HOUSE BILL 1205

By: Delegates P. Young, Kerr, Feldmark, Bartlett, Kelly, Kipke, and McIntosh
Introduced and read first time: February 11, 2022
Assigned to: Health and Government Operations and Appropriations

A BILL ENTITLED

AN ACT concerning

State Government – Information Technology and Cybersecurity–Related Infrastructure
(Modernize Maryland Act of 2022)

FOR the purpose of authorizing the Maryland Stadium Authority to issue bonds and, in consultation with the Department of Information Technology, finance projects related to information technology and cybersecurity–related State government infrastructure; establishing an Information Technology and Cybersecurity Infrastructure Fund as a special, nonlapsing fund; requiring interest earnings of the Fund to be credited to the Fund; altering the duties of the Secretary of Information Technology; establishing a Statewide Reporting Framework and Oversight Commission in the Department; requiring the Department to hire an independent contractor to develop a framework for investments in technology and annually assess the cybersecurity and information technology systems in each unit of State government; specifying the use of proceeds from certain bonds; establishing that the Department is a primary procurement unit and authorizing the Department to engage in or control certain procurements; authorizing a certain independent contractor to issue a certain change order; and generally relating to the development, financing, and procurement of information technology and cybersecurity–related State government infrastructure projects.

BY repealing and reenacting, with amendments,

Article – Economic Development
Section 10–628(a)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to

Article – Economic Development
Section 10–628(d), 10–650.1, and 10–657.5
Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 3A–303(a)(7) and (8), 6–226(a)(2)(ii)144. and 145., 11–101(m),
12–107(b)(2)(i)9. through 11., (3)(vi), and (4)(v), and 15–112(a)(1)(i)
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to

Article – State Finance and Procurement
Section 3A–303(a)(9), 3A–315 through 3A–317, 6–226(a)(2)(ii)146., 12–107(b)(5), and
15–112(b)(4)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(i), 11–101(a), and 15–112(b)(3)
Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – Economic Development

10–628.

(a) Except as provided in subsections (b) [and], (c), AND (D) of this section and
subject to the prior approval of the Board of Public Works, the Authority may issue bonds
at any time for any corporate purpose of the Authority, including the establishment of
reserves and the payment of interest.

(D) UNLESS AUTHORIZED BY THE GENERAL ASSEMBLY, THE BOARD OF
PUBLIC WORKS MAY NOT APPROVE AN ISSUANCE BY THE AUTHORITY OF BONDS,
WHETHER TAXABLE OR TAX EXEMPT, THAT CONSTITUTE TAX SUPPORTED DEBT OR
NONTAX SUPPORTED DEBT IF, AFTER ISSUANCE, THERE WOULD BE OUTSTANDING
AND UNPAID $1,500,000,000 FACE AMOUNTS OF THE BONDS FOR THE PURPOSE OF
FINANCING RESEARCH INTO, ACQUISITION OF, INSTALLATION OF, MAINTENANCE
OF, AND RELATED EXPENSES FOR UPGRADES TO INFORMATION TECHNOLOGY AND
CYBERSECURITY–RELATED STATE GOVERNMENT INFRASTRUCTURE.

10–650.1.
(A) The Authority and the Department of Information Technology shall comply with this section to finance projects to research, acquire, install, maintain, and upgrade information technology and cybersecurity–related State government infrastructure.

(B) The Authority shall transfer to the Department of Information Technology the proceeds of bonds issued under this subtitle for financing information technology and cybersecurity–related State government infrastructure projects.

(C) At least 90 days before providing the written notice to the fiscal committees of the General Assembly required under subsection (D) of this section, the Authority shall consult with the Department of Information Technology to determine the amount of funds needed for information technology and cybersecurity–related State government infrastructure projects to be financed with the proposed bonds.

(D) At least 45 days before seeking approval of the Board of Public Works for each bond issue related to information technology and cybersecurity–related State government infrastructure, the Authority shall provide to the fiscal committees of the General Assembly, in accordance with §2–1257 of the State Government Article, written notice of:

(1) the aggregate amount of funds needed for information technology and cybersecurity–related State government infrastructure projects to be financed with the proposed bonds;

(2) the anticipated total debt service for the proposed bond issue; and

(3) the anticipated total debt service when combined with the debt service for all prior outstanding bond issues for information technology and cybersecurity–related State government infrastructure projects.

(E) Before each issuance of bonds to finance information technology and cybersecurity–related State government infrastructure projects, the Authority shall obtain the approval of the Board of Public Works of the aggregate amount of the proposed bond issue.
(F) For fiscal year 2024 and each fiscal year thereafter, until the bonds that have been issued to finance information technology and cybersecurity–related State government infrastructure projects are no longer outstanding and unpaid, the Governor shall include in the annual budget bill an appropriation to the Information Technology and Cybersecurity Infrastructure Fund in an amount sufficient to cover the projected debt service requirements for the upcoming fiscal year.

10–657.5.

(A) In this section, “Fund” means the Information Technology and Cybersecurity Infrastructure Fund.

(B) There is an Information Technology and Cybersecurity Infrastructure Fund.

(C) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article and that shall be available in perpetuity to implement this subtitle related to upgrades to information technology and cybersecurity–related State government infrastructure.

(2) The Authority shall:

(i) Use the Fund as a revolving fund for carrying out the provisions of this subtitle related to upgrades to information technology and cybersecurity–related State government infrastructure; and

(ii) Pay any and all expenses from the Fund that are incurred by the Authority or the Department of Information Technology related to upgrades to information technology and cybersecurity–related State government infrastructure.

(D) The Fund consists of:

(1) Funds appropriated for deposit to the Fund;

(2) Proceeds from the sale of bonds related to upgrades to information technology and cybersecurity–related State government infrastructure projects;
(3) REVENUES COLLECTED OR RECEIVED FROM ANY SOURCE UNDER THIS SUBTITLE RELATED TO UPGRADES TO INFORMATION TECHNOLOGY AND CYBERSECURITY–RELATED STATE GOVERNMENT INFRASTRUCTURE PROJECTS;

(4) INTEREST EARNINGS; AND

(5) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY PUBLIC OR PRIVATE SOURCE FOR THE PURPOSES ESTABLISHED FOR THE FUND.

(E) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE FUNDS.

(2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OF THE STATE OR ANY SPECIAL FUND OF THE STATE.

Article – State Finance and Procurement

3A–303.

(a) The Secretary is responsible for carrying out the following duties:

(7) advising and consulting with the Legislative and Judicial branches of State government regarding a cybersecurity strategy; [and]

(8) in consultation with the Attorney General, developing guidance on consistent cybersecurity strategies for counties, municipal corporations, school systems, and all other political subdivisions of the State; AND

(9) UPGRADING INFORMATION TECHNOLOGY AND CYBERSECURITY–RELATED STATE GOVERNMENT INFRASTRUCTURE.

3A–315.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CITIZEN ADVOCACY GROUP” MEANS AN ORGANIZATION WHOSE MISSION IS TO PROVIDE SUPPORT FOR INFORMATION TECHNOLOGY AND CYBERSECURITY POLICIES.

(3) “COMMISSION” MEANS THE STATEWIDE REPORTING FRAMEWORK AND OVERSIGHT COMMISSION.
(4) “Critical system” means an information technology or cybersecurity system that is severely outdated.

(b) There is a statewide reporting framework and oversight commission in the department.

(c) The purpose of the commission is to:

1. Ensure the confidentiality, integrity, and availability of information held by the State concerning State residents; and

2. Determine the appropriate information technology and cybersecurity investments and upgrades.

(d) The commission consists of the following members:

1. The Secretary;

2. The State Chief Information Security Officer;

3. The State Treasurer;

4. The cochairs of the Joint Committee on Cybersecurity, Information Technology, and Biotechnology;

5. Three Chief Information Security Officers representing different units of State government, appointed by the Governor;

6. Four information technology experts in the private sector, appointed by the Governor;

7. One representative from the Maryland Chamber of Commerce;

8. Two representatives from citizen advocacy groups in the State;

9. One Chief Information Security Officer from the private sector who has completed information technology and cybersecurity upgrades for a business with over 100 information technology systems; and
(10) One chief information security officer from the education sector who has completed information technology and cybersecurity upgrades for an educational institution with over 100 information technology systems.

(E) The Commission shall:

(1) Develop a strategic roadmap with a timeline and budget that will:

   (i) Require the updates and investments of critical information technology and cybersecurity systems to be completed on or before December 31, 2025; and

   (ii) Require all updates and investments of information technology and cybersecurity to be made on or before December 31, 2030;

(2) Make periodic recommendations on investments in state information technology structures based on the assessments completed in accordance with the framework developed in § 3A–316 of this subtitle; and

(3) Each year, in accordance with § 2–1257 of the State Government Article, report its findings and recommendations to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Cybersecurity, Information Technology, and Biotechnology.

(A) (1) The Department shall hire an independent contractor to:

   (i) Develop a framework for investments in technology; and

   (ii) In accordance with the framework, annually assess the cybersecurity and information technology systems in each unit of State government.

   (2) The framework shall include the following criteria:
(I) SECURITY RISKS TO THE SYSTEM;

(II) SYSTEM PERFORMANCE;

(III) THE SYSTEM’S DEPENDENCE ON OTHER INFORMATION TECHNOLOGY OR CYBERSECURITY SYSTEMS AND DATA;

(IV) THE SYSTEM’S ABILITY TO CREATE AN EFFICIENT AND SEAMLESS EXPERIENCE FOR USERS;

(V) THE SYSTEM’S EFFECTIVENESS IN ACHIEVING UNIT OBJECTIVES;

(VI) THE SYSTEM’S EFFECTIVENESS IN MEETING THE NEEDS OF CITIZENS AND CUSTOMERS;

(VII) THE COSTS TO MAINTAIN AND OPERATE THE SYSTEM;

(VIII) THE SPEED OF GOVERNMENT RESPONSE TIME;

(IX) THE EFFECTIVENESS OF THE SYSTEM IN REGARD TO THE UNIT’S OBJECTIVES;

(X) IMPROVEMENTS TO THE UNIT’S RELATIVE AUDIT FINDINGS ATTRIBUTABLE TO THE SYSTEM; AND

(XI) AN ASSESSMENT OF THE SYSTEM USING THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY CYBERSECURITY FRAMEWORK.

(B) EACH UNIT SHALL PROMPTLY PROVIDE THE CONTRACTOR WITH THE INFORMATION NECESSARY TO PERFORM THE ASSESSMENTS.

(C) EACH YEAR, THE CONTRACTOR SHALL PROVIDE THE RESULTS OF THE ASSESSMENTS TO THE STATEWIDE REPORTING FRAMEWORK AND OVERSIGHT COMMISSION ESTABLISHED UNDER § 3A–315 OF THIS SUBTITLE.

(D) THE DEPARTMENT MAY USE FUNDS AVAILABLE FROM THE ISSUANCE OF BONDS IN ACCORDANCE WITH § 10–650.1 OF THE ECONOMIC DEVELOPMENT ARTICLE TO PAY FOR THE INDEPENDENT CONTRACTOR REQUIRED UNDER THIS SECTION.

3A–317.
(A) The Department shall consult with the Maryland Stadium Authority regarding the issuance of bonds for upgrades to information technology and cybersecurity–related State government infrastructure in accordance with § 10–650.1 of the Economic Development Article.

(B) The Department may use the proceeds from bonds issued for upgrades to information technology and cybersecurity–related State government infrastructure under § 10–650.1 of the Economic Development Article only for projects that relate to research into, acquisition of, installation of, maintenance of, and related expenses for upgrades to information technology and cybersecurity–related State government infrastructure.

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

144. the Health Equity Resource Community Reserve Fund;

145. the Access to Counsel in Evictions Special Fund; AND

146. the Information Technology and Cybersecurity Infrastructure Fund.

11–101.

(a) In this Division II the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is provided for a particular title or provision.

(m) “Primary procurement units” means:

(1) the State Treasurer;
(2) the Department of General Services;

(3) the Department of Transportation;

(4) the University System of Maryland;

(5) the Maryland Port Commission;

(6) the Morgan State University; [and]

(7) the St. Mary’s College of Maryland; AND

(8) THE DEPARTMENT OF INFORMATION TECHNOLOGY.

12–107.

(b) Subject to the authority of the Board, jurisdiction over procurement is as follows:

(2) the Department of General Services may:

(i) engage in or control procurement of:

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; AND

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;

(3) the Department of Transportation and the Maryland Transportation Authority, without the approval of any of the other primary procurement units, may engage in the procurement of:

(vi) services for aeronautics related activities, including information processing services, but excluding banking and financial services under the authority of the State Treasurer under item (1) of this subsection; [and]

(4) the Maryland Port Commission, without the approval of any of the other primary procurement units, may engage in the procurement of:
(v) leases of real property for port related activities unless the lease payments are from the General Fund of the State; AND

(5) THE DEPARTMENT OF INFORMATION TECHNOLOGY, WITHOUT THE APPROVAL OF ANY OTHER PRIMARY PROCUREMENT UNIT, MAY ENGAGE IN OR CONTROL PROCUREMENT OF:

(I) INFORMATION PROCESSING EQUIPMENT AND ASSOCIATED SERVICES, AS PROVIDED IN TITLE 3A, SUBTITLE 3 OF THIS ARTICLE; AND

(II) INFORMATION TECHNOLOGY SYSTEM AND CYBERSECURITY UPGRADES AND MODERNIZATION, AS PROVIDED IN TITLE 3A, SUBTITLE 3 OF THIS ARTICLE.

15–112.

(a) (1) (i) Except as provided in subparagraph (ii) of this paragraph, this section applies to State procurement contracts for:

1. construction;

2. INFORMATION PROCESSING EQUIPMENT AND ASSOCIATED SERVICES; AND

3. IN ACCORDANCE WITH TITLE 3A, SUBTITLE 3 OF THIS ARTICLE, INFORMATION TECHNOLOGY SYSTEM AND CYBERSECURITY UPGRADES AND MODERNIZATION.

(b) (3) (i) If a unit is to pay for a contract or a part of a contract using a unit price methodology, a change order may not be required for work to continue and be completed beyond the estimated quantities in the contract.

(ii) After work is completed, a unit shall:

1. determine the actual quantity used to complete the contract; and

2. if necessary, issue a final adjustment change order to the contractor.

(4) AN INDEPENDENT CONTRACTOR WHO PERFORMS AN ASSESSMENT UNDER § 3A–316 OF THIS ARTICLE MAY ISSUE A CHANGE ORDER ON THE ORIGINAL ASSESSMENT CONTRACT FOR ANY SUBSEQUENT CYBERSECURITY UPGRADES.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.