

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 6, 1996

CHAPTER ____

1 AN ACT concerning

2 ~~Higher Education Procurement~~ - Morgan State University Governing Board - Powers
3 ~~and Responsibilities~~ Public Improvement Projects

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 applying certain provisions of law relating to the authority over certain public
9 improvement projects to Morgan State University; repealing obsolete provisions
10 concerning the relationship between the Department of General Services and the
11 University in the process of procuring construction services; and generally relating
12 to the authority of the Department of General Services and Morgan State
13 University over public improvement projects.

14 BY repealing and reenacting, with amendments,
15 Article - State Finance and Procurement
16 Section 4-402, ~~4-406(a)(4)~~, and 4-410
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1995 Supplement)

19 BY repealing
20 Article - State Finance and Procurement
21 Section 4-406(h)
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1995 Supplement)

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1 Preamble

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

4 WHEREAS, It is the intent of the Administration and General Assembly to
5 reaffirm the commitment to the provisions of Chapter 246 of the Acts of the General
6 Assembly of 1988 and the pursuit of educational excellence at all of Maryland's public
7 colleges and universities; and

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

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

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

17 WHEREAS, Granting the Governing Board of Morgan State University the
18 authority for managing procurement matters will assist the University in meeting its
19 educational mission, allow for more efficient and effective management of the
20 University's operation, and assist the University in meeting the goals established in the
21 1988 reorganization legislation; now, therefore,

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

24 **Article - State Finance and Procurement**

25 4-402.

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

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

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

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

31 (iv) the Washington Suburban Sanitary Commission;

32 (v) the Baltimore County Metropolitan District; or

33 (vi) a county, municipal corporation, or unit of a county or municipal
34 corporation.

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

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

3 (c) The Board of Public Works shall adopt regulations in accordance with Title
4 10, Subtitle 1 of the State Government Article establishing procedures for the exemption
5 of specific projects of units of State government under subsection (b) of this section.

6 ~~4-406.~~

7 (a) (4) With respect to any engineering question or a matter concerning a public
8 improvement, the Department shall advise the University of Maryland System AND
9 MORGAN STATE UNIVERSITY in accordance with the provisions of § 4-410 of this
10 subtitle.

11 1(h) (1) Before a construction contract is let by the Department of General
12 Services on behalf of Morgan State University, the Board of Regents of Morgan State
13 University shall provide a written recommendation for acceptance or rejection of the
14 contract award.

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

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

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

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

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

25 4-410.

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

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

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

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

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

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

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

4

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

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

5 (e) For any public improvement project financed in whole or in part with
6 proceeds of a consolidated capital bond loan or with State General Fundappropriations,
7 the following additional procedures shall apply:

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

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

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

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

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

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

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

30 (8) the Department shall be part of the final inspection of theproject and
31 final acceptance may not occur without the Department's concurrence.

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

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

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

