

SENATE BILL 342

P2

6lr2259
CF HB 837

By: **Senators Feldman, Benson, Guzzone, Kelley, Klausmeier, Madaleno, ~~and Pugh~~
Pugh, and Manno**

Introduced and read first time: January 28, 2016

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2016

CHAPTER _____

1 AN ACT concerning

2 **State Finance and Procurement – Public Senior Higher Education Institutions**
3 **– Policies Concerning Procurement Contracts**

4 FOR the purpose of requiring that certain policies of public senior higher education
5 institutions promote certain purposes and be similar to certain provisions concerning
6 required clauses for procurement contracts; and generally relating to public senior
7 higher education institutions and the application of certain policies concerning
8 procurement contracts.

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 11–203(e)
12 Annotated Code of Maryland
13 (2015 Replacement Volume)

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

16 **Article – State Finance and Procurement**

17 11–203.

18 (e) (1) In this subsection, “University” means the University System of
19 Maryland, Morgan State University, or St. Mary’s College of Maryland.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) Except as otherwise provided in this subsection, this Division II does
2 not apply to the University System of Maryland, Morgan State University, or St. Mary's
3 College of Maryland.

4 (3) (i) A procurement by a University shall comply with the policies and
5 procedures developed by the University and approved by the Board of Public Works and
6 the Administrative, Executive, and Legislative Review Committee of the General Assembly
7 in accordance with § 12–112 of the Education Article for the University System of
8 Maryland, § 14–109 of the Education Article for Morgan State University, or § 14–405(f) of
9 the Education Article for St. Mary's College of Maryland.

10 (ii) 1. The review and approval of the Board of Public Works
11 shall be required for the following types of contracts with a value that exceeds \$1,000,000:

12 A. capital improvements;

13 B. services; and

14 C. dispositions of personal property subject to § 10–305 of
15 this article, except for dispositions of personal property that was purchased with the
16 proceeds of a general obligation loan.

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

21 (4) A University's policies shall:

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

24 (ii) promote the purposes of the regulations adopted by the
25 Department of General Services governing the procurement of architectural and
26 engineering services;

27 **(III) PROMOTE THE PURPOSES OF § 13–402 OF THE STATE**
28 **PERSONNEL AND PENSIONS ARTICLE; AND**

29 **(IV) TO THE MAXIMUM EXTENT PRACTICABLE, BE SIMILAR TO**
30 **§ 13–218.1 OF THIS ARTICLE.**

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

- 1 1. § 11–205 of this subtitle (“Collusion”);
- 2 2. § 11–205.1 of this subtitle (“Falsification, concealment,
3 etc., of material facts”);
- 4 3. § 13–219 of this article (“Required clauses
5 — Nondiscrimination clause”);
- 6 4. § 13–225 of this article (“Retainage”);
- 7 5. Title 14, Subtitle 3 of this article (“Minority Business
8 Participation”);
- 9 6. Title 15, Subtitle 1 of this article (“Procurement Contract
10 Administration”);
- 11 7. § 15–226 of this article (“Policy established; timing of
12 payments; notice upon nonpayment; disputes; appeals”); and
- 13 8. Title 16 of this article (“Suspension and Debarment of
14 Contractors”).

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

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

- 20 1. the University System of Maryland before July 1, 1999;
21 and
- 22 2. Morgan State University before July 1, 2004.

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

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

31 (iv) At the election of the Board of Trustees of St. Mary’s College of
32 Maryland and subject to the approval of the Board of Public Works, the State Board of

1 Contract Appeals shall have authority over contract claims related to procurement
2 contracts awarded by St. Mary's College of Maryland after June 30, 2006.

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

4 (i) procurement by a University from:

5 1. another unit;

6 2. a political subdivision of the State;

7 3. an agency of a political subdivision of the State;

8 4. a government, including the government of another state,
9 of the United States, or of another country;

10 5. an agency or political subdivision of a government; or

11 6. a bistate, multistate, bicounty, or multicounty
12 governmental agency;

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

15 1. direct resale;

16 2. remanufacture and subsequent resale; or

17 3. procurement by the University for overseas programs; or

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

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2016.