
By: **Delegates Boschert, Frush, Menes, and Moe**

Introduced and read first time: January 14, 2005

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2005

CHAPTER _____

1 AN ACT concerning

2 **Higher Education - University of Maryland University College - Governing**
 3 **Authority**

4 FOR the purpose of establishing that the University of Maryland University College
 5 is an instrumentality of the State; providing that the exercise of certain powers
 6 by the University of Maryland University College is for a certain purpose;
 7 ~~establishing that the Maryland Tort Claims Act applies to certain claims or~~
 8 ~~actions against the University of Maryland University College under certain~~
 9 ~~circumstances; providing that the sovereign immunity of the University of~~
 10 ~~Maryland University College is not waived under certain circumstances;~~
 11 authorizing a custodian to deny inspection of certain public records pertaining to
 12 the University of Maryland University College; prohibiting a custodian from
 13 denying inspection of certain public records relating to the University of
 14 Maryland University College under certain circumstances; declaring the intent
 15 of the General Assembly; clarifying the name of a certain institution; and
 16 generally relating to the governing authority and operations of the University of
 17 Maryland University College.

18 BY repealing and reenacting, with amendments,
 19 Article - Education
 20 Section 13-101
 21 Annotated Code of Maryland
 22 (2004 Replacement Volume and 2004 Supplement)

23 BY adding to
 24 Article - State Government
 25 Section 10-618(l)

1 Annotated Code of Maryland
2 (2004 Replacement Volume)

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

5 **Article - Education**

6 13-101.

7 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE UNIVERSITY OF
8 MARYLAND UNIVERSITY COLLEGE ~~RECEIVE THE FUNDS NECESSARY TO:~~

9 (1) OPERATE AS MARYLAND'S OPEN UNIVERSITY SERVING
10 NONTRADITIONAL STUDENTS WHO RESIDE IN MARYLAND, THE UNITED STATES, AND
11 THROUGHOUT THE WORLD;

12 (2) PROVIDE THE CITIZENS OF MARYLAND WITH AFFORDABLE, OPEN
13 ACCESS HIGHER EDUCATION; AND

14 (3) CONTINUE AS A LEADER IN DISTRIBUTED HIGHER EDUCATION.

15 [(a)] (B) (1) There is a [University College in the University of Maryland]
16 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE which is not a new [branch]
17 CONSTITUENT INSTITUTION of the University SYSTEM of Maryland.

18 (2) AS A CONSTITUENT INSTITUTION OF THE UNIVERSITY SYSTEM OF
19 MARYLAND, THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS AN
20 INSTRUMENTALITY OF THE STATE AND A UNIT OF STATE GOVERNMENT.

21 (3) THE EXERCISE BY THE UNIVERSITY OF MARYLAND UNIVERSITY
22 COLLEGE OF ITS ~~CONFERRED~~ POWERS, INCLUDING ITS OVERSEAS OPERATIONS, IS
23 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

24 [(b)] (C) The provisions of § 12-105(a) of this article do not apply to the
25 overseas operations of [University College. University College] THE UNIVERSITY OF
26 MARYLAND UNIVERSITY COLLEGE. THE INSTITUTION may spend the appropriation
27 without the approval of the Board of Public Works and without submitting a detailed
28 budget schedule to the Board of Public Works.

29 ~~(D) (4) TITLE 12, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE~~
30 ~~("MARYLAND TORT CLAIMS ACT") APPLIES TO CLAIMS OR ACTIONS AGAINST THE~~
31 ~~UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE AND ITS EMPLOYEES.~~

32 ~~(2) SUBJECT TO ALL EXCLUSIONS AND LIMITATIONS IN THAT SUBTITLE,~~
33 ~~THE IMMUNITY OF THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS~~
34 ~~WAIVED TO THE EXTENT OF ANY APPLICABLE LIABILITY INSURANCE PURCHASED BY~~
35 ~~THE UNIVERSITY OR THE STATE TREASURER.~~

1 ~~(3)~~ ~~THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR~~
 2 ~~ABROGATE SOVEREIGN IMMUNITY WITH RESPECT TO ANY CLAIM THAT IS NOT~~
 3 ~~COVERED BY OR EXCEEDS THE LIMITS OF AN INSURANCE POLICY.~~

4 ~~(4)~~ ~~THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR~~
 5 ~~ABROGATE THE IMMUNITY OF THE UNIVERSITY OF MARYLAND UNIVERSITY~~
 6 ~~COLLEGE UNDER THE ELEVENTH AMENDMENT TO THE UNITED STATES~~
 7 ~~CONSTITUTION.~~

8 (c) ~~(E)~~ (D) [University College] THE UNIVERSITY OF MARYLAND
 9 UNIVERSITY COLLEGE shall prepare an annual financial information statement for
 10 the next following fiscal year and shall submit the statement to the Department of
 11 Budget and Management each year before October 1. The annual financial
 12 information statement shall include for the next following fiscal year:

13 (1) An estimate of the total revenues of [University College] THE
 14 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE, including revenues from tuitions,
 15 fees, gifts, grants, and interest income;

16 (2) An estimate of the value of services which the other units of the
 17 University of Maryland and other State agencies provide to [University College] THE
 18 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE; and

19 (3) An estimate of the total cost of salaries and personnel benefits for
 20 employees of [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY
 21 COLLEGE.

22 (d) ~~(F)~~ (E) (1) The interest or income from the investment of the funds of
 23 [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE by the
 24 State Treasurer shall be credited to [University College] THE UNIVERSITY OF
 25 MARYLAND UNIVERSITY COLLEGE.

26 (2) Any unexpended or unencumbered balance of the annual
 27 appropriation for [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY
 28 COLLEGE, except any appropriation from the General Fund of the State, shall not
 29 revert to the General Fund of the State at the end of the State's fiscal year.

30 (e) ~~(G)~~ (F) [University College] THE UNIVERSITY OF MARYLAND
 31 UNIVERSITY COLLEGE may:

32 (1) Purchase, lease, or rent motor vehicles for use in overseas programs;
 33 and

34 (2) Purchase, lease, or rent mechanical or electronic data or information
 35 processing equipment and related services for its overseas programs.

36 (f) ~~(H)~~ (G) (1) Each year [University College] THE UNIVERSITY OF
 37 MARYLAND UNIVERSITY COLLEGE shall cause an independent certified public
 38 accountant to prepare audited financial statements of [University College] THE

1 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE in accordance with generally
2 accepted auditing standards accompanied by the auditor's report on the statements.

3 (2) The provisions of § 12-105(f) of this article do not apply to
4 [University College] THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE
5 overseas programs.

6 **Article - State Government**

7 10-618.

8 (L) (1) A CUSTODIAN MAY DENY INSPECTION OF ANY PART OF A PUBLIC
9 RECORD THAT RELATES TO THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE'S
10 COMPETITIVE POSITION WITH RESPECT TO OTHER PROVIDERS OF EDUCATION
11 SERVICES AND THAT CONTAINS:

12 ~~(1) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE~~
13 ~~UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RELATED TO A BUSINESS~~
14 ~~TRANSACTION;~~

15 ~~(2) PRICES OR FEES CHARGED BY THE UNIVERSITY OF MARYLAND~~
16 ~~UNIVERSITY COLLEGE RELATED TO A BUSINESS TRANSACTION; OR~~

17 ~~(3) RESEARCH OR ANALYSIS RELATED TO THE UNIVERSITY OF~~
18 ~~MARYLAND UNIVERSITY COLLEGE'S COMPETITIVE POSITION WITH RESPECT TO~~
19 ~~OTHER EDUCATIONAL INSTITUTIONS.~~

20 (I) FEES, TUITION, CHARGES, AND ANY INFORMATION
21 SUPPORTING FEES, TUITION, AND CHARGES, PROPOSED, GENERATED, RECEIVED, OR
22 NEGOTIATED FOR RECEIPT BY THE UNIVERSITY OF MARYLAND UNIVERSITY
23 COLLEGE, EXCEPT FEES, TUITION, AND CHARGES PUBLISHED IN CATALOGUES AND
24 ORDINARILY CHARGED TO STUDENTS;

25 (II) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE
26 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE, OTHER THAN WITH ITS
27 STUDENTS, FOR THE PROVISION OF EDUCATIONAL SERVICES; OR

28 (III) ANY RESEARCH, ANALYSIS, OR PLANS COMPILED BY OR FOR
29 THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RELATING TO ITS
30 OPERATIONS OR PROPOSED OPERATIONS.

31 (2) A CUSTODIAN MAY NOT DENY INSPECTION OF ANY PART OF A
32 PUBLIC RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

33 (I) THE RECORD RELATES TO A PROCUREMENT BY THE
34 UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE;

35 (II) THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS
36 REQUIRED TO DEVELOP OR MAINTAIN THE RECORD BY LAW OR AT THE DIRECTION
37 OF THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND; OR

1 (III) 1. THE RECORD IS REQUESTED BY THE EXCLUSIVE
2 REPRESENTATIVE OF ANY BARGAINING UNIT OF EMPLOYEES OF THE UNIVERSITY OF
3 MARYLAND UNIVERSITY COLLEGE;

4 2. THE RECORD RELATES TO A MATTER THAT IS THE
5 SUBJECT OF COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE EXCLUSIVE
6 REPRESENTATIVE AND THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE; AND

7 3. THE EXCLUSIVE REPRESENTATIVE HAS ENTERED INTO A
8 NONDISCLOSURE AGREEMENT WITH THE UNIVERSITY OF MARYLAND UNIVERSITY
9 COLLEGE TO ENSURE THE CONFIDENTIALITY OF THE INFORMATION PROVIDED.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 2005.