

---

By: ~~Delegate Morhaim~~ **Delegates Morhaim, Hurson, Hammen, Benson,  
Boteler, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater,  
Hubbard, Kach, Mandel, McDonough, Murray, Nathan-Pulliam, Oaks,  
Pendergrass, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon**

Introduced and read first time: February 5, 2004  
Assigned to: Health and Government Operations

---

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 26, 2004

---

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Procurement Law - Applicability~~  
3 **Maryland Development Authority - Management and Procurement Policies**  
4 **and Procedures**

5 FOR the purpose of ~~making certain units of State government subject to certain~~  
6 ~~requirements of the procurement law~~ altering the name, membership, and  
7 quorum requirements of the Maryland Stadium Authority; requiring the  
8 Maryland Development Authority to develop certain policies and procedures  
9 governing procurements by the Authority on or before a certain date and subject  
10 to certain review; requiring procurements by the Authority to comply with  
11 certain policies and procedures; requiring the Authority to submit a certain  
12 report to certain legislative committees on or before a certain date; directing the  
13 publisher of the Annotated Code to make certain corrections under certain  
14 circumstances; providing for the application of this Act; and generally relating to  
15 the applicability of the procurement law to units of State government  
16 management and procurement policies and procedures of the Maryland  
17 Development Authority.

18 ~~BY repealing and reenacting, without amendments,~~  
19 ~~Article - Financial Institutions~~  
20 ~~Section 13-1004(a)~~  
21 ~~Annotated Code of Maryland~~  
22 ~~(2003 Replacement Volume)~~

23 BY repealing and reenacting, with amendments,

1 Article - Financial Institutions  
 2 Section ~~13-1027~~ 13-701(b), 13-702(a), 13-703(a), 13-704(a) and (b),  
 3 13-711(d)(3), and 13-718  
 4 Annotated Code of Maryland  
 5 (2003 Replacement Volume)

6 ~~BY repealing and reenacting, without amendments,~~  
 7 ~~Article - Natural Resources~~  
 8 ~~Section 3-103(a)~~  
 9 ~~Annotated Code of Maryland~~  
 10 ~~(2000 Replacement Volume and 2003 Supplement)~~

11 ~~BY repealing and reenacting, with amendments,~~  
 12 ~~Article - Natural Resources~~  
 13 ~~Section 3-103(g)~~  
 14 ~~Annotated Code of Maryland~~  
 15 ~~(2000 Replacement Volume and 2003 Supplement)~~

16 BY repealing and reenacting, ~~with~~ without amendments,  
 17 Article - State Finance and Procurement  
 18 Section 11-203(a)(1)  
 19 Annotated Code of Maryland  
 20 (2001 Replacement Volume and 2003 Supplement)

21 BY repealing and reenacting, with amendments,  
 22 Article - State Finance and Procurement  
 23 Section 11-203(c)  
 24 Annotated Code of Maryland  
 25 (2001 Replacement Volume and 2003 Supplement)

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

28 **Article - Financial Institutions**

29 ~~13-1004.~~

30 (a) ~~There is a body corporate and politic known as the Canal Place~~  
 31 ~~Preservation and Development Authority.~~

32 ~~13-1027.~~

33 ~~The Authority is exempt:~~

34 (1) ~~From the payment of taxes or assessments of any kind; AND~~

1           (2)     ~~[Except as provided in Title 14, Subtitle 3 of the State Finance and~~  
2 ~~Procurement Article, from the provisions of Division II of the State Finance and~~  
3 ~~Procurement Article; and~~

4           (3)]     ~~From the provisions of Division I of the State Personnel and Pensions~~  
5 ~~Article that govern the State Personnel Management System.~~

6   **~~Article—Natural Resources~~**

7 ~~3-103.~~

8       (a)     ~~There is a body politic and corporate known as the "Maryland~~  
9 ~~Environmental Service". The Service is an instrumentality of the State and a public~~  
10 ~~corporation by that name, style, and title, and the exercise by the Service of the~~  
11 ~~powers conferred by this subtitle is the performance of an essential governmental~~  
12 ~~function of the State.~~

13       (g)     (1)]     ~~The Service is exempt from the provisions of Part III of Subtitle 3 and~~  
14 ~~Subtitles 4, 5, 6, and 7 of Title 4 of the State Finance and Procurement Article.~~

15           (2)     ~~The Service is exempt from the provisions of Division II of the State~~  
16 ~~Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14, Title~~  
17 ~~16, and Title 17 of the State Finance and Procurement Article.~~

18       (3)     ~~All purchases by the Service, including but not limited to contracts~~  
19 ~~and orders for materials, services, and supplies performed or furnished in connection~~  
20 ~~with the construction of any project owned or controlled by the Service, shall be~~  
21 ~~awarded in accordance with rules and regulations adopted pursuant to the~~  
22 ~~Administrative Procedure Act, which rules and regulations shall provide, with respect~~  
23 ~~to contracts and orders involving the expenditure of more than \$10,000 for award~~  
24 ~~after either competitive bidding or public design competition, and which rules and~~  
25 ~~regulations need not be approved by any other board, agency, or department of the~~  
26 ~~State. The Service's rules and regulations providing for competitive bidding or public~~  
27 ~~design competition may include competitive sealed bidding, competitive negotiations,~~  
28 ~~and revised bids after competitive sealed bidding where all bids are rejected as~~  
29 ~~methods of source selection and contract formation.]~~

30 13-701.

31       (b)     "Authority" means the Maryland [Stadium] DEVELOPMENT Authority.

32 13-702.

33       (a)     There is a body corporate and politic known as the Maryland [Stadium]  
34 DEVELOPMENT Authority.

35 13-703.

36       (a)     The Authority consists of:

1 (1) [7] 10 VOTING members:

2 [(1)] (I) 1 of whom shall be appointed by the Mayor of Baltimore City,  
3 with the advice and consent of the Senate; [and]

4 [(2)] (II) 6 of whom shall be appointed by the Governor, with the advice  
5 and consent of the Senate. In making appointments to the Authority, the Governor  
6 shall ensure that the geographic areas of the State are represented;

7 (III) THE TREASURER, OR THE TREASURER'S DESIGNEE;

8 (IV) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE  
9 SECRETARY'S DESIGNEE; AND

10 (V) 1 OF WHOM SHALL BE APPOINTED JOINTLY BY THE PRESIDENT  
11 OF THE SENATE AND THE SPEAKER OF THE HOUSE; AND

12 (2) 2 NONVOTING MEMBERS:

13 (I) 1 OF WHOM IS A MEMBER OF THE SENATE OF MARYLAND,  
14 APPOINTED BY THE PRESIDENT OF THE SENATE; AND

15 (II) 1 OF WHOM IS A MEMBER OF THE HOUSE OF DELEGATES,  
16 APPOINTED BY THE SPEAKER OF THE HOUSE.

17 13-704.

18 (a) [Four] SIX VOTING members of the Authority constitute a quorum for the  
19 purpose of conducting business.

20 (b) Actions of the Authority must receive the affirmative vote of at least [4] 6  
21 members.

22 13-711.

23 (d) (3) Lease payments to the Maryland [Stadium] DEVELOPMENT  
24 Authority appropriated by the State of Maryland shall be transferred to:

25 (i) If appropriated for a sports facility or other facility at Camden  
26 Yards, the Maryland Stadium Authority Financing Fund;

27 (ii) If appropriated for a Baltimore Convention Center facility, the  
28 Baltimore Convention Center Fund;

29 (iii) If appropriated for an Ocean City Convention Center facility,  
30 the Ocean City Convention Center Fund;

31 (iv) If appropriated for a Montgomery County Conference Center  
32 facility, the Montgomery County Conference Center Fund; or

1 (v) If appropriated for a Hippodrome Performing Arts Center  
 2 facility, the Hippodrome Performing Arts Center Financing Fund.

3 13-718.

4 (A) The Authority is exempt:

5 (1) From taxation by the State and local government;

6 (2) Except as provided in Title 14, Subtitle 3 of the State Finance and  
 7 Procurement Article, from the provisions of Division II of the State Finance and  
 8 Procurement Article; and

9 (3) From the provisions of Division I of the State Personnel and Pensions  
 10 Article that govern the State Personnel Management System.

11 (B) (1) SUBJECT TO THE REVIEW AND APPROVAL BY THE BOARD OF PUBLIC  
 12 WORKS AND THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW  
 13 COMMITTEE, THE AUTHORITY SHALL DEVELOP POLICIES AND PROCEDURES  
 14 GOVERNING PROCUREMENTS BY THE AUTHORITY.

15 (2) THE POLICIES AND PROCEDURES DEVELOPED UNDER PARAGRAPH  
 16 (1) OF THIS SUBSECTION SHALL PROMOTE THE PURPOSES OF THE STATE  
 17 PROCUREMENT LAW AS SET FORTH IN § 11-201 OF THE STATE FINANCE AND  
 18 PROCUREMENT ARTICLE.

19 **Article - State Finance and Procurement**

20 11-203.

21 (a) Except as provided in subsection (b) of this section, this Division II does  
 22 not apply to:

23 (1) procurement by:

24 (i) the Blind Industries and Services of Maryland;

25 (ii) the Maryland State Arts Council, for the support of the arts;

26 (iii) the Maryland Health and Higher Educational Facilities  
 27 Authority, if no State money is to be spent on a procurement contract;

28 (iv) the Maryland Higher Education Supplemental Loan Authority,  
 29 if no State money is to be spent on a procurement contract;

30 (v) the Maryland Industrial Training Program or the Partnership  
 31 for Workforce Quality Program in the Department of Business and Economic  
 32 Development, for training services or programs for new or expanding businesses or  
 33 industries or businesses or industries in transition;

1 (vi) the Maryland Food Center Authority, to the extent the  
2 Authority is exempt under Title 13, Subtitle 1 of Article 41 of the Code;

3 (vii)} the Maryland Public Broadcasting Commission, for services of  
4 artists for educational and cultural television productions;

5 {(viii)} ~~(H)~~ public institutions of higher education, for cultural,  
6 entertainment, and intercollegiate athletic procurement contracts;

7 {(ix) the Maryland State Planning Council on Developmental  
8 Disabilities, for services to support demonstration, pilot, and training programs;

9 (x) the Maryland Automobile Insurance Fund;

10 (xi) the Maryland Historical Trust for:

11 1. surveying and evaluating architecturally, archeologically,  
12 historically, or culturally significant properties; and

13 2. other than as to architectural services, preparing historic  
14 preservation planning documents and educational material;

15 (xii)} ~~(HH)~~ the University of Maryland, for University College  
16 Overseas Programs, if the University adopts regulations that:

17 1. establish policies and procedures governing procurement  
18 for University College Overseas Programs; and

19 2. promote the purposes stated in § 11-201(a) of this subtitle;

20 {(xiii)} ~~(IV)~~ St. Mary's College of Maryland;

21 {(xiv)} ~~(V)~~ the Department of Business and Economic Development,  
22 for negotiating and entering into private sector cooperative marketing projects that  
23 directly enhance promotion of Maryland and the tourism industry where there will be  
24 a private sector contribution to the project if not less than 50% of the total cost of the  
25 project, if the project is reviewed by the Attorney General and approved by the  
26 Secretary of Business and Economic Development or the Secretary's designee;

27 {(xv) the Rural Maryland Council;

28 (xvi)} ~~(VI)~~ the Maryland State Lottery Agency, for negotiating and  
29 entering into private sector cooperative marketing projects that directly enhance  
30 promotion of the Maryland State Lottery and its products, if the cooperative  
31 marketing project:

32 1. provides a substantive promotional or marketing value  
33 that the lottery determines acceptable in exchange for advertising or other  
34 promotional activities provided by the lottery;

1                                      2.        does not involve the advertising or other promotion of  
2 alcohol or tobacco products; and

3                                      3.        is reviewed by the Attorney General and approved by the  
4 Maryland Lottery Director or the Director's designee;

5                                      {xvii}    the Maryland Health Insurance Plan established under Title  
6 14, Subtitle 5 of the Insurance Article;

7                                      (xviii)} ~~(VII)~~    the Maryland Energy Administration, when negotiating  
8 or entering into grants or cooperative agreements with private entities to meet  
9 federal specifications or solicitation requirements related to energy conservation,  
10 energy efficiency, or renewable energy projects that benefit the State; and

11                                     {(xix)} ~~(VIII)~~    the Maryland Developmental Disabilities  
12 Administration of the Department of Health and Mental Hygiene for family and  
13 individual support services, and individual family care services, as those terms are  
14 defined by the Department of Health and Mental Hygiene in regulation;

15     (c)        (1)        Except as provided in PARAGRAPH (2) OF THIS SUBSECTION AND Title  
16 14, Subtitle 3 of this article, this Division II does not apply to the Maryland  
17 [Stadium] DEVELOPMENT Authority.

18                     (2)        A PROCUREMENT BY THE MARYLAND DEVELOPMENT AUTHORITY  
19 SHALL COMPLY WITH THE POLICIES AND PROCEDURES DEVELOPED BY THE  
20 AUTHORITY AND APPROVED BY THE BOARD OF PUBLIC WORKS AND THE  
21 ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE COMMITTEE IN ACCORDANCE  
22 WITH § 13-718 OF THE FINANCIAL INSTITUTIONS ARTICLE.

23     SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland  
24 Development Authority shall develop the procurement policies and procedures  
25 required under § 13-718 of the Financial Institutions Article, as enacted by Section 1  
26 of this Act, on or before July 1, 2004.

27     SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 1,  
28 2004, the Maryland Development Authority shall submit a written report, in  
29 accordance with § 2-1246 of the State Government Article, to the House Health and  
30 Government Operations Committee and the Senate Education, Health, and  
31 Environmental Affairs Committee that includes:

32     (a)        a summary of the progress made by the Authority in correcting the  
33 deficiencies identified by the Office of Legislative Audits in the Maryland Stadium  
34 Authority Audit Report, dated February 2004;

35     (b)        a summary of the progress made by the Authority in implementing the  
36 procurement policies and procedures required to be developed in accordance with §  
37 13-718 of the Financial Institutions Article, as enacted by Section 1 of this Act;

1 (c) a summary of the Authority's minority business outreach efforts and  
2 progress made toward meeting or exceeding minority business participation goals;  
3 and

4 (d) the development of a written policy on employee compensation practices  
5 and procedures, including procedures for the award of bonuses.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act may not be  
7 interpreted to affect any pending or prior contracts, agreements, grants, or other  
8 obligations entered into by the Maryland Stadium Authority prior to June 1, 2004. All  
9 contracts, agreements, grants, or other obligations entered into by the Maryland  
10 Stadium Authority prior to June 1, 2004, are hereby declared to be valid, legal, and  
11 binding obligations of the Maryland Development Authority, enforceable in  
12 accordance with their terms.

13 SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the  
14 Annotated Code, in consultation with, and subject to the approval of the Department  
15 of Legislative Services, shall correct all references to the Maryland Stadium Authority  
16 rendered incorrect by this Act.

17 SECTION ~~2. 6.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
18 effect ~~October~~ June 1, 2004.