

HOUSE BILL 7

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1998 Regular Session
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(PRE-FILED)

By: **Delegates Taylor, Barve, Dewberry, Hurson, Rawlings, Curran, Guns, Vallario, Hixson, Harrison, Menes, Kopp, Arnick, Owings, Busch, W. Baker, E. Burns, Clagett, Conroy, Conway, C. Davis, Dembrow, Doory, Finifter, Franchot, Frank, Frush, Fulton, Goldwater, Hecht, Heller, Howard, Jones, Kagan, Klausmeier, Krysiak, Linton, Love, Mandel, Marriott, McIntosh, V. Mitchell, Morhaim, Petzold, Pitkin, Preis, Proctor, Rosenberg, Shriver, Slade, Turner, Weir, Wood, and Workman Workman, Crumlin, Pendergrass, Walkup, DeCarlo, Donoghue, McHale, Miller, and Valderrama**

Requested: November 15, 1997

Introduced and read first time: January 14, 1998

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1998

CHAPTER _____

1 AN ACT concerning

2 **Economic Development - Maryland Science, Engineering, and Technology**
3 **Development Corporation**

4 FOR the purpose of establishing the Maryland Science, Engineering, and Technology
5 Development Corporation; specifying the purpose, form, powers, and duties of
6 the Maryland Science, Engineering, and Technology Development Corporation;
7 providing that a board of directors shall manage and carry out the corporate
8 powers of the Maryland Science, Engineering, and Technology Development
9 Corporation; specifying the composition, appointment, terms, and powers of the
10 board of directors; providing for an Executive Director of the Maryland Science,
11 Engineering, and Technology Development Corporation; authorizing certain
12 colleges and universities to contract with and make certain assignments to the
13 Maryland Science, Engineering, and Technology Development Corporation;
14 providing that certain assignments of faculty and staff to the Maryland Science,
15 Engineering, and Technology Development Corporation are subject to certain
16 requirements; defining a certain term; authorizing the Treasurer to advance a
17 certain sum for the initial expenses of the Maryland Science, Engineering, and
18 Technology Development Corporation; providing for the repayment of that sum
19 by the Maryland Science, Engineering, and Technology Development

1 Corporation; requiring certain audits of the Maryland Science, Engineering, and
 2 Technology Development Corporation; providing for the effective date of this Act;
 3 and generally relating to economic development, science and technology, and the
 4 Maryland Science, Engineering, and Technology Development Corporation.

5 BY adding to

6 Article 83A - Department of Business and Economic Development
 7 Section 5-2A-01 through ~~5-2A-10~~ 5-2A-09 to be under the new subtitle
 8 "Subtitle 2A. Maryland Science, Engineering, and Technology
 9 Development Corporation"
 10 Annotated Code of Maryland
 11 (1995 Replacement Volume and 1997 Supplement)

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

14 **Article 83A - Department of Business and Economic Development**

15 SUBTITLE 2A. MARYLAND SCIENCE, ENGINEERING, AND TECHNOLOGY
 16 DEVELOPMENT CORPORATION.

17 5-2A-01.

18 IN THIS SUBTITLE, "CORPORATION" MEANS THE MARYLAND SCIENCE,
 19 ENGINEERING, AND TECHNOLOGY DEVELOPMENT CORPORATION.

20 ~~5-2A-02.~~

21 ~~(A) THE GENERAL ASSEMBLY FINDS AND DECLARES THE FOLLOWING:~~

22 ~~(1) SOME OF THE NATION'S LEADING RESEARCH UNIVERSITIES ARE~~
 23 ~~LOCATED IN MARYLAND AND ATTRACT SIGNIFICANT AMOUNTS OF INVESTMENT IN~~
 24 ~~SCIENTIFIC RESEARCH AND DEVELOPMENT;~~

25 ~~(2) MARYLAND'S RESEARCH CAPACITY HAS THE POTENTIAL TO~~
 26 ~~STIMULATE NEW AND EXISTING BUSINESS AND TO CREATE AND MAINTAIN JOBS IN~~
 27 ~~THE STATE;~~

28 ~~(3) STATE INSTITUTIONS OF HIGHER EDUCATION HAVE NOT YET~~
 29 ~~REACHED THEIR POTENTIAL FOR THE COMMERCIALIZATION OF TECHNOLOGY; AND~~

30 ~~(4) A SPECIAL ENTITY SHOULD BE ESTABLISHED TO:~~

31 ~~(I) FOSTER ECONOMIC GROWTH FROM THE SCIENTIFIC~~
 32 ~~RESEARCH AND DEVELOPMENT GENERATED BY COLLEGES AND UNIVERSITIES;~~

33 ~~(II) FACILITATE RESEARCH PARTNERSHIPS;~~

1 (III) DEVELOP INTERNATIONAL MARKETS FOR MARYLAND
2 TECHNOLOGY; AND

3 (IV) STIMULATE THE CREATION OF NEW TECHNOLOGIES.

4 (B) THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS
5 PURPOSES.

6 ~~5-2A-03.~~ 5-2A-02.

7 (A) THERE IS A MARYLAND SCIENCE, ENGINEERING, AND TECHNOLOGY
8 DEVELOPMENT CORPORATION.

9 (B) THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS
10 CONSTITUTED AS A PUBLIC INSTRUMENTALITY OF THE STATE.

11 (C) THE PURPOSE OF THE CORPORATION IS TO:

12 (1) ASSIST IN TRANSFERRING TO THE PRIVATE SECTOR AND
13 COMMERCIALIZING THE RESULTS AND PRODUCTS OF SCIENTIFIC RESEARCH AND
14 DEVELOPMENT CONDUCTED BY COLLEGES AND UNIVERSITIES ~~IN THE STATE; AND;~~

15 (2) ASSIST IN THE COMMERCIALIZATION OF TECHNOLOGY DEVELOPED
16 IN THE PRIVATE SECTOR; AND

17 ~~(2)~~ (3) FOSTER THE COMMERCIALIZATION OF RESEARCH AND
18 DEVELOPMENT DESCRIBED IN ITEMS (1) AND (2) OF THIS SUBSECTION TO CREATE
19 AND SUSTAIN BUSINESSES THROUGHOUT ALL REGIONS OF THE STATE.

20 ~~5-2A-04.~~ 5-2A-03.

21 (A) A BOARD OF DIRECTORS SHALL MANAGE THE CORPORATION AND
22 EXERCISE ALL OF ITS CORPORATE POWERS.

23 (B) THE BOARD OF DIRECTORS SHALL CONSIST OF ~~SEVEN~~ 11 INDIVIDUALS,
24 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

25 (C) OF THE ~~SEVEN~~ 11 MEMBERS:

26 (1) TWO SHALL REPRESENT THE NONPROFIT RESEARCH SECTOR OF THE
27 STATE;

28 (2) TWO SHALL HAVE EXPERTISE IN VENTURE CAPITAL FINANCING;

29 (3) TWO SHALL HAVE EXPERIENCE IN TECHNOLOGY-BASED
30 BUSINESSES; ~~AND~~

31 (4) ~~ONE~~ THREE SHALL BE A ~~MEMBER~~ MEMBERS OF THE GENERAL
32 PUBLIC; ~~AND~~

33 (5) TWO SHALL REPRESENT COLLEGES OR UNIVERSITIES.

1 (D) THE BOARD MEMBERS SHALL BE MARYLAND RESIDENTS.

2 (E) IN APPOINTING THE BOARD MEMBERS, THE GOVERNOR SHALL CONSIDER
3 ALL OF THE GEOGRAPHIC REGIONS OF THE STATE.

4 (F) EACH MEMBER SHALL SERVE WITHOUT COMPENSATION, EXCEPT THAT
5 EACH MEMBER SHALL BE ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER
6 THE STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

7 (G) (1) THE TERM OF A BOARD MEMBER IS 4 YEARS.

8 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
9 THE TERMS PROVIDED FOR THE BOARD MEMBERS ON JULY 1, 1998.

10 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
11 SUCCESSOR IS APPOINTED AND QUALIFIES.

12 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
13 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED.

14 (H) THE GOVERNOR MAY REMOVE A BOARD MEMBER FOR INCOMPETENCE,
15 MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

16 (I) A CHAIRMAN SHALL BE ELECTED FROM AMONG THE BOARD MEMBERS.

17 (J) THE BOARD MAY ACT WITH ~~A MAJORITY~~ AN AFFIRMATIVE VOTE OF ~~ALL OF~~
18 ~~THE BOARD MEMBERS~~ SIX BOARD MEMBERS.

19 (K) THE CORPORATION SHALL EMPLOY AN EXECUTIVE DIRECTOR WITH
20 EXPERIENCE AND QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND THE
21 PURPOSES OF THE CORPORATION.

22 ~~5-2A-05.~~ 5-2A-04.

23 (A) THE CORPORATION MAY:

24 (1) ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE
25 CONDUCT OF ITS BUSINESS;

26 (2) ADOPT AND ALTER AN OFFICIAL SEAL;

27 (3) MAINTAIN OFFICES AT A PLACE WITHIN THE STATE THAT IT
28 DESIGNATES;

29 (4) APPLY FOR AND ACCEPT LOANS, GRANTS, OR ASSISTANCE IN ANY
30 FORM FROM FEDERAL, STATE, OR LOCAL GOVERNMENTS, COLLEGES OR
31 UNIVERSITIES, OR PRIVATE SOURCES;

32 (5) MAKE, EXECUTE, AND ENTER INTO ANY CONTRACTS OR LEGAL
33 INSTRUMENTS;

1 (6) SUE AND BE SUED;

2 (7) ACQUIRE, CONSTRUCT, DEVELOP, MANAGE, MARKET,
3 MANUFACTURE, LICENSE, SUBLICENSE, RECONSTRUCT, REHABILITATE, IMPROVE,
4 MAINTAIN, EQUIP, LEASE AS A LESSOR OR AS A LESSEE, REPAIR, AND OPERATE ANY
5 PROJECT IN THE STATE TO CARRY OUT ITS PURPOSES;

6 (8) ACQUIRE, PURCHASE, HOLD, LEASE AS A LESSEE, AND USE ANY:

7 (I) FRANCHISE, PATENT, OR LICENSE;

8 (II) ANY REAL, PERSONAL, MIXED, OR TANGIBLE OR INTANGIBLE
9 PROPERTY; OR

10 (III) ANY INTEREST IN THE PROPERTY LISTED IN ITEMS (I) AND (II)
11 OF THIS ITEM;

12 (9) SELL, LEASE AS A LESSOR, TRANSFER, LICENSE, SUBLICENSE,
13 ASSIGN, AND DISPOSE OF ANY PROPERTY OR INTEREST IN IT AT ANY TIME ACQUIRED
14 BY THE CORPORATION;

15 (10) ACQUIRE, EITHER DIRECTLY OR INDIRECTLY, FROM ANY PERSON OR
16 POLITICAL SUBDIVISION, BY PURCHASE, GIFT, OR DEVISE ANY LANDS, STRUCTURES,
17 PROPERTY, WHETHER REAL OR PERSONAL, RIGHTS-OF-WAY, FRANCHISES,
18 EASEMENTS, AND ANY OTHER INTERESTS IN LANDS, INCLUDING LANDS LYING
19 UNDER WATER AND RIPARIAN RIGHTS WHICH IT CONSIDERS NECESSARY OR
20 CONVENIENT FOR THE CONSTRUCTION, IMPROVEMENT, REHABILITATION, OR
21 OPERATION OF A PROJECT TO CARRY OUT ITS PURPOSES, ON ANY TERMS AND AT ANY
22 PRICES THAT IT CONSIDERS REASONABLE;

23 (11) FIX, REVISE, AND COLLECT RATES, RENTALS, FEES, AND CHARGES
24 FOR THE USE OF OR FOR SERVICES AND RESOURCES PROVIDED OR MADE AVAILABLE
25 BY THE CORPORATION;

26 (12) DO ALL THINGS NECESSARY AND CONVENIENT TO CARRY OUT THE
27 POWERS GRANTED BY THIS SUBTITLE; AND

28 (13) EXERCISE ANY POWER, ~~USUALLY POSSESSED BY PRIVATE~~
29 ~~CORPORATIONS IN PERFORMING SIMILAR FUNCTIONS~~, WHICH IS NOT IN CONFLICT
30 WITH THE CONSTITUTION AND THE LAWS OF THIS STATE.

31 (B) COLLEGES AND UNIVERSITIES ~~IN THE STATE~~ MAY:

32 (1) CONTRACT WITH THE CORPORATION OR ITS SUBSIDIARIES, IF ANY;
33 ~~AND~~

34 (2) ASSIGN TO THE CORPORATION OR ITS SUBSIDIARIES, IF ANY,
35 INTELLECTUAL PROPERTY AND OTHER RESOURCES TO ASSIST IN ITS DEVELOPMENT
36 AND ACTIVITIES-; AND

1 (3) ASSIGN FACULTY AND STAFF TO THE CORPORATION.

2 ~~5-2A-06.~~ 5-2A-05.

3 (A) THE STATE TREASURER IS AUTHORIZED TO ADVANCE TO THE
4 CORPORATION A SUM NOT TO EXCEED \$450,000 FOR THE INITIAL EXPENSES OF THE
5 CORPORATION.

6 (B) THE SUM SHALL BE REPAID OUT OF THE FIRST MONEYS AVAILABLE TO
7 THE CORPORATION FROM ITS REVENUES.

8 (C) THE REPAYMENT SHALL BE MADE AT A RATE OF INTEREST THAT IS
9 CONSISTENT WITH SIMILAR STATE INVESTMENTS.

10 ~~5-2A-07.~~ 5-2A-06.

11 THE BOOKS AND RECORDS OF THE CORPORATION SHALL BE SUBJECT TO
12 AUDIT:

13 (1) BY THE STATE AT ITS DISCRETION; AND

14 (2) ANNUALLY BY AN INDEPENDENT AUDITOR APPROVED BY THE
15 OFFICE OF LEGISLATIVE AUDITS.

16 ~~5-2A-08.~~ 5-2A-07.

17 (A) THE CORPORATION SHALL REPORT TO THE GOVERNOR, THE MARYLAND
18 ECONOMIC DEVELOPMENT COMMISSION, AND SUBJECT TO § 2-1246 OF THE STATE
19 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY WITHIN THE FIRST 90 DAYS OF
20 EACH FISCAL YEAR.

21 (B) THE REPORT SHALL SET FORTH THE COMPLETE OPERATING AND
22 FINANCIAL STATEMENT COVERING THE CORPORATION'S OPERATIONS AND
23 SUMMARIZE THE CORPORATION'S ACTIVITIES DURING THE PRECEDING FISCAL
24 YEAR.

25 ~~5-2A-09.~~ 5-2A-08.

26 (A) THE CORPORATION SHALL BE EXEMPT FROM:

27 (1) STATE AND LOCAL TAXES;

28 (2) TITLE 10 AND THE LAWS GOVERNING PROCUREMENT UNDER
29 DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

30 (3) THE LAWS GOVERNING THE STATE PERSONNEL MANAGEMENT
31 SYSTEM UNDER DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE; ~~AND~~

32 (4) § 10-507 OF THE STATE GOVERNMENT ARTICLE; AND

33 (5) ARTICLE 41 OF THE CODE.

1 (B) THE CORPORATION, ITS BOARD OF DIRECTORS, AND EMPLOYEES ARE
2 SUBJECT TO THE PUBLIC ETHICS LAW AND THE PUBLIC INFORMATION ACT.

3 ~~5-2A-10.~~ 5-2A-09.

4 (A) ALL DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE
5 CORPORATION AND ITS SUBSIDIARIES, IF ANY, WHENEVER INCURRED, SHALL BE THE
6 DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE CORPORATION ONLY AND
7 NOT FOR THE STATE, UNITS OF STATE GOVERNMENT, STATE INSTRUMENTALITIES,
8 OFFICERS, OR EMPLOYEES.

9 (B) THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE
10 CORPORATION OR ITS SUBSIDIARIES, IF ANY, MAY NOT BE CONSIDERED A DEBT OF
11 THE STATE OR A PLEDGE OF ITS CREDIT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
13 members of the Board of Directors shall expire as follows:

14 (1) ~~2~~ 4 members in 2002;

15 (2) ~~2~~ 3 members in 2001;

16 (3) ~~2~~ 3 members in 2000; and

17 (4) 1 member in 1999.

18 SECTION 3. AND BE IT FURTHER ENACTED, That any faculty and staff of a
19 public institution of higher education in the State that are assigned to the
20 Corporation shall retain their employment status under the public institution of
21 higher education, without any diminution of rights or benefits, including, if any, merit
22 system and retirement status and shall continue to receive their salaries from the
23 public institution of higher education.

24 ~~SECTION 3-4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
25 effect July 1, 1998.