

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 1021

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line strike “Delegate Reznik” and substitute “Delegates Reznik, Pendergrass, Bromwell, Angel, Barron, Cullison, Hayes, Hill, Kelly, Kipke, Krebs, McDonough, Metzgar, Miele, Morales, Morgan, Pena-Melnyk, Platt, Rosenberg, Saab, Sample-Hughes, Szeliga, West, and K. Young”; in line 4, strike “all”; in line 5, strike “repealing” and substitute “altering”; strike beginning with “requiring” in line 6 down through “transferring” in line 15 and substitute “altering”; strike beginning with “to” in line 15 down through “law,” in line 17 and substitute “and requiring a certain report to include a summary of certain procurement activity; renaming the Procurement Advisory Council, altering the membership of the Council, altering the duties of the Council, requiring the Council to advise the General Assembly on certain legislation, and providing that the Chief Procurement Officer is the Chair and principal staff of the Council; transferring the authority of certain primary procurement units to the Department of General Services; authorizing the Department of General Services to”; strike beginning with “advise” in line 19 down through “Marketplace,” in line 20 and substitute “compile certain statistics, effect and enhance communication on certain procurement matters, assist units with certain questions, oversee certain training and implementation of certain risk analysis and insurance requirements, and”; strike beginning with the comma in line 22 down through “activity” in line 24; in lines 24 and 25, strike “the Chief Procurement Officer” and substitute “a unit”; in line 25, after “Administration” insert “and the Chief Procurement Officer”; in line 26, after “contract;” insert “providing that eMaryland Market Place is jointly managed by the Department of General Services and the Department of Information Technology;”; in line 28, strike “as approved” and substitute “subject to approval”; in the same line, after “Board;” insert “establishing a certain fund in the Department of General Services; providing that certain fees for the use of electronic means to conduct procurement be determined in consultation with the Chief Procurement Officer; requiring that certain fees be

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deposited in a certain fund;” and strike beginning with “requiring” in line 28 down through “is” in line 31.

On page 2, strike beginning with “made” in line 1 down through “units;” in line 23; in line 23, after “repealing” insert “an”; in the same line, strike “provisions” and substitute “provision”; in line 26, strike “the General Counsel to the Board and”; in line 27, strike “Governor” and substitute “Board”; strike beginning with “requiring” in line 32 down through “duties;” in line 37 and substitute “requiring the Department of General Services, in consultation with the Department of Budget and Management, the Department of Information Technology, the Department of Public Safety and Correctional Services, the Department of Transportation, and the Maryland Port Commission to report a certain administrative work plan to the Governor, the Board, and the General Assembly; establishing certain conditions for transferring certain staff;”; in line 43, strike “4-801(g), 4-804,”; in the same line, after “12-101” insert “(b)(7)”; in the same line, after “12-102” insert “(a)(2)”; in the same line, after “12-105,” insert “12-107,”; in line 44, strike “13-109, 13-110,”; in the same line, after “13-111” insert “(g)”; in the same line, strike “13-204, 13-217, 13-218, 13-225,” and substitute “and”; in the same line, strike “13-226,” and substitute “13-226 (c)”; and in line 45, strike “15-111, 15-216, and 15-217”.

On page 3, in line 4, strike “12-107 and 12-108” and substitute “12-101(b)(6)”.

AMENDMENT NO. 2

On page 3, strike in their entirety lines 10 through 19, inclusive.

On page 4, strike beginning with “**THE**” in line 8 down through “**ARTICLE**” in line 9 and substitute “**AN OFFICIAL OF THE DEPARTMENT OF GENERAL SERVICES WHO:**”

**(1) EXCEPT FOR PROCUREMENT ACTIVITY BY A PRIMARY PROCUREMENT UNIT OTHER THAN THE DEPARTMENT OF GENERAL SERVICES,**

IS THE HEAD OF ALL PROCUREMENT ACTIVITY FOR THE EXECUTIVE BRANCH OF  
STATE GOVERNMENT; AND

(2) MAY ENGAGE IN OR CONTROL PROCUREMENT FOR THE  
DEPARTMENT OF GENERAL SERVICES IN ACCORDANCE WITH § 12-107(B)(2) OF  
THIS TITLE”.

On page 5, in lines 13 and 23, strike the brackets; in line 13, strike “(l)” and substitute “(M)”; strike in their entirety lines 15, 18, and 21; in lines 16, 17, 19, 20, 22, and 23, strike “(3)”, “(4)”, “(6)”, “(7)”, “(9)”, and “(10)”, respectively, and substitute “(2)”, “(3)”, “(4)”, “(5)”, “(6)”, and “(7)”, respectively; and in line 24, strike “(m)” and substitute “(N)”.

On page 6, in lines 3, 22, 27, and 29, strike “(n)”, “(o)”, “(p)”, and “(q)”, respectively, and substitute “(O)”, “(P)”, “(Q)”, and “(R)”, respectively.

On page 7, in lines 1, 6, 9, 21, and 24, strike “(r)”, “(s)”, “(t)”, “(u)”, and “(v)”, respectively, and substitute “(S)”, “(T)”, “(U)”, “(V)”, and “(W)”, respectively.

On page 8, in lines 1 and 11, strike “(w)” and “(x)”, respectively, and substitute “(X)” and “(Y)”, respectively.

AMENDMENT NO. 3

On pages 8 through 13, strike in their entirety the lines beginning with line 18 on page 8 through line 14 on page 13, inclusive, and substitute:

“12-101.

(b) [(6) The Board, with the assistance of the Department of Budget and Management, shall compile comprehensive statistics on the procurement system by agency, amount, and type of procurement.]

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[(7)](6) The Board shall develop and submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, an annual report on the procurement system that includes information on actions necessary to improve effective broad-based competition in procurement.

12-102.

(a) (2) The Procurement Advisor shall:

(i) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

[(ii)](II) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in the management of the State procurement system;]

[(iii)](II) examine all procurements that are subject to review by the Board and make recommendations to the Board as to the appropriateness of each procurement, with an emphasis on whether the proposed procurement:

1. has been competitively conducted; and

2. conforms to provisions of procurement law, procurement regulations, and best management practices;

[(iv)](III) prevent and detect fraud, waste, and abuse and foster competition in the expenditure of State funds in the procurement of supplies, services, or construction;

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[(v)](VI) conduct investigations into procurement policies, practices, and procedures, as appropriate;

[(vi)](V) investigate complaints made by State employees concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

[(vii)](VI) investigate complaints, other than formal bid protests filed under Title 15, Subtitle 2 of this article, made by contractors and other interested parties concerning fraud, waste, and abuse in the procurement process and any alleged violation of the procurement law or regulations;

[(viii)](VII) if apparent criminal violations are found in the course of an investigation, report findings to the Board of Public Works, Office of the Attorney General, United States Attorney, and State or local prosecutors, as appropriate;

[(ix)](VIII) if other apparent violations of law or regulation are found in the course of an investigation, report findings to the Board of Public Works, the appropriate agency head, and any other appropriate body for administrative action;

[(x)](IX) produce and submit to the Board of Public Works and the General Assembly, in accordance with § 2-1246 of the State Government Article, an annual report of the activities of the Procurement Advisor, including:

1. all findings and recommendations for improvements to the procurement system; [and]

2. the identification of barriers to effective broad-based competition in State procurement and recommendations for the elimination of these barriers; AND

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**3. A SUMMARY AND DESCRIPTION OF ALL  
PROCUREMENT ACTIVITY CONDUCTED BY UNITS DURING THE PRECEDING  
FISCAL YEAR:**

[(xi)](X) assist agencies and the public with questions regarding procurement policy;

[(xii)](XI) establish policies for the effective training of State procurement officials to ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques;

[(xiii)](XII) coordinate activities with other entities performing similar functions;

[(xiv)](XIII) review internal audit reports and comment as appropriate; AND

[(xv)] be the principal staff to the Procurement Advisory Council; and]

[(xvi)](XIV) notify the Legislative Auditor when the Procurement Advisor undertakes an investigation under item (V) OR (vi) [or (vii)] of this paragraph.”.

**AMENDMENT NO. 4**

On page 13, in lines 16 and 17, in each instance, strike “Advisory” and substitute “**IMPROVEMENT**”; in line 18, strike “11” and substitute “**12**”; in line 22, strike “Secretary of General Services” and substitute “**CHIEF PROCUREMENT OFFICER**”; in line 25, strike “Secretary” and substitute “**PROCUREMENT ADVISOR**”; after line 26, insert:

**“(IX) THE DIRECTOR OF THE GOVERNOR’S OFFICE OF PERFORMANCE IMPROVEMENT;”**;

and in line 27, strike “(ix)” and substitute “**(X)**”.

On page 14, in line 1, strike “(x)” and substitute “**(XI)**”; in lines 5 and 8, in each instance, strike “Procurement Advisory”; in line 7, strike “(v)” and substitute “**(IX)**”; in line 9, strike “the Chief Procurement Officer of the agency” and substitute “**A SENIOR MANAGEMENT STAFF MEMBER WITH EXPERIENCE IN PROCUREMENT**”; in line 10, strike “Secretary of the Board” and substitute “**CHIEF PROCUREMENT OFFICER**”; in line 13, strike “that the Board authorizes” and substitute “**AUTHORIZED**”; in line 17, after “techniques” insert “**, INCLUDING POLICIES, PROCEDURES, AND FORMS FOR ALL PROCUREMENT ACTIVITY AND CONTRACT MANAGEMENT**”; in line 22, after “arise” insert “**, INCLUDING:**

**(I) PROCUREMENT OFFICER TRAINING;**

**(II) RISK ANALYSIS AND INSURANCE REQUIREMENTS;**

**(III) MANAGEMENT OF EMARYLAND MARKETPLACE AND OTHER INTERNET PROCUREMENT RESOURCES;**

**(IV) USE OF INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS; AND**

**(V) ANY OTHER ISSUES OR PROBLEMS IDENTIFIED BY THE COUNCIL;**

in line 24, strike “and”; in line 29, after “use” insert “**; AND**

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**(6) ADVISE THE GENERAL ASSEMBLY ON PROPOSED LEGISLATION IN ORDER TO ENHANCE THE EFFICIENCY AND TRANSPARENCY OF STATE PROCUREMENT**;

and in line 30, strike the bracket.

**AMENDMENT NO. 5**

On page 15, strike in their entirety lines 9 through 14, inclusive; in lines 15 and 28, strike “(3)” and “(4)”, respectively, and substitute “**(2)**” and “**(3)**”, respectively; in line 15, after “may” insert “:

**(1)**;

in lines 17, 19, 22, 24, and 26, strike “(i)”, “(ii)”, “(iii)”, “(iv)”, and “(v)”, respectively, and substitute “**1.**”, “**2.**”, “**3.**”, “**4.**”, and “**5.**”, respectively; and after line 27, insert:

**6. SERVICES BY A UNIT, SUBJECT TO ANY LIMITATION IN THIS DIVISION II;**

**7. LEASES OF MOTOR VEHICLES, AS PROVIDED IN TITLE 3, SUBTITLE 5 OF THIS ARTICLE;**

**8. CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES FOR STATE CORRECTIONAL FACILITIES;**

**9. SUPPLIES, MATERIALS, AND EQUIPMENT IN SUPPORT OF CONSTRUCTION AND CONSTRUCTION-RELATED SERVICES FOR STATE CORRECTIONAL FACILITIES IN ACCORDANCE WITH THIS DIVISION II AND TITLE 2 AND TITLE 10, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE;**



10. INFORMATION PROCESSING EQUIPMENT AND ASSOCIATED SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 3 OF THIS ARTICLE; AND

11. TELECOMMUNICATION EQUIPMENT, SYSTEMS, OR SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 4 OF THIS ARTICLE;

(II) WHILE RETAINING OVERSIGHT, DELEGATE CONTROL OF PROCUREMENT ACTIVITY TO UNITS WITH EXPERTISE IN SPECIFIED TYPES OF PROCUREMENT;

(III) DEVELOP PERFORMANCE METRICS FOR PROCUREMENT ACTIVITY AND IMPLEMENT STRATEGIC SOURCING WHEN APPROPRIATE;

(IV) COMPILE COMPREHENSIVE STATISTICS ON THE PROCUREMENT SYSTEM BY AGENCY, AMOUNT, AND TYPE OF PROCUREMENT;

(V) EFFECT AND ENHANCE COMMUNICATION ON PROCUREMENT MATTERS, WITH AN EMPHASIS ON DISSEMINATING INFORMATION ON CURRENT DEVELOPMENTS AND ADVANCES IN THE MANAGEMENT OF THE STATE PROCUREMENT SYSTEM;

(VI) ASSIST UNITS WITH QUESTIONS REGARDING PROCUREMENT POLICY;

(VII) OVERSEE THE IMPLEMENTATION OF PROCUREMENT OFFICER TRAINING;

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**(VIII) OVERSEE THE IMPLEMENTATION OF APPROPRIATE RISK ANALYSIS AND INSURANCE REQUIREMENTS FOR STATE PROCUREMENT; AND**

**(IX) COORDINATE WITH GOVERNMENTAL ENTITIES AND LOCAL ENTITIES TO MAXIMIZE USE OF INTERGOVERNMENTAL PURCHASING AGREEMENTS ESTABLISHED IN ACCORDANCE WITH § 13-110 OF THIS ARTICLE;”.**

On page 16, in line 14, after “subsection;” insert “**AND**”; in line 15, strike “(5)” and substitute “**(4)**”; and strike beginning with the semicolon in line 30 down through “units:” in line 32 and substitute a period.

On page 17, strike in their entirety lines 1 through 22, inclusive.

**AMENDMENT NO. 6**

On page 18, after line 21, insert:

**“(XIII) THE PROCUREMENT ADVISOR OF THE BOARD;”;**

and in lines 22, 25, and 27, strike “(xiii)”, “(xiv)”, and “(xv)”, respectively, and substitute “**(XIV)**”, “**(XV)**”, and “**(XVI)**”, respectively.

On page 19, in line 3, strike “(xii)” and substitute “**(XIII)**”; in line 5, strike “the Chief Procurement Officer or”; strike beginning with “of” in line 5 down through “organization” in line 6 and substitute “**WITH EXPERIENCE IN PROCUREMENT**”; and in line 8, strike “(xiii)” and substitute “**(XIV)**”.

**AMENDMENT NO. 7**

On page 20, in line 22, strike “**THE CHIEF PROCUREMENT OFFICER**” and substitute “**A UNIT**”; and in line 23, after “Administration” insert “**AND THE CHIEF PROCUREMENT OFFICER**”.

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On page 21, in line 25, after “system” insert “**JOINTLY**”; in line 26, strike the brackets; and in the same line, strike “**CHIEF PROCUREMENT OFFICER**” and substitute “**AND THE DEPARTMENT OF INFORMATION TECHNOLOGY**”.

On page 22, in line 2, strike “**AS APPROVED**” and substitute “**SUBJECT TO APPROVAL**”; and after line 8, insert:

**“(C) (1) THERE IS AN ELECTRONIC TRANSACTION FUND IN THE DEPARTMENT OF GENERAL SERVICES.**

**(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THIS ARTICLE.**

**(3) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

**(4) THE FUND CONSISTS OF ANY FEES IMPOSED AND COLLECTED UNDER PARAGRAPH (B)(1) OF THIS SUBSECTION AND § 13-226(C) OF THIS TITLE.**

**(5) THE FUND SHALL BE USED BY THE DEPARTMENT OF GENERAL SERVICES TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF ADMINISTERING CONTRACTS THROUGH THE USE OF ELECTRONIC TRANSACTIONS.”.**

**AMENDMENT NO. 8**

On pages 22 through 26, strike in their entirety the lines beginning with line 9 on page 22 through line 2 on page 26, inclusive.

On pages 26 through 28, strike in their entirety the lines beginning with line 4 on page 26 through line 33 on page 28, inclusive.

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On pages 29 through 33, strike in their entirety the lines beginning with line 6 on page 29 through line 33 on page 33.

On page 34, strike in their entirety lines 2 through 9, inclusive; in line 10, after “(1)” insert “**(I)**”; in line 12, after “fee” insert “**, AS DETERMINED IN CONSULTATION WITH THE CHIEF PROCUREMENT OFFICER,**”; and after line 13, insert:

**“(II) ANY FEES COLLECTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DEPOSITED IN THE ELECTRONIC TRANSACTION FUND ESTABLISHED UNDER § 13-102.1(C) OF THIS SUBTITLE.”**

On pages 34 through 36, strike in their entirety the lines beginning with line 16 on page 34 through line 2 on page 36, inclusive.

**AMENDMENT NO. 9**

On page 36, strike in their entirety lines 7 and 8, inclusive; in lines 9, 11, 13, 16, 19, and 22, strike “(2)”, “(3)”, “(4)”, “(5)”, “(6)”, and “(7)”, respectively, and substitute “**(1)**”, “**(2)**”, “**(3)**”, “**(4)**”, “**(5)**”, and “**(6)**”, respectively; in line 26, strike “the General Counsel to the Board of Public Works and”; in line 27, strike “Governor” and substitute “**Board of Public Works**”; and strike beginning with “in” in line 30 down through “State” in line 32 and substitute “**within the Office of the Attorney General to represent all State procurement units in matters within the jurisdiction of the Maryland State Board of Contract Appeals**”.

On page 37, strike in their entirety lines 17 through 23, inclusive, and substitute:

**“SECTION 5. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018, the Department of General Services, in consultation with the Department of Budget and Management, the Department of Information Technology, the Department of Public Safety and Correctional Services, the Department of Transportation, and the Maryland Port Commission, shall report to the Governor, the Board of Public Works,**

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and, in accordance with § 2-1246 of the State Government Article, the General Assembly on the administrative work plan to implement Section 1 of this Act, including a structure for delegating and overseeing specified types of procurement to units with expertise in those types of procurement.”;

strike in their entirety lines 24 through 27, inclusive; and in lines 28 and 33, strike “7.” and “8.”, respectively, and substitute “6.” and “7.”, respectively.

On page 38, in lines 6 and 8, strike “9.” and “10.”, respectively, and substitute “8.” and “9.”, respectively; in line 6, strike “7, and 8” and substitute “and 7”; and in line 9, strike “9” and substitute “8”.