OF BALTIMORE CITY**
8 **COMMUNITY COLLEGE; AND**

9 **(3) APPROVED BY THE BOARD OF PUBLIC WORKS.**

10 **[(g)] (H)** The Board shall supervise the expenditure of any money that the
11 General Assembly appropriates for:

12 (1) buildings;

13 (2) equipment;

14 (3) new construction; or

15 (4) any other capital expenditure.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
17 1, 2019.