
By: **Delegates Morhaim, Benson, Oaks, and Weldon**

Introduced and read first time: January 17, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Exemptions - Policies and Procedures - Internal Oversight**

3 FOR the purpose of requiring certain units to have certain written policies and
4 procedures for certain procurements exempt from certain provisions of the
5 procurement law; establishing certain requirements for certain written policies
6 and procedures; requiring certain units to submit certain written policies and
7 procedures to the Board of Public Works for review at the beginning of each
8 fiscal year; requiring certain units to submit a certain report to the Department
9 of Budget and Management at a certain time each year; establishing certain
10 requirements for certain reports; specifying the form for certain reports;
11 requiring certain units with certain exemptions to comply with certain
12 provisions of law; and generally relating to policies, procedures, and internal
13 oversight regarding units with certain exemptions from the procurement law.

14 BY repealing and reenacting, with amendments,
15 Article - State Finance and Procurement
16 Section 11-203(b)(1), (c), (d), and (f)
17 Annotated Code of Maryland
18 (2001 Replacement Volume and 2004 Supplement)

19 BY adding to
20 Article - State Finance and Procurement
21 Section 11-203(e)(8); and 12-401 and 12-402 to be under the new subtitle
22 "Subtitle 4. Policies, Procedures, and Internal Oversight for Exemptions"
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2004 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Education
27 Section 14-109(a)(1)
28 Annotated Code of Maryland
29 (2004 Replacement Volume and 2004 Supplement)

1 BY repealing and reenacting, with amendments,
 2 Article - Financial Institutions
 3 Section 13-1027
 4 Annotated Code of Maryland
 5 (2003 Replacement Volume and 2004 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - Natural Resources
 8 Section 3-103(g)(2)
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume and 2004 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article 83A - Department of Business and Economic Development
 13 Section 5-214(b), 5-2A-08, 5-308, and 5-503(d)
 14 Annotated Code of Maryland
 15 (2003 Replacement Volume and 2004 Supplement)

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

18 **Article - State Finance and Procurement**

19 11-203.

20 (b) (1) The following provisions of this Division II apply to each procurement
 21 enumerated in subsection (a) of this section:

22 (i) § 11-205 of this subtitle ("Fraud in procurement");

23 (ii) § 12-204 of this article ("Board approval for designated
 24 contracts");

25 (iii) Title 12, Subtitle 2 of this article ("Supervision of Capital
 26 Expenditures and Real Property Leases");

27 (iv) § 13-219 of this article ("Required clauses - Nondiscrimination
 28 clause");

29 (v) § 13-221 of this article ("Disclosures to Secretary of State");

30 (vi) TITLE 12, SUBTITLE 4 OF THIS ARTICLE ("POLICIES,
 31 PROCEDURES, AND INTERNAL OVERSIGHT FOR EXEMPTIONS");

32 (VII) Title 16 of this article ("Debarment of Contractors"); and

33 [(vii)] (VIII) Title 17 of this article ("Special Provisions - State and
 34 Local Subdivisions").

1 (c) Except as provided in TITLE 12, SUBTITLE 4 AND Title 14, Subtitle 3 of this
2 article, this Division II does not apply to the Maryland Stadium Authority.

3 (d) Except as provided in TITLE 12, SUBTITLE 4 AND Title 14, Subtitle 3 of this
4 article, this Division II does not apply to the Board of Trustees of the State
5 Retirement and Pension System for:

6 (1) services of managers to invest the assets of the State Retirement and
7 Pension System, including real and personal property;

8 (2) expenditures to manage, maintain, and enhance the value of the
9 assets of the State Retirement and Pension System in accordance with investment
10 guidelines adopted by the Board of Trustees;

11 (3) services related to the administration of the optional retirement
12 program under Title 30 of the State Personnel and Pensions Article; and

13 (4) services related to the administration of the Postretirement Health
14 Benefits Trust Fund.

15 (e) (8) A UNIVERSITY IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THIS
16 ARTICLE.

17 (f) Except as provided in TITLE 12, SUBTITLE 4 AND Title 14, Subtitle 3 of this
18 article, this Division II does not apply to the College Savings Plans of Maryland for:

19 (1) services of managers to invest the assets of the Maryland Prepaid
20 College Trust in accordance with the comprehensive investment plan adopted by the
21 College Savings Plans of Maryland Board under § 18-1906 of the Education Article;
22 and

23 (2) expenditures to manage, maintain, and enhance the value of the
24 assets of the Maryland Prepaid College Trust in accordance with the comprehensive
25 investment plan adopted by the College Savings Plans of Maryland Board under §
26 18-1906 of the Education Article.

27 SUBTITLE 4. POLICIES, PROCEDURES, AND INTERNAL OVERSIGHT FOR
28 EXEMPTIONS.

29 12-401.

30 (A) EACH UNIT WITH AN EXEMPTION FROM ANY PROVISION OF DIVISION II OF
31 THIS ARTICLE SHALL HAVE WRITTEN POLICIES AND PROCEDURES FOR THE
32 EXEMPTED UNIT'S PROCUREMENTS.

33 (B) WRITTEN POLICIES AND PROCEDURES SHALL INCLUDE:

34 (1) THE TYPES OF PROCUREMENT EXEMPTED FROM DIVISION II OF THIS
35 ARTICLE;

1 (2) THE METHOD OF PROCUREMENT TO BE USED FOR EACH TYPE OF
2 PROCUREMENT PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

3 (3) THE ADVERTISING REQUIREMENTS FOR EACH TYPE OF
4 PROCUREMENT PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION;

5 (4) PROCUREMENT GOALS, INCLUDING MINORITY BUSINESS
6 ENTERPRISE PARTICIPATION, FOR EACH TYPE OF PROCUREMENT PROVIDED UNDER
7 PARAGRAPH (1) OF THIS SUBSECTION; AND

8 (5) THE APPROVAL PROCESS FOR EACH TYPE OF PROCUREMENT
9 PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

10 (C) EACH UNIT SHALL SUBMIT WRITTEN POLICIES AND PROCEDURES TO THE
11 BOARD FOR REVIEW AT THE BEGINNING OF EACH FISCAL YEAR AS REQUIRED BY
12 SUBSECTIONS (A) AND (B) OF THIS SECTION .

13 12-402.

14 (A) (1) EACH UNIT WITH AN EXEMPTION FROM ANY PROVISION OF DIVISION
15 II OF THIS ARTICLE SHALL SUBMIT A REPORT TO THE DEPARTMENT OF BUDGET AND
16 MANAGEMENT ON INTERNAL OVERSIGHT FOR PROCUREMENTS WITHIN THE UNIT'S
17 EXEMPTION AT A CERTAIN TIME EACH YEAR.

18 (2) THE DEPARTMENT OF BUDGET AND MANAGEMENT SHALL ADOPT
19 REGULATIONS TO CARRY OUT THIS SECTION.

20 (B) THE REPORT SHALL INCLUDE:

21 (1) THE TOTAL DOLLAR AMOUNT SPENT ON PROCUREMENTS EXEMPTED
22 FROM DIVISION II OF THIS ARTICLE;

23 (2) THE DOLLAR AMOUNT SPENT ON EACH TYPE OF PROCUREMENT
24 SPECIFIED IN A UNIT'S WRITTEN POLICIES AND PROCEDURES AS REQUIRED UNDER §
25 12-401(B)(1) OF THIS SUBTITLE;

26 (3) THE DOLLAR AMOUNT SPENT USING EACH METHOD OF
27 PROCUREMENT SPECIFIED IN A UNIT'S WRITTEN POLICIES AND PROCEDURES AS
28 REQUIRED UNDER § 12-401(B)(2) OF THIS SUBTITLE; AND

29 (4) TO WHAT EXTENT THE UNIT MET THE PROCUREMENT GOALS
30 SPECIFIED IN A UNIT'S POLICIES AND PROCEDURES AS REQUIRED UNDER §
31 12-401(B)(4) OF THIS SUBTITLE.

32 (C) THE REPORT MAY BE:

33 (1) IN THE FORM OF A MANAGING FOR RESULTS PERFORMANCE
34 MEASURE AS PROVIDED UNDER § 3-1002 OF THIS ARTICLE; OR

1 (2) IN ANOTHER FORM APPROVED BY THE DEPARTMENT OF BUDGET
2 AND MANAGEMENT THAT PROVIDES THE INFORMATION REQUIRED BY SUBSECTION
3 (B) OF THIS SECTION.

4

Article - Education

5 14-109.

6 (a) (1) Except as provided in § 11-203(e) AND TITLE 12, SUBTITLE 4 of the
7 State Finance and Procurement Article, the University is exempt from Division II of
8 the State Finance and Procurement Article.

9

Article - Financial Institutions

10 13-1027.

11 The Authority is exempt:

12 (1) From the payment of taxes or assessments of any kind;

13 (2) Except as provided in TITLE 12, SUBTITLE 4 AND Title 14, Subtitle 3 of
14 the State Finance and Procurement Article, from the provisions of Division II of the
15 State Finance and Procurement Article; and

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

18

Article - Natural Resources

19 3-103.

20 (g) (2) The Service is exempt from the provisions of Division II of the State
21 Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14,
22 SUBTITLE 4 OF TITLE 12, Title 16, and Title 17 of the State Finance and Procurement
23 Article.

24

Article 83A - Department of Business and Economic Development

25 5-214.

26 (b) The Corporation and its officers and employees are subject to the Public
27 Ethics Law [and], the Public Information Act, AND TITLE 12, SUBTITLE 4 OF THE
28 STATE FINANCE AND PROCUREMENT ARTICLE.

29 5-2A-08.

30 (a) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
31 Corporation shall be exempt from:

32 (1) State and local taxes;

- 1 (2) Title 10 and Division II of the State Finance and Procurement Article;
- 2 (3) The laws governing the State Personnel Management System under
3 Division I of the State Personnel and Pensions Article;
- 4 (4) § 10-507 of the State Government Article; and
- 5 (5) Article 41 of the Code.

6 (b) The Corporation, its Board of Directors, and employees are subject to the
7 Public Ethics Law [and], the Public Information Act, AND TITLE 12, SUBTITLE 4 OF
8 THE STATE FINANCE AND PROCUREMENT ARTICLE.

9 5-308.

10 (A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
11 Trust shall be exempt from:

- 12 (1) Taxation by the State and local government;
- 13 (2) The General Procurement Law provisions of Division II of the State
14 Finance and Procurement Article; and
- 15 (3) The provisions of Division I of the State Personnel and Pensions
16 Article that govern the State Personnel Management System.

17 (B) THE TRUST IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE
18 AND PROCUREMENT ARTICLE.

19 5-503.

20 (d) (1) [Division II] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
21 SUBSECTION, DIVISION II of the State Finance and Procurement Article does not
22 apply to the Department for services related to the investment, management,
23 analysis, purchase, or sale of assets of the Department in any transaction authorized
24 under this subtitle, including commissions related to the transfer of shares of stock in
25 a business entity.

26 (2) THE DEPARTMENT IS SUBJECT TO TITLE 12, SUBTITLE 4 OF THE
27 STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES RELATED TO THE
28 INVESTMENT, MANAGEMENT, ANALYSIS, PURCHASE, OR SALE OF ASSETS OF THE
29 DEPARTMENT IN ANY TRANSACTION AUTHORIZED UNDER THIS SUBTITLE,
30 INCLUDING COMMISSIONS RELATED TO THE TRANSFER OF SHARES OF STOCK IN A
31 BUSINESS ENTITY.

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