

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL NO. 109
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 13, after “law;” insert “declaring the intent of the General Assembly;”; and after line 20, insert:

“BY repealing and reenacting, without amendments,
Article - State Finance and Procurement
Section 11-203(e)(1) through (5)
Annotated Code of Maryland
(2001 Replacement Volume and 2004 Supplement)”.

On page 2, in line 1, strike “11-203(e)(8); and”; and strike in their entirety lines 6 through 10, inclusive.

AMENDMENT NO. 2

On page 3, strike lines 26 and 27 in their entirety and substitute:

“(e) (1) In this subsection, “University” means the University System of Maryland or Morgan State University.

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

(3) (i) A procurement by a University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12-112 of the Education Article for the University System of Maryland or § 14-109 of the Education Article for Morgan State University.

(Over)

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

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

(4) A University's policies shall:

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

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

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

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

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

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

4. § 13-225 of this article ("Retainage");

5. Title 14, Subtitle 3 of this article ("Minority Business Participation");

6. Title 15, Subtitle 1 of this article ("Procurement Contract Administration");

7. § 15-226 of this article ("Prompt payment of subcontractors");
and

8. Title 16 of this article (“Debarment of Contractors”).

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

On page 4, in line 11, strike “OR”; and in line 12, after “ARTICLE” insert “: OR

(III) §11-203(E) OF THIS ARTICLE”.

On page 5, strike in their entirety lines 26 through 30, inclusive.

AMENDMENT NO. 3

On page 7, after line 28, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that enactment of this Act will ensure that State funds are being expended by units in accordance with appropriate and adequate policies and procedures governing procurement even if the unit has an exemption from the State procurement law. While the University System of Maryland and Morgan State University are already required under § 11-203(e) of the State Finance and Procurement Article to develop policies and procedures governing procurement that are subject to the approval of the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly, it is the intent of the General Assembly that any revision, after the effective date of this Act, of the Universities’ policies and procedures meet, at a minimum, the requirements of § 12-401(b) of the State Finance and Procurement Article, as enacted by Section 1 of this Act.”;

and in line 29, strike “2.” and substitute “3.”.