
By: **Delegates Jones, Bohanan, Anderson, Branch, Cane, Doory, Haynes,
Jameson, Levy, Mayer, O'Donnell, Paige, Proctor, and Wood**

Introduced and read first time: February 14, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education - Morgan State University and St. Mary's College of**
3 **Maryland - Authority**

4 FOR the purpose of authorizing the Maryland Higher Education Commission to
5 review and comment on the operating and capital budgets of the Board of
6 Regents of Morgan State University only within a certain context; prohibiting
7 the Commission from recommending against a certain budget item except under
8 certain circumstances; designating Morgan State University as a certain entity;
9 authorizing the University to adopt a certain seal, maintain a certain office,
10 enter into certain contracts, and, in accordance with a certain requirement
11 under certain circumstances, acquire, hold, lease, use, encumber, transfer,
12 exchange, or dispose of certain property; authorizing the Board of Regents to
13 establish, invest in, finance, and operate certain businesses or certain business
14 entities under certain circumstances; clarifying the status of certain business
15 entities and certain financial obligations; requiring the Board of Regents to
16 submit a certain report; exempting certain public improvements made by
17 Morgan State University and St. Mary's College of Maryland from the Capital
18 Improvement Program; repealing a certain provision regarding the
19 responsibility of the Department of General Services to advise Morgan State
20 University and St. Mary's College of Maryland on certain engineering questions
21 or certain public improvements; requiring the Department of General Services
22 to advise the Board of Public Works on certain contracts for Morgan State
23 University and St. Mary's College of Maryland that exceed a certain dollar
24 amount under certain circumstances; requiring certain procurements for St.
25 Mary's College of Maryland to comply with certain policies and procedures;
26 requiring certain procurements of St. Mary's College of Maryland to be subject
27 to review and approval by the Board of Public Works; providing that a public
28 improvement of St. Mary's College of Maryland includes any public
29 improvement of the Historic St. Mary's City Commission; specifying that certain
30 procurement of supplies, services, and construction by the University is subject
31 to the Small Business Preference Program; requiring the President of Morgan
32 State University to establish the criteria for qualification as a small business;
33 making certain technical corrections; altering a certain definition; repealing a
34 certain provision; and generally relating to the authority of Morgan State

1 University and St. Mary's College of Maryland.

2 BY repealing and reenacting, with amendments,
3 Article - Education
4 Section 11-105(i)(4), 14-101, and 14-104(p)(6)
5 Annotated Code of Maryland
6 (2004 Replacement Volume and 2005 Supplement)

7 BY repealing and reenacting, without amendments,
8 Article - Education
9 Section 14-104(a)
10 Annotated Code of Maryland
11 (2004 Replacement Volume and 2005 Supplement)

12 BY adding to
13 Article - Education
14 Section 14-104(a-1) and (q) and 14-110
15 Annotated Code of Maryland
16 (2004 Replacement Volume and 2005 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - State Finance and Procurement
19 Section 4-401(d) and 14-201
20 Annotated Code of Maryland
21 (2001 Replacement Volume and 2005 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - State Finance and Procurement
24 Section 4-402(a), 4-406(a) and (b), 5-7B-01(d)(1)(v), 7-306(a), 14-202(a), and
25 14-203
26 Annotated Code of Maryland
27 (2001 Replacement Volume and 2005 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article - State Finance and Procurement
30 Section 11-203
31 Annotated Code of Maryland
32 (2001 Replacement Volume and 2005 Supplement)
33 (As enacted by Chapter 402 of the Acts of the General Assembly of 2003 and
34 Chapter 515 of the Acts of the General Assembly of 2004)

35 BY repealing
36 Article - State Finance and Procurement
37 Section 4-410 and 4-410.1

1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2005 Supplement)

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 11-105.

7 (i) (4) In submitting recommendations pursuant to paragraph (2) of this
8 subsection, the Commission shall comment on the overall level of funding for higher
9 education in order to achieve the goals established in the State Plan for Higher
10 Education, and may comment regarding funding priorities among segments of higher
11 education and, within public senior higher education, among institutions. In
12 reviewing the various budgets and submitting recommendations thereon, the
13 Commission:

14 (i) May not require, of any segment or institution, a detailed
15 budget presentation that tends to duplicate other presentations required in the
16 budget process;

17 (ii) As to the funding priority of any institution, may comment only
18 on the entity as a whole and not on any separate unit of the institution; and

19 (iii) As to the operating and capital budgets of the Board of Regents
20 of the University System of Maryland AND THE BOARD OF REGENTS OF MORGAN
21 STATE UNIVERSITY:

22 1. May review and comment only within the broad context of
23 the State Plan for Higher Education; and

24 2. May not recommend against a budget item approved by
25 the Board of Regents unless the item is clearly inconsistent with the State Plan for
26 Higher Education.

27 14-101.

28 (A) (1) THERE IS A BODY CORPORATE AND POLITIC KNOWN AS MORGAN
29 STATE UNIVERSITY.

30 (2) THE UNIVERSITY IS AN INSTRUMENTALITY OF THE STATE AND A
31 PUBLIC CORPORATION.

32 (3) THE UNIVERSITY IS AN INDEPENDENT UNIT OF STATE
33 GOVERNMENT.

34 (4) THE EXERCISE BY THE UNIVERSITY OF THE POWERS CONFERRED BY
35 THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

1 [(a)] (B) [There is a] Morgan State University[, which]:

2 (1) Has the responsibility, with other educational institutions, for
3 providing higher education research and graduate study in the Baltimore area;

4 (2) Is the State's public urban university with a mission of instruction,
5 research, and service;

6 (3) Offers baccalaureate and graduate degrees in the arts and sciences;

7 (4) Emphasizes an education addressing urban concerns; and

8 (5) Offers the professional and graduate programs approved by its Board
9 of Regents and the Maryland Higher Education Commission.

10 [(b)] (C) (1) In this subtitle the following words have the meanings
11 indicated.

12 (2) "Board of Regents" means the Board of Regents of Morgan State
13 University.

14 (3) "University" means Morgan State University.

15 14-104.

16 (a) In addition to any other powers granted and duties imposed by this
17 subtitle, and subject to the provisions of Title 11 of this article and any other
18 restrictions imposed by law by specific reference to the University or by any trust
19 agreement involving a pledge of property or money, the Board of Regents:

20 (1) Is responsible for the management of Morgan State University and
21 has all the powers, rights, and privileges that go with that responsibility, including
22 the powers and duties set forth in this section;

23 (2) May not be superseded in its authority by any other State agency or
24 office in managing the affairs of Morgan State University; and

25 (3) Shall have all the powers of a Maryland corporation which are not
26 limited by law by specific reference to the University.

27 (A-1) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE,
28 THE UNIVERSITY MAY:

29 (1) ADOPT AND ALTER AN OFFICIAL SEAL;

30 (2) MAINTAIN AN OFFICE AT THE PLACE THE BOARD OF REGENTS MAY
31 DESIGNATE;

32 (3) ENTER INTO CONTRACTS OF ANY KIND, AND EXECUTE ALL
33 INSTRUMENTS NECESSARY OR CONVENIENT WITH RESPECT TO ITS CARRYING OUT

1 THE POWERS IN THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THE
2 UNIVERSITY; AND

3 (4) IN ACCORDANCE WITH SUBSECTION (P)(6) OF THIS SECTION,
4 ACQUIRE, HOLD, LEASE, USE, ENCUMBER, TRANSFER, EXCHANGE, OR DISPOSE OF
5 REAL AND PERSONAL PROPERTY.

6 (p) (6) (i) Subject to the approval of the Board of Public Works, the
7 [Board] BOARD OF REGENTS may acquire, lease, encumber, sell, or otherwise dispose
8 of real property held by the State for the use of the University.

9 (ii) The [Board] BOARD OF REGENTS may acquire, lease,
10 encumber, sell, or otherwise dispose of personal property.

11 (iii) All property of the University is the property of the State.

12 (Q) (1) EXCEPT AS PROVIDED IN SUBSECTION (J)(1) OF THIS SECTION, THE
13 BOARD OF REGENTS MAY DELEGATE ANY PART OF ITS AUTHORITY OVER THE
14 AFFAIRS OF THE UNIVERSITY TO THE PRESIDENT.

15 (2) THE BOARD OF REGENTS MAY MODIFY OR RESCIND AT ANY TIME IN
16 WHOLE OR IN PART ANY DELEGATION OF AUTHORITY GRANTED BY IT TO THE
17 PRESIDENT.

18 14-110.

19 (A) CONSISTENT WITH § 15-107 OF THIS ARTICLE AND ANY OTHER
20 APPLICABLE LAW, THE BOARD OF REGENTS MAY ESTABLISH, INVEST IN, FINANCE,
21 AND OPERATE BUSINESSES OR BUSINESS ENTITIES WHEN THE BOARD OF REGENTS
22 FINDS THAT DOING SO WOULD FURTHER ONE OR MORE GOALS OF THE UNIVERSITY
23 AND IS RELATED TO THE MISSION OF THE UNIVERSITY.

24 (B) (1) A BUSINESS ENTITY ESTABLISHED, INVESTED IN, FINANCED, OR
25 OPERATED IN ACCORDANCE WITH THIS SUBSECTION MAY NOT BE CONSIDERED AN
26 AGENCY OR INSTRUMENTALITY OF THE STATE OR A UNIT OF THE EXECUTIVE
27 BRANCH FOR ANY PURPOSE.

28 (2) A FINANCIAL OBLIGATION OR LIABILITY OF A BUSINESS ENTITY
29 ESTABLISHED, INVESTED IN, FINANCED, OR OPERATED IN ACCORDANCE WITH THIS
30 SUBSECTION MAY NOT BE A DEBT OR OBLIGATION OF THE STATE OR THE
31 UNIVERSITY.

32 (C) THE BOARD OF REGENTS SHALL SUBMIT TO THE GOVERNOR AND, IN
33 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
34 ASSEMBLY AN ANNUAL REPORT ON:

35 (1) THE BUSINESS ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS
36 SECTION;

1 (2) FUNDS INVESTED IN AND FINANCING PROVIDED TO BUSINESS
2 ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION;

3 (3) OWNERSHIP INTERESTS IN ANY BUSINESS ENTITIES ESTABLISHED
4 IN ACCORDANCE WITH THIS SECTION; AND

5 (4) THE CURRENT STATUS OF THE BUSINESS ENTITIES.

6 **Article - State Finance and Procurement**

7 4-401.

8 (d) "Public improvement" includes any construction, maintenance, or repair of
9 any building, structure, or other public work:

10 (1) owned or constructed by the State or any unit of the State
11 government, including the University System of Maryland, St. Mary's College of
12 Maryland, and Morgan State University; or

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

14 4-402.

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

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

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

19 (iii) the Maryland-National Capital Park and Planning
20 Commission;

21 (iv) the Washington Suburban Sanitary Commission;

22 (v) the Baltimore County Metropolitan District;

23 (vi) a county, municipal corporation, or unit of a county or municipal
24 corporation; [or]

25 (vii) the University System of Maryland;

26 (VIII) MORGAN STATE UNIVERSITY; OR

27 (IX) ST. MARY'S COLLEGE OF MARYLAND.

28 (2) [Except as provided in §§ 4-406, 4-410, and 4-410.1 of this subtitle
29 or as otherwise provided by law, St. Mary's College of Maryland and Morgan State
30 University are subject to the provisions of this subtitle.] FOR PURPOSES OF THIS
31 SUBTITLE, A PUBLIC IMPROVEMENT OF ST. MARY'S COLLEGE OF MARYLAND

1 INCLUDES ANY PUBLIC IMPROVEMENT OF THE HISTORIC ST. MARY'S CITY
2 COMMISSION.

3 4-406.

4 (a) (1) [Except as provided in paragraph (4) of this subsection, the] THE
5 Department shall advise the Board of Public Works and any unit of the State
6 government in connection with any engineering question or matter concerning a
7 public improvement.

8 (2) The Department shall supervise any engineering question or matter
9 concerning a public improvement.

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

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

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

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

17 (5) At the request of the Board of Public Works, the Department shall
18 advise the Board of Public Works on any contract that exceeds \$500,000 if the
19 contract involves an engineering question or a matter concerning a public
20 improvement undertaken by the University System of Maryland, MORGAN STATE
21 UNIVERSITY, OR ST. MARY'S COLLEGE OF MARYLAND.

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

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

26 (2) tabulate and record the bids; and

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

28 [4-410.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (5) the Department shall prepare an agenda item for the Board of Public
25 Works authorizing transfer to the University of the funds equal to the contract, plus
26 5% for use as a contingency fund for change orders. If the 5% contingency fund is
27 insufficient to complete the project, the Department shall review the change
28 conditions and make a recommendation to the Board of Public Works concerning the
29 transfer of additional funds;

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

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

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

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

6 (2) Any contract under this subsection is subject to approval by the
 7 Board of Public Works.]

8 [4-410.1.

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

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

15 (2) Any contract under this subsection is subject to approval by the
 16 Board of Public Works.]

17 5-7B-01.

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

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

21 1. leases of property by the State governed by §§ 4-318
 22 through 4-321 of this article; AND

23 2. [public improvements governed by §§ 4-410 and 4-410.1
 24 of this article; and

25 3.] land acquisition governed by §§ 4-411 through 4-416 of
 26 this article.

27 7-306.

28 (a) This section applies only to [the following:

29 (1) Morgan State University; and

30 (2)] St. Mary's College of Maryland.

31 11-203.

32 (a) Except as provided in subsection (b) of this section, this Division II does
 33 not apply to:

- 1 (1) procurement by:
- 2 (i) the Blind Industries and Services of Maryland;
- 3 (ii) the Maryland State Arts Council, for the support of the arts;
- 4 (iii) the Maryland Health and Higher Educational Facilities
5 Authority, if no State money is to be spent on a procurement contract;
- 6 (iv) the Maryland Higher Education Supplemental Loan Authority,
7 if no State money is to be spent on a procurement contract;
- 8 (v) the Maryland Industrial Training Program or the Partnership
9 for Workforce Quality Program in the Department of Business and Economic
10 Development, for training services or programs for new or expanding businesses or
11 industries or businesses or industries in transition;
- 12 (vi) the Maryland Food Center Authority, to the extent the
13 Authority is exempt under Title 13, Subtitle 1 of Article 41 of the Code;
- 14 (vii) the Maryland Public Broadcasting Commission:
- 15 1. for services of artists for educational and cultural
16 television productions; or
- 17 2. when planning for or fulfilling the obligations of grants or
18 cooperative agreements that support the educational and cultural activities of the
19 Commission;
- 20 (viii) public institutions of higher education, for cultural,
21 entertainment, and intercollegiate athletic procurement contracts;
- 22 (ix) the Maryland State Planning Council on Developmental
23 Disabilities, for services to support demonstration, pilot, and training programs;
- 24 (x) the Maryland Automobile Insurance Fund;
- 25 (xi) the Maryland Historical Trust for:
- 26 1. surveying and evaluating architecturally, archeologically,
27 historically, or culturally significant properties; and
- 28 2. other than as to architectural services, preparing historic
29 preservation planning documents and educational material;
- 30 (xii) the University of Maryland, for University College Overseas
31 Programs, if the University adopts regulations that:
- 32 1. establish policies and procedures governing procurement
33 for University College Overseas Programs; and

1 2. promote the purposes stated in § 11-201(a) of this subtitle;

2 (xiii) [St. Mary's College of Maryland;

3 (xiv)] the Department of Business and Economic Development, for
4 negotiating and entering into private sector cooperative marketing projects that
5 directly enhance promotion of Maryland and the tourism industry where there will be
6 a private sector contribution to the project if not less than 50% of the total cost of the
7 project, if the project is reviewed by the Attorney General and approved by the
8 Secretary of Business and Economic Development or the Secretary's designee;

9 [(xv)] (XIV) the Rural Maryland Council;

10 [(xvi)] (XV) the Maryland State Lottery Agency, for negotiating and
11 entering into private sector cooperative marketing projects that directly enhance
12 promotion of the Maryland State Lottery and its products, if the cooperative
13 marketing project:

14 1. provides a substantive promotional or marketing value
15 that the lottery determines acceptable in exchange for advertising or other
16 promotional activities provided by the lottery;

17 2. does not involve the advertising or other promotion of
18 alcohol or tobacco products; and

19 3. is reviewed by the Attorney General and approved by the
20 Maryland Lottery Director or the Director's designee;

21 [(xvii)] (XVI) the Maryland Health Insurance Plan established
22 under Title 14, Subtitle 5 of the Insurance Article;

23 [(xviii)] (XVII) the Maryland Energy Administration, when
24 negotiating or entering into grants or cooperative agreements with private entities to
25 meet federal specifications or solicitation requirements related to energy
26 conservation, energy efficiency, or renewable energy projects that benefit the State;
27 and

28 [(xix)] (XVIII) the Maryland Developmental Disabilities
29 Administration of the Department of Health and Mental Hygiene for family and
30 individual support services, and individual family care services, as those terms are
31 defined by the Department of Health and Mental Hygiene in regulation;

32 (2) procurement by a unit from:

33 (i) another unit;

34 (ii) a political subdivision of the State;

35 (iii) an agency of a political subdivision of the State;

1 (iv) a government, including the government of another state, of the
2 United States, or of another country;

3 (v) an agency or political subdivision of a government; or

4 (vi) a bistate, multistate, bicounty, or multicounty governmental
5 agency; or

6 (3) procurement in support of enterprise activities for the purpose of:

7 (i) direct resale; or

8 (ii) remanufacture and subsequent resale.

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

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

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

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

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

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

19 (vi) Title 12, Subtitle 4 of this article ("Policies and Procedures for
20 Exempt Units");

21 (vii) Title 16 of this article ("Debarment of Contractors"); and

22 (viii) Title 17 of this article ("Special Provisions - State and Local
23 Subdivisions").

24 (2) A procurement by an entity listed in subsection (a)(1)(i) through
25 [(xv)] (XIV) and [(xix)] (XVIII) of this section shall be made under procedures that
26 promote the purposes stated in § 11-201(a) of this subtitle.

27 (3) (i) A unit that procures human, social, or educational services from
28 an entity enumerated in subsection (a)(2) of this section shall publish in eMaryland
29 Marketplace notice of a procurement contract or an extension or renewal of a
30 procurement contract if:

31 1. the procurement contract, extension, or renewal costs
32 more than \$25,000; and

1 2. the procurement is made for 3rd party clients described in
2 § 13-106 of this article.

3 (ii) The notice required under this paragraph shall be published not
4 more than 30 days after the execution and approval of the procurement contract or
5 the extension or renewal of the procurement contract.

6 (4) The purchase of advisory services from the General Selection Board
7 or the Transportation Selection Board under § 13-305 of this article shall be governed
8 by the Maryland Architectural and Engineering Services Act.

9 (c) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this
10 article, this Division II does not apply to the Maryland Stadium Authority.

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

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

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

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

21 (4) services related to the administration of the Postretirement Health
22 Benefits Trust Fund.

23 (e) (1) In this subsection, "University" means the University System of
24 Maryland [or], Morgan State University, OR ST. MARY'S COLLEGE OF MARYLAND.

25 (2) Except as otherwise provided in this subsection, this Division II does
26 not apply to the University System of Maryland [or], Morgan State University, OR ST.
27 MARY'S COLLEGE OF MARYLAND.

28 (3) (i) A procurement by a University shall comply with the policies
29 and procedures developed by the University and approved by the Board of Public
30 Works and the Administrative, Executive, and Legislative Review Committee of the
31 General Assembly in accordance with § 12-112 of the Education Article for the
32 University System of Maryland [or], § 14-109 of the Education Article for Morgan
33 State University, OR § 14-405(F) OF THE EDUCATION ARTICLE FOR ST. MARY'S
34 COLLEGE OF MARYLAND.

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

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

5 (4) A University's policies shall:

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

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

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

- 13 1. § 11-205 of this subtitle ("Fraud in procurement");
- 14 2. § 11-205.1 of this subtitle ("Falsification of material
15 facts");
- 16 3. § 13-219 of this article ("Required clauses -
17 Nondiscrimination clause");
- 18 4. § 13-225 of this article ("Retainage");
- 19 5. Title 14, Subtitle 3 of this article ("Minority Business
20 Participation");
- 21 6. Title 15, Subtitle 1 of this article ("Procurement Contract
22 Administration");
- 23 7. § 15-226 of this article ("Prompt payment of
24 subcontractors"); and
- 25 8. Title 16 of this article ("Debarment of Contractors").

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

29 (6) (i) The State Board of Contract Appeals shall have authority over
30 contract claims related to procurement contracts awarded by:

- 31 1. the University System of Maryland before July 1, 1999;
32 and
- 33 2. Morgan State University before July 1, 2004.

1 (ii) At the election of the Board of Regents of the University System
 2 of Maryland and subject to the approval of the Board of Public Works, the State Board
 3 of Contract Appeals shall have authority over contract claims related to procurement
 4 contracts awarded by the University after June 30, 1999.

5 (iii) At the election of the Board of Regents of Morgan State
 6 University and subject to the approval of the Board of Public Works, the State Board
 7 of Contract Appeals shall have authority over contract claims related to procurement
 8 contracts awarded by the University after June 30, 2004.

9 (IV) AT THE ELECTION OF THE BOARD OF TRUSTEES OF ST. MARY'S
 10 COLLEGE OF MARYLAND AND SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC
 11 WORKS, THE STATE BOARD OF CONTRACT APPEALS SHALL HAVE AUTHORITY OVER
 12 CONTRACT CLAIMS RELATED TO PROCUREMENT CONTRACTS AWARDED BY ST.
 13 MARY'S COLLEGE OF MARYLAND AFTER JUNE 30, 2006.

14 (7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

15 (i) procurement by a University from:

- 16 1. another unit;
- 17 2. a political subdivision of the State;
- 18 3. an agency of a political subdivision of the State;
- 19 4. a government, including the government of another state,
 20 of the United States, or of another country;
- 21 5. an agency or political subdivision of a government; or
- 22 6. a bistate, multistate, bicounty, or multicounty
 23 governmental agency;

24 (ii) procurement by a University in support of enterprise activities
 25 for the purpose of:

- 26 1. direct resale;
- 27 2. remanufacture and subsequent resale; or
- 28 3. procurement by the University for overseas programs; or

29 (iii) procurement by the University System of Maryland for:

- 30 1. services of managers to invest, in accordance with the
 31 management and investment policies adopted by the Board of Regents of the
 32 University System of Maryland, gift and endowment assets received by the
 33 University System of Maryland in accordance with § 12-104(e) of the Education
 34 Article; or

1 2. expenditures to manage, maintain, and enhance, in
2 accordance with the management and investment policies adopted by the Board of
3 Regents of the University System of Maryland, the value of gift and endowment
4 assets received by the University System of Maryland in accordance with § 12-104(e)
5 of the Education Article.

6 (f) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this
7 article, this Division II does not apply to the College Savings Plans of Maryland for:

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

12 (2) expenditures to manage, maintain, and enhance the value of the
13 assets of the Maryland Prepaid College Trust in accordance with the comprehensive
14 investment plan adopted by the College Savings Plans of Maryland Board under §
15 18-1906 of the Education Article.

16 14-201.

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

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

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

22 14-202.

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

25 (1) the Department of General Services;

26 (2) the Department of Transportation;

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

28 (4) MORGAN STATE UNIVERSITY; AND

29 [(4)] (5) as provided in subsection (b) of this section, the Department of
30 Public Safety and Correctional Services in connection with construction of a State
31 correctional facility under § 12-107 of this article.

32 14-203.

33 (a) By regulation, the Secretary of General Services, the Secretary of
34 Transportation, [and] the Chancellor of the University System of Maryland, AND

1 THE PRESIDENT OF MORGAN STATE UNIVERSITY each shall specify the criteria that a
2 business must meet to qualify as a small business.

3 (b) (1) The criteria for qualification as a small business may vary among
4 industries to reflect their particular characteristics.

5 (2) Regulations adopted under this section shall include, for each class of
6 business, the maximum number of employees a business may have to qualify as a
7 small business.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2006.