SB 179

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 179 (Senator Conway, *et al.*)
Education, Health, and Environmental Affairs Appropriations

Higher Education - Morgan State University - Authority

This bill exempts Morgan State University (MSU) from certain elements of the statewide Capital Improvement Program (CIP) process, including Department of General Services (DGS) management of MSU capital contract selection and management. The Board of Public Works may request DGS input on MSU capital public improvement projects valued over $500,000. The bill also removes public improvement projects by MSU from the list of statutorily designated "growth-related projects" that are restricted to statutorily designated "priority funding areas." Finally, the bill makes MSU procurements subject to the Small Business Preference Program.

Fiscal Summary

State Effect: None. MSU could handle the bill's requirements with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill further expands the powers of MSU to include the acquisition of property, the borrowing of money for any corporate purpose, and to sue or be sued. The bill also provides that the Maryland Higher Education Commission (MHEC) may only review and comment on the operating and capital budgets of MSU within the broad context of the State Plan for Higher Education. MHEC may not recommend against a budget item approved by the MSU Board of Regents unless the item is clearly inconsistent with the State Plan for Higher Education.

The bill provides that the Board of Regents of MSU may establish, invest in, finance, and operate businesses or business entities when it furthers goals of the university. MSU must submit to the Governor and the General Assembly an annual report of these entities, funds invested, and ownership interests. MSU can retain at year end all appropriated general funds rather than having the funds revert to the State.

Current Law:

Capital Improvement Funding and Procurement Process

DGS manages projects included in the State's CIP, except for projects from the following exempt agencies:

- Maryland Department of Transportation;
- any housing authority created under Article 44A;
- Maryland-National Capital Park and Planning Commission;
- Washington Suburban Sanitary Commission;
- Baltimore County Metropolitan District;
- a county, municipal corporation, or unit of a municipal corporation; and
- University System of Maryland.

MSU is grouped with the remaining State agencies under DGS control for capital public improvements. The agency creates the program plan for the project and submits the plan to the Department of Budget and Management for inclusion in CIP. If the project is included in CIP, DGS creates a cost estimate worksheet and DBM then submits the project as part of the annual Maryland Consolidated Capital Bond Loan to the General Assembly. If the project is approved by the General Assembly, then DGS bids out the Architectural and Engineering (A/E) contract. Should the A/E contract exceed $100,000, then the contract must be approved by the Board of Public Works before any funds may be transferred to DGS, or appropriate requesting agency.

State Economic Growth, Resource Protection, and Planning Policy

The State Economic Growth, Resource Protection, and Planning Policy dictates that:

- development shall be concentrated in suitable areas;
- sensitive areas shall be protected;
- in rural areas, growth shall be directed to existing population centers and resource areas shall be protected;

- stewardship of the Chesapeake Bay and the land shall be a universal ethic;
- conservation of resources, including a reduction in resource consumption, shall be practiced;
- to encourage the achievement of the preceding five items, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;
- adequate public facilities and infrastructure are available or planned in areas where growth is to occur; and
- funding mechanisms shall be addressed to achieve this policy.

Statute further states that with few exceptions, State public works, transportation, or major capital improvement projects funded through State or federal funds will not be funded if the project is not consistent with the above policy.

The policy further defines certain capital expenditures as growth-related projects, and certain geographic areas as priority-funding areas. With few exceptions, growth-related projects may not be funded if the projects are not located in priority-funding areas. MSU public improvements are designated as growth-related projects.

The Small Business Preference Program provides that a small certified small business is entitled to be awarded a contract procured by competitive sealed bidding if its bid does not exceed a lower bid from a non-small business by more than 5%. This applies to procurements by DGS, the Maryland Department of Transportation, the University System of Maryland, and the Department of Public Safety and Correctional Services for construction of correctional facilities.

Background: MSU was granted a general exemption from the general procurement laws by Chapter 273 of 2004. Chapter 273 initially included the concepts of this bill, but those provisions were not included in the final version of the bill. DGS thus retains authority over MSU's capital improvement process.

The bill aligns MSU autonomy and procurement laws with those of USM, which was granted many of these powers in Chapter 515 of 1999, commonly referred to as the Larson bill.

Additional Information

Prior Introductions: SB 430 of 2004 (Chapter 273) included the contents of this bill, but these provisions were not included in the final enrolled bill.

Cross File: None.

Information Source(s): Department of General Services, Board of Public Works, Morgan State University, Department of Legislative Services

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