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

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Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2006

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CHAPTER \_\_\_\_\_

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 ~~the~~ 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; specifying St. Mary's

1 College as a primary procurement unit; specifying that certain procurement of  
2 supplies, services, and construction by ~~the~~ Morgan State University is subject to  
3 the Small Business Preference Program; requiring the President of Morgan  
4 State University to establish the criteria for qualification as a small business;  
5 making certain technical corrections; altering a certain definition; repealing a  
6 certain provision; and generally relating to the authority of Morgan State  
7 University and St. Mary's College of Maryland.

8 BY repealing and reenacting, with amendments,  
9 Article - Education  
10 Section 11-105(i)(4), 14-101, and 14-104~~(b)~~ and (p)(6)  
11 Annotated Code of Maryland  
12 (2004 Replacement Volume and 2005 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article - Education  
15 Section 14-104(a)  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume and 2005 Supplement)

18 BY adding to  
19 Article - Education  
20 Section 14-104~~(b)~~ (a-1) and (q) and 14-110  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume and 2005 Supplement)

23 BY repealing and reenacting, without amendments,  
24 Article - State Finance and Procurement  
25 Section 4-401(d), ~~4-410.1~~, and 14-201  
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 4-402(a), 4-406(a) and (b), 5-7B-01(d)(1)(v), 7-306(a), 11-101(l),  
31 14-202(a), and 14-203  
32 Annotated Code of Maryland  
33 (2001 Replacement Volume and 2005 Supplement)

34 BY repealing and reenacting, with amendments,  
35 Article - State Finance and Procurement  
36 Section 11-203  
37 Annotated Code of Maryland  
38 (2001 Replacement Volume and 2005 Supplement)

1 (As enacted by Chapter 402 of the Acts of the General Assembly of 2003 and  
2 Chapter 515 of the Acts of the General Assembly of 2004)

3 BY repealing

4 Article - State Finance and Procurement

5 Section 4-410 and 4-410.1

6 Annotated Code of Maryland

7 (2001 Replacement Volume and 2005 Supplement)

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

10 **Article - Education**

11 11-105.

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

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

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

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

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

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

32 14-101.

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

35 (2) THE UNIVERSITY IS AN INSTRUMENTALITY OF THE STATE AND A  
36 PUBLIC CORPORATION.

1 (3) THE UNIVERSITY IS AN INDEPENDENT UNIT OF STATE  
2 GOVERNMENT.

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

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

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

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

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

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

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

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

16 (2) "Board of Regents" means the Board of Regents of Morgan State  
17 University.

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

19 14-104.

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

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

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

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

31 ~~(B)~~ (A-1) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS  
32 SUBTITLE, THE UNIVERSITY MAY:

33 (1) ADOPT AND ALTER AN OFFICIAL SEAL;

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

3 (3) ENTER INTO CONTRACTS OF ANY KIND, AND EXECUTE ALL  
4 INSTRUMENTS NECESSARY OR CONVENIENT WITH RESPECT TO ITS CARRYING OUT  
5 THE POWERS IN THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THE  
6 UNIVERSITY; AND

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

10 ~~{(b)}~~ ~~(C)~~ In addition to the powers set forth in Title 19 of this article and  
11 subject to the approval of the Board of Public Works, the University may borrow  
12 money from any source for any corporate purpose, including working capital for its  
13 operations, reserve funds or interest, and mortgage, pledge, or otherwise encumber  
14 the property or funds of the University, and contract with or engage the services of  
15 any person in connection with any financing, including financial institutions, issuers  
16 of credit, or insurers.

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

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

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

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

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

29 14-110.

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

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

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

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

8 (1) THE BUSINESS ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS  
 9 SECTION;

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

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

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

15 **Article - State Finance and Procurement**

16 4-401.

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

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

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

23 4-402.

24 (a) ~~(i)~~ Except as provided in § 4-409 of this subtitle, this subtitle does not  
 25 apply to any public improvement made by:

26 ~~(i)~~ (1) the Department of Transportation or a unit in that  
 27 Department;

28 ~~(ii)~~ (2) any housing authority created under Article 44A of the  
 29 Code;

30 ~~(iii)~~ (3) the Maryland-National Capital Park and Planning  
 31 Commission;

32 ~~(iv)~~ (4) the Washington Suburban Sanitary Commission;

33 ~~(v)~~ (5) the Baltimore County Metropolitan District;

1                   ~~(vi)~~    (6)       a county, municipal corporation, or unit of a county or  
2 municipal corporation; [or]

3                   ~~(vii)~~   (7)       the University System of Maryland; ~~OR~~

4                   ~~(viii)~~   (8)       MORGAN STATE UNIVERSITY; OR

5                   (9)       ST. MARY'S COLLEGE OF MARYLAND.

6                   ~~(2)~~       ~~Except as provided in §§ [4-406, 4-410, and 4-410.1] 4-406 AND~~  
7 ~~4-410.1 of this subtitle or as otherwise provided by law, St. Mary's College of Maryland~~  
8 ~~and Morgan State University are subject to the provisions of this subtitle.~~

9 4-406.

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

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

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

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

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

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

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

28           (b)    ~~Except as provided in [§§ 4-410 and 4-410.1] § 4-410.1 of this subtitle, the~~

29           (b)    THE Department shall:

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

32                   (2)    tabulate and record the bids; and

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

1 [4-410.

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

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

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

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

8 (2) for architectural and engineering services costing more than  
9 \$100,000, the Department shall make a recommendation for the award of a contract;

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

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

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

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

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

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

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

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

31 (5) the Department shall prepare an agenda item for the Board of Public  
32 Works authorizing transfer to the University of the funds equal to the contract, plus  
33 5% for use as a contingency fund for change orders. If the 5% contingency fund is  
34 insufficient to complete the project, the Department shall review the change  
35 conditions and make a recommendation to the Board of Public Works concerning the  
36 transfer of additional funds;



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

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

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

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

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

16 [4-410.1.

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

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

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

25 5-7B-01.

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

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

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

31 2. ~~public improvements governed by [§§ 4-410 and 4-410.1]~~  
 32 ~~§ 4-410.1 of this article; and~~

33 3. land acquisition governed by §§ 4-411 through 4-416 of  
 34 this article.

1 7-306.

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

3 (1) Morgan State University; and

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

5 11-101.

6 (l) "Primary procurement units" means:

7 (1) the State Treasurer;

8 (2) the Department of Budget and Management;

9 (3) the Department of General Services;

10 (4) the Department of Transportation;

11 (5) the University System of Maryland;

12 (6) the Maryland Port Commission;

13 (7) the Department of Public Safety and Correctional Services; [and]

14 (8) the Morgan State University; AND

15 (9) THE ST. MARY'S COLLEGE OF MARYLAND.

16 11-203.

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

19 (1) procurement by:

20 (i) the Blind Industries and Services of Maryland;

21 (ii) the Maryland State Arts Council, for the support of the arts;

22 (iii) the Maryland Health and Higher Educational Facilities

23 Authority, if no State money is to be spent on a procurement contract;

24 (iv) the Maryland Higher Education Supplemental Loan Authority,

25 if no State money is to be spent on a procurement contract;

26 (v) the Maryland Industrial Training Program or the Partnership

27 for Workforce Quality Program in the Department of Business and Economic

28 Development, for training services or programs for new or expanding businesses or

29 industries or businesses or industries in transition;

1                   (vi)     the Maryland Food Center Authority, to the extent the  
2 Authority is exempt under Title 13, Subtitle 1 of Article 41 of the Code;

3                   (vii)    the Maryland Public Broadcasting Commission:

4                                 1.     for services of artists for educational and cultural  
5 television productions; or

6                                 2.     when planning for or fulfilling the obligations of grants or  
7 cooperative agreements that support the educational and cultural activities of the  
8 Commission;

9                   (viii)   public institutions of higher education, for cultural,  
10 entertainment, and intercollegiate athletic procurement contracts;

11                   (ix)     the Maryland State Planning Council on Developmental  
12 Disabilities, for services to support demonstration, pilot, and training programs;

13                   (x)     the Maryland Automobile Insurance Fund;

14                   (xi)     the Maryland Historical Trust for:

15                                 1.     surveying and evaluating architecturally, archeologically,  
16 historically, or culturally significant properties; and

17                                 2.     other than as to architectural services, preparing historic  
18 preservation planning documents and educational material;

19                   (xii)    the University of Maryland, for University College Overseas  
20 Programs, if the University adopts regulations that:

21                                 1.     establish policies and procedures governing procurement  
22 for University College Overseas Programs; and

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

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

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

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

32                                 [(xvi)]   (XV)   the Maryland State Lottery Agency, for negotiating and  
33 entering into private sector cooperative marketing projects that directly enhance  
34 promotion of the Maryland State Lottery and its products, if the cooperative  
35 marketing project;

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

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

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

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

10                               [(xviii)]   (XVII)       the Maryland Energy Administration, when  
 11 negotiating or entering into grants or cooperative agreements with private entities to  
 12 meet federal specifications or solicitation requirements related to energy  
 13 conservation, energy efficiency, or renewable energy projects that benefit the State;  
 14 and

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

19                               (2)       procurement by a unit from:

20                               (i)       another unit;

21                               (ii)       a political subdivision of the State;

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

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

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

26                               (vi)       a bistate, multistate, bicounty, or multicounty governmental  
 27 agency; or

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

29                               (i)       direct resale; or

30                               (ii)       remanufacture and subsequent resale.

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

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

- 1 (ii) § 12-204 of this article ("Board approval for designated  
2 contracts");
- 3 (iii) Title 12, Subtitle 2 of this article ("Supervision of Capital  
4 Expenditures and Real Property Leases");
- 5 (iv) § 13-219 of this article ("Required clauses - Nondiscrimination  
6 clause");
- 7 (v) § 13-221 of this article ("Disclosures to Secretary of State");
- 8 (vi) Title 12, Subtitle 4 of this article ("Policies and Procedures for  
9 Exempt Units");
- 10 (vii) Title 16 of this article ("Debarment of Contractors"); and
- 11 (viii) Title 17 of this article ("Special Provisions - State and Local  
12 Subdivisions").

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

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

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

22 2. the procurement is made for 3rd party clients described in  
23 § 13-106 of this article.

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

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

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

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

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

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

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

6           (4)     services related to the administration of the Postretirement Health  
7 Benefits Trust Fund.

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

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

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

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

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

27           (4)     A University's policies shall:

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

30                                 (ii)     promote the purposes of the regulations adopted by the  
31 Department of General Services governing the procurement of architectural and  
32 engineering services.

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

35                                 1.     § 11-205 of this subtitle ("Fraud in procurement");

36                                 2.     § 11-205.1 of this subtitle ("Falsification of material  
37 facts");

- 1                           3.       § 13-219 of this article ("Required clauses -  
2 Nondiscrimination clause"):
- 3                           4.       § 13-225 of this article ("Retainage");
- 4                           5.       Title 14, Subtitle 3 of this article ("Minority Business  
5 Participation"):
- 6                           6.       Title 15, Subtitle 1 of this article ("Procurement Contract  
7 Administration"):
- 8                           7.       § 15-226 of this article ("Prompt payment of  
9 subcontractors"); and
- 10                          8.       Title 16 of this article ("Debarment of Contractors").

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

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

- 16                           1.       the University System of Maryland before July 1, 1999;  
17 and
- 18                           2.       Morgan State University before July 1, 2004.

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

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

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

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

- 33                           (i)       procurement by a University from:
- 34                           1.       another unit;
- 35                           2.       a political subdivision of the State;

- 1                                   3.       an agency of a political subdivision of the State;
- 2                                   4.       a government, including the government of another state,  
3 of the United States, or of another country;
- 4                                   5.       an agency or political subdivision of a government; or
- 5                                   6.       a bistate, multistate, bicounty, or multicounty  
6 governmental agency;
- 7                           (ii)       procurement by a University in support of enterprise activities  
8 for the purpose of:
- 9                                   1.       direct resale;
- 10                                  2.       remanufacture and subsequent resale; or
- 11                                  3.       procurement by the University for overseas programs; or
- 12                           (iii)       procurement by the University System of Maryland for:
- 13                                  1.       services of managers to invest, in accordance with the  
14 management and investment policies adopted by the Board of Regents of the  
15 University System of Maryland, gift and endowment assets received by the  
16 University System of Maryland in accordance with § 12-104(e) of the Education  
17 Article; or
- 18                                  2.       expenditures to manage, maintain, and enhance, in  
19 accordance with the management and investment policies adopted by the Board of  
20 Regents of the University System of Maryland, the value of gift and endowment  
21 assets received by the University System of Maryland in accordance with § 12-104(e)  
22 of the Education Article.
- 23       (f)       Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this  
24 article, this Division II does not apply to the College Savings Plans of Maryland for:
- 25                           (1)       services of managers to invest the assets of the Maryland Prepaid  
26 College Trust in accordance with the comprehensive investment plan adopted by the  
27 College Savings Plans of Maryland Board under § 18-1906 of the Education Article;  
28 and
- 29                           (2)       expenditures to manage, maintain, and enhance the value of the  
30 assets of the Maryland Prepaid College Trust in accordance with the comprehensive  
31 investment plan adopted by the College Savings Plans of Maryland Board under §  
32 18-1906 of the Education Article.
- 33 14-201.
- 34       (a)       In this subtitle the following words have the meanings indicated.



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

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

5 14-202.

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

8 (1) the Department of General Services;

9 (2) the Department of Transportation;

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

11 (4) MORGAN STATE UNIVERSITY; AND

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

15 14-203.

16 (a) By regulation, the Secretary of General Services, the Secretary of  
17 Transportation, [and] the Chancellor of the University System of Maryland, AND  
18 THE PRESIDENT OF MORGAN STATE UNIVERSITY each shall specify the criteria that a  
19 business must meet to qualify as a small business.

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

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

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