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By: **Delegates Sophocleus, Benson, Cadden, Conroy, DeCarlo, Glassman,  
Hubers, Love, Riley, Conway, and V. Jones**

Introduced and read first time: February 1, 2001  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - University System of Maryland - Construction Contracts**

3 FOR the purpose of expanding the list in the State procurement system provisions of  
4 law that apply to a procurement contract by the University System of Maryland  
5 to include provisions of law concerning retainage and prompt payment of  
6 subcontractors in procurement contracts for construction; and generally relating  
7 to certain State procurement system provisions of law applicable to the  
8 University System of Maryland.

9 BY repealing and reenacting, with amendments,  
10 Article - State Finance and Procurement  
11 Section 11-203(e)  
12 Annotated Code of Maryland  
13 (1995 Replacement Volume and 2000 Supplement)

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

16 **Article - State Finance and Procurement**

17 11-203.

18 (e) (1) (i) In this subsection the following words have the meanings  
19 indicated.

20 (ii) "Board of Regents" means the Board of Regents of the  
21 University System of Maryland.

22 (iii) "University" means the University System of Maryland.

23 (2) Except as otherwise provided in this subsection, this Division II does  
24 not apply to the University System of Maryland.

25 (3) (i) A procurement by the University shall comply with the policies  
26 and procedures developed by the University and approved by the Board of Public

1 Works and the Administrative, Executive, and Legislative Review Committee of the  
2 General Assembly in accordance with § 12-112 of the Education Article.

3 (ii) 1. Any contract for services or capital improvements with a  
4 value that exceeds \$500,000 shall require the review and approval of the Board of  
5 Public Works.

6 2. In its review of a contract for services or capital  
7 improvements with a value that exceeds \$500,000 the Board of Public Works may  
8 request the comments of the appropriate agencies, including the Department of  
9 Budget and Management and the Department of General Services.

10 (4) The University's policies shall:

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

13 (ii) promote the purposes of the regulations adopted by the  
14 Department of General Services governing the procurement of architectural and  
15 engineering services.

16 (5) (i) Except as provided in paragraph (7) of this subsection, the  
17 following provisions of Division II of this article apply to the University:

18 1. § 11-205 of this subtitle ("Fraud in procurement");

19 2. § 11-205.1 of this subtitle ("Falsification of material  
20 facts");

21 3. § 13-219 of this article ("Required clauses -  
22 Nondiscrimination clause");

23 4. § 13-225 OF THIS ARTICLE ("RETAINAGE");

24 [4.] 5. Title 14, Subtitle 3 of this article ("Minority Business  
25 Participation");

26 [5.] 6. Title 15, Subtitle 1 of this article ("Procurement  
27 Contract Administration"); [and]

28 7. § 15-226 OF THIS ARTICLE ("PROMPT PAYMENT OF  
29 SUBCONTRACTORS"); AND

30 [6.] 8. Title 16 of this article ("Debarment of Contractors").

31 (ii) If a procurement violates the provisions of this subsection or  
32 policies adopted in accordance with this subsection, the procurement contract is void  
33 or voidable in accordance with the provisions of § 11-204 of this subtitle.

1                   (6)     (i)       The State Board of Contract Appeals shall have authority over  
2 contract claims related to procurement contracts awarded by the University before  
3 July 1, 1999.

4                   (ii)       At the election of the Board of Regents and subject to the  
5 approval of the Board of Public Works, the State Board of Contract Appeals shall have  
6 authority over contract claims related to procurement contracts awarded by the  
7 University after June 30, 1999.

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

9                   (i)       procurement by the University from:

- 10                               1.       another unit;
- 11                               2.       a political subdivision of the State;
- 12                               3.       an agency of a political subdivision of the State;
- 13                               4.       a government, including the government of another state,  
14 of the United States, or of another country;
- 15                               5.       an agency or political subdivision of a government; or
- 16                               6.       a bistate, multistate, bicounty, or multicounty  
17 governmental agency; or

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

- 20                               1.       direct resale;
- 21                               2.       remanufacture and subsequent resale; or
- 22                               3.       procurement by the University for overseas programs.

23       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2001.