
By: **Senators Conway, Britt, Currie, Exum, Gladden, Hughes, Jones, Kelley,
Lawlah, and McFadden**

Introduced and read first time: January 21, 2005

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Morgan State University - Public Improvement and**
3 **Engineering Projects**

4 FOR the purpose of exempting certain public improvements made by Morgan State
5 University from the Capital Improvement Program; repealing a certain
6 provision regarding the responsibility of the Department of General Services to
7 advise the University on certain engineering questions or certain public
8 improvements; specifying that certain procurement of supplies, services, and
9 construction by the University is subject to the Small Business Preference
10 Program; making certain technical corrections; altering a certain definition; and
11 generally relating to public improvement and engineering projects of Morgan
12 State University.

13 BY repealing and reenacting, without amendments,
14 Article - State Finance and Procurement
15 Section 4-401(d), 4-410, 4-410.1, and 14-201
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2004 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - State Finance and Procurement
20 Section 4-402(a), 4-406(a) and (b), 5-7B-01(d)(1)(v), and 14-202(a)
21 Annotated Code of Maryland
22 (2001 Replacement Volume and 2004 Supplement)

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

1 **Article - State Finance and Procurement**

2 4-401.

3 (d) "Public improvement" includes any construction, maintenance, or repair of
4 any building, structure, or other public work:5 (1) owned or constructed by the State or any unit of the State
6 government, including the University System of Maryland, St. Mary's College of
7 Maryland, and Morgan State University; or

8 (2) acquired or constructed in whole or in part with State funds.

9 4-402.

10 (a) (1) Except as provided in § 4-409 of this subtitle, this subtitle does not
11 apply to any public improvement made by:

12 (i) the Department of Transportation or a unit in that Department;

13 (ii) any housing authority created under Article 44A of the Code;

14 (iii) the Maryland-National Capital Park and Planning
15 Commission;

16 (iv) the Washington Suburban Sanitary Commission;

17 (v) the Baltimore County Metropolitan District;

18 (vi) a county, municipal corporation, or unit of a county or municipal
19 corporation; or

20 (vii) the University System of Maryland; OR

21 (VIII) MORGAN STATE UNIVERSITY.

22 (2) Except as provided in §§ [4-406, 4-410, and 4-410.1] 4-406 AND
23 4-410.1 of this subtitle or as otherwise provided by law, St. Mary's College of Maryland
24 and Morgan State University are subject to the provisions of this subtitle.

25 4-406.

26 (a) (1) [Except as provided in paragraph (4) of this subsection, the] THE
27 Department shall advise the Board of Public Works and any unit of the State
28 government in connection with any engineering question or matter concerning a
29 public improvement.30 (2) The Department shall supervise any engineering question or matter
31 concerning a public improvement.

1 (3) Any contract, plan, or specification for any public improvement that
2 involves an engineering question:

3 (i) shall be submitted to the Department; and

4 (ii) is subject to the approval of the Department.

5 (4) [With respect to any engineering question or a matter concerning a
6 public improvement, the Department shall advise Morgan State University in
7 accordance with the provisions of § 4-410 of this subtitle.

8 (5)] At the request of the Board of Public Works, the Department shall
9 advise the Board of Public Works on any contract that exceeds \$500,000 if the
10 contract involves an engineering question or a matter concerning a public
11 improvement undertaken by the University System of Maryland OR MORGAN STATE
12 UNIVERSITY.

13 (b) Except as provided in [§§ 4-410 and 4-410.1] § 4-410.1 of this subtitle, the
14 Department shall:

15 (1) represent the Board of Public Works at the opening of bids for a
16 public improvement;

17 (2) tabulate and record the bids; and

18 (3) advise the Board of Public Works on the bids.

19 4-410.

20 (a) This section applies to any public improvement project of Morgan State
21 University.

22 (b) In this section, "University" means Morgan State University.

23 (c) For any public improvement project regardless of the source of funds:

24 (1) architectural and engineering services shall be procured in
25 accordance with Title 13, Subtitle 3 of this article;

26 (2) for architectural and engineering services costing more than
27 \$100,000, the Department shall make a recommendation for the award of a contract;

28 (3) for architectural and engineering services costing less than \$100,000,
29 the Department shall make the procurement;

30 (4) for all design projects exceeding \$100,000 in contract value, the
31 University shall submit periodic status reports to the Department; and

32 (5) for all projects exceeding \$500,000 in contract value, the University
33 shall submit periodic status reports to the Department.

1 (d) For any public improvement project financed in whole or in part with
2 proceeds of a consolidated capital bond loan or with State General Fund
3 appropriations, the following additional procedures shall apply:

4 (1) for architectural and engineering contracts exceeding \$100,000, the
5 Department must request the Board of Public Works to authorize the transfer of the
6 contract amount to University funds. Any additional funds that may be needed may
7 be transferred by an action of the Board of Public Works upon review by the
8 Department;

9 (2) plans, specifications, schematics, design development, contract and
10 bid documents shall be reviewed by the Department concurrent with University
11 review;

12 (3) the Department may have a representative present at bid openings;

13 (4) the University shall analyze construction bids, recommend contractor
14 selections, and notify the Department of its recommended selection and the date the
15 item will be on the Board of Public Works' agenda;

16 (5) the Department shall prepare an agenda item for the Board of Public
17 Works authorizing transfer to the University of the funds equal to the contract, plus
18 5% for use as a contingency fund for change orders. If the 5% contingency fund is
19 insufficient to complete the project, the Department shall review the change
20 conditions and make a recommendation to the Board of Public Works concerning the
21 transfer of additional funds;

22 (6) all program changes not authorized in the original scope of the
23 project shall be approved by the Department of Budget and Management and the
24 Department prior to commitment by the University;

25 (7) at completion of the project, any unused amount of construction
26 contingency funds or planning fund authorization shall be returned to the Board of
27 Public Works by an action agenda item of the University; and

28 (8) the Department shall be part of the final inspection of the project and
29 final acceptance may not occur without the Department's concurrence.

30 (e) (1) For any public improvement project funded solely from funds other
31 than State general funds or the proceeds of a general obligation bond loan, the
32 University is responsible for procuring public improvement and public
33 improvement-related services, for planning, and for management of all aspects of the
34 project.

35 (2) Any contract under this subsection is subject to approval by the
36 Board of Public Works.

1 4-410.1.

2 (a) For purposes of this section, "College" means St. Mary's College of
3 Maryland.

4 (b) (1) For any public improvement project funded solely from funds other
5 than State general funds or the proceeds of a general obligation bond loan, the College
6 is responsible for procuring public improvement and public improvement-related
7 services, for planning, and for management of all aspects of the project.

8 (2) Any contract under this subsection is subject to approval by the
9 Board of Public Works.

10 5-7B-01.

11 (d) (1) "Growth-related project" means only the items set forth below:

12 (v) except as provided in paragraph (2) of this subsection,
13 procurement or funding of projects by the Department of General Services for:

14 1. leases of property by the State governed by §§ 4-318
15 through 4-321 of this article;

16 2. public improvements governed by [§§ 4-410 and 4-410.1]
17 § 4-410.1 of this article; and

18 3. land acquisition governed by §§ 4-411 through 4-416 of
19 this article.

20 14-201.

21 (a) In this subtitle the following words have the meanings indicated.

22 (b) "Small business" means a business that meets the qualifications
23 established under § 14-203 of this subtitle.

24 (c) "Small business preference" means a purchase request for which bids are
25 invited from a list of qualified bidders that includes small businesses.

26 14-202.

27 (a) This subtitle applies to procurement of supplies, services, and construction
28 related services by:

29 (1) the Department of General Services;

30 (2) the Department of Transportation;

31 (3) the University System of Maryland; [and]

32 (4) MORGAN STATE UNIVERSITY; AND

1 [(4)] (5) as provided in subsection (b) of this section, the Department of
2 Public Safety and Correctional Services in connection with construction of a State
3 correctional facility under § 12-107 of this article.

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