

SENATE BILL 1179

P2, F2

4lr3518
CF 4lr3524

By: **Senator Jackson**

Introduced and read first time: February 20, 2024

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – University System of Maryland, Morgan State University, and St.**
3 **Mary’s College of Maryland**

4 FOR the purpose of authorizing the Board of Regents of the University System of Maryland
5 to amend in a certain manner certain policies and procedures approved by the Board
6 of Public Works and the Administrative, Executive, and Legislative Review
7 Committee of the General Assembly governing procurements by the University
8 System of Maryland; providing that the University System of Maryland, Morgan
9 State University, and St. Mary’s College of Maryland are not required to submit a
10 contract for capital improvements or services for review and approval by the Board
11 of Public Works under certain circumstances; and generally relating to procurements
12 by the University System of Maryland, Morgan State University, and St. Mary’s
13 College of Maryland.

14 BY repealing and reenacting, without amendments,
15 Article – Education
16 Section 12–101(b)(1), (2), and (10)
17 Annotated Code of Maryland
18 (2022 Replacement Volume and 2023 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Education
21 Section 12–112
22 Annotated Code of Maryland
23 (2022 Replacement Volume and 2023 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – State Finance and Procurement
26 Section 11–203(e)
27 Annotated Code of Maryland
28 (2021 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Education**

4 12–101.

5 (b) (1) In this title the following words have the meanings indicated.

6 (2) “Board” or “Board of Regents” means the Board of Regents of the
7 University System of Maryland.

8 (10) “University” or “University of Maryland System” means the University
9 System of Maryland.

10 12–112.

11 (a) (1) Except as provided in § 11–203(e) of the State Finance and Procurement
12 Article, the University is exempt from Division II of the State Finance and Procurement
13 Article.

14 (2) (i) 1. **[Subject] EXCEPT AS PROVIDED IN**
15 **SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH AND SUBJECT** to review and approval
16 by the Board of Public Works and the Administrative, Executive, and Legislative Review
17 Committee of the General Assembly, the Board of Regents shall develop policies and
18 procedures governing procurements by the University.

19 2. **WITHOUT FURTHER APPROVAL NECESSARY FROM**
20 **THE BOARD OF PUBLIC WORKS AND THE ADMINISTRATIVE, EXECUTIVE, AND**
21 **LEGISLATIVE REVIEW COMMITTEE OF THE GENERAL ASSEMBLY, THE BOARD OF**
22 **REGENTS MAY AMEND THE POLICIES AND PROCEDURES THAT WERE PREVIOUSLY**
23 **APPROVED IN ACCORDANCE WITH SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.**

24 3. **THE BOARD OF REGENTS SHALL NOTIFY THE BOARD**
25 **OF PUBLIC WORKS AND THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE**
26 **REVIEW COMMITTEE OF THE GENERAL ASSEMBLY AFTER MAKING ANY**
27 **AMENDMENTS TO THE POLICIES AND PROCEDURES IN ACCORDANCE WITH**
28 **SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.**

29 (ii) The policies and procedures, **INCLUDING ANY AMENDMENTS**
30 **TO THE POLICIES AND PROCEDURES**, developed under subparagraph (i) of this
31 paragraph shall promote the purposes of the State procurement law as set forth in §
32 11–201 of the State Finance and Procurement Article.

33 (b) The Board of Regents shall develop an information technology plan for the

1 University System of Maryland that includes information technology policies and
2 standards, including policies and standards for information management and
3 telecommunication systems, that are functionally compatible with the State Information
4 Technology Plan established under Title 3, Subtitle 4 of the State Finance and Procurement
5 Article.

6 (c) By January 1, 2007, the Board of Regents shall develop a nonvisual access
7 clause for use in the procurement of computer-based instructional technology.

8 (d) The nonvisual access clause developed under subsection (c) of this section
9 shall be consistent with the standards developed by the Department of Budget and
10 Management in accordance with the provisions of § 3-412 of the State Finance and
11 Procurement Article.

12 Article – State Finance and Procurement

13 11-203.

14 (e) (1) In this subsection, “University” means the University System of
15 Maryland, Morgan State University, or St. Mary’s College of Maryland.

16 (2) Except as otherwise provided in this subsection, this Division II does
17 not apply to the University System of Maryland, Morgan State University, St. Mary’s
18 College of Maryland, or Baltimore City Community College.

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

24 1. § 12-112 of the Education Article for the University
25 System of Maryland;

26 2. § 14-109 of the Education Article for Morgan State
27 University;

28 3. § 14-405(f) of the Education Article for St. Mary’s College
29 of Maryland; or

30 4. § 16-505.3 of the Education Article for Baltimore City
31 Community College.

32 (ii) 1. The review and approval of the Board of Public Works
33 shall be required for the following types of contracts with a value that exceeds [\$1,000,000
34 for a University or] \$500,000 for Baltimore City Community College:

1 A. capital improvements; and

2 B. services.

3 2. **THE REVIEW AND APPROVAL OF THE BOARD OF**
 4 **PUBLIC WORKS SHALL BE REQUIRED FOR THE FOLLOWING TYPES OF**
 5 **STATE-FUNDED CONTRACTS WITH A VALUE THAT EXCEEDS \$1,000,000 FOR A**
 6 **UNIVERSITY:**

7 A. CAPITAL IMPROVEMENTS; AND

8 B. SERVICES.

9 3. In its review of a **BALTIMORE CITY COMMUNITY**
 10 **COLLEGE** contract **OR A STATE-FUNDED UNIVERSITY CONTRACT** for services or capital
 11 improvements with a value that exceeds \$1,000,000, the Board of Public Works may request
 12 the comments of the appropriate agencies, including the Department of Budget and
 13 Management and the Department of General Services.

14 [3.] 4. For Baltimore City Community College contracts that are
 15 not subject to the review and approval of the Board of Public Works under subsubparagraph
 16 1 of this subparagraph:

17 A. contracts with a value of \$100,000 or less shall be reviewed
 18 and approved by the President of Baltimore City Community College or the President's
 19 designee; and

20 B. contracts with a value that exceeds \$100,000 but does not
 21 exceed \$500,000 shall be approved by the Board of Trustees of Baltimore City Community
 22 College.

23 (4) The policies of a University or Baltimore City Community College shall:

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

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

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

31 (iv) to the maximum extent practicable, be similar to § 13-218.1 of
 32 this article; and

1 (v) to the maximum extent practicable, require the procurement of
2 food in accordance with Title 14, Subtitle 7 of this article.

3 (5) (i) Except as provided in paragraph (7) of this subsection, the
4 following provisions of Division II of this article apply to a University and to Baltimore City
5 Community College:

- 6 1. § 11–205 of this subtitle (“Collusion”);
- 7 2. § 11–205.1 of this subtitle (“Falsification, concealment,
8 etc., of material facts”);
- 9 3. § 13–219 of this article (“Required
10 clauses – Nondiscrimination clause”);
- 11 4. § 13–225 of this article (“Retainage”);
- 12 5. Title 14, Subtitle 3 of this article (“Minority Business
13 Participation”);
- 14 6. Title 14, Subtitle 7 of this article (“Certified Local Farm
15 and Fish Program”);
- 16 7. Title 15, Subtitle 1 of this article (“Procurement Contract
17 Administration”);
- 18 8. § 15–226 of this article (“Policy established; timing of
19 payments; notice upon nonpayment; disputes; appeals”); and
- 20 9. Title 16 of this article (“Suspension and Debarment of
21 Contractors”).

22 (ii) If a procurement violates the provisions of this subsection or
23 policies adopted in accordance with this subsection, the procurement contract is void or
24 voidable in accordance with the provisions of § 11–204 of this subtitle.

25 (6) (i) The State Board of Contract Appeals shall have authority over
26 contract claims related to procurement contracts awarded by:

- 27 1. the University System of Maryland before July 1, 1999;
- 28 2. Morgan State University before July 1, 2004; and
- 29 3. Baltimore City Community College before July 1, 2021.

30 (ii) At the election of the Board of Regents of the University System
31 of Maryland and subject to the approval of the Board of Public Works, the State Board of

1 Contract Appeals shall have authority over contract claims related to procurement
2 contracts awarded by the University after June 30, 1999.

3 (iii) At the election of the Board of Regents of Morgan State
4 University and subject to the approval of the Board of Public Works, the State Board of
5 Contract Appeals shall have authority over contract claims related to procurement
6 contracts awarded by the University after June 30, 2004.

7 (iv) At the election of the Board of Trustees of St. Mary's College of
8 Maryland and subject to the approval of the Board of Public Works, the State Board of
9 Contract Appeals shall have authority over contract claims related to procurement
10 contracts awarded by St. Mary's College of Maryland after June 30, 2006.

11 (v) At the election of the Board of Trustees of Baltimore City
12 Community College and subject to the approval of the Board of Public Works, the State
13 Board of Contract Appeals shall have authority over contract claims related to procurement
14 contracts awarded by Baltimore City Community College after June 30, 2021.

15 (7) Except with regard to the provisions of § 15–113 of this article,
16 paragraphs (3), (4), and (5) of this subsection do not apply to:

17 (i) procurement by a University or Baltimore City Community
18 College from:

- 19 1. another unit;
- 20 2. a political subdivision of the State;
- 21 3. an agency of a political subdivision of the State;
- 22 4. a government, including the government of another state,
23 of the United States, or of another country;
- 24 5. an agency or political subdivision of a government; or
- 25 6. a bistate, multistate, bicounty, or multicounty
26 governmental agency;

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

- 29 1. direct resale;
- 30 2. remanufacture and subsequent resale; or
- 31 3. procurement by the University for overseas programs; or

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

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2024.