

HOUSE BILL 770

P2, F2
HB 207/20 – HGO

1lr1383
CF SB 326

By: **Delegate McIntosh**

Introduced and read first time: January 29, 2021

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2021

CHAPTER _____

1 AN ACT concerning

2 **Baltimore City Community College – Procurement Authority**

3 FOR the purpose of exempting Baltimore City Community College from certain provisions
4 of State procurement law; requiring the Board of Trustees of the College, subject to
5 review and approval by the Board of Public Works and the Joint Committee on
6 Administrative, Executive, and Legislative Review, to develop certain policies and
7 procedures governing procurement; requiring the Board of Trustees to develop an
8 information technology plan that meets certain requirements; exempting the College
9 from certain provisions of law relating to the purchase, lease, or rental of information
10 technology or any changes to the purchase, lease, or rental of information technology;
11 exempting the College from certain provisions of law governing telecommunication
12 systems or services; exempting the College from certain provisions of law governing
13 the oversight of public improvement projects by the Department of General Services
14 if the contract for the public improvement project has a value that is less than a
15 certain amount; requiring the Department, on request of the Board of Public Works,
16 to advise the Board of Public Works on certain contracts for the College that exceed
17 a certain amount under certain circumstances; requiring the Board of Public Works
18 to review and approve certain contracts that exceed a certain amount under certain
19 circumstances; subjecting certain contracts of a certain value to the review and
20 approval of the Board of Trustees or certain College officials; requiring certain
21 procurements by the College to comply with certain policies and procedures;
22 establishing the authority of the State Board of Contract Appeals over certain
23 contract claims by the College before and after a certain date; ~~exempting the College~~
24 ~~from a certain review of a certain contract for certain expenditures; subjecting a~~
25 ~~certain contract for certain expenditures to certain approval;~~ altering a certain

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 definition; making technical and stylistic changes; and generally relating to the
2 procurement authority of Baltimore City Community College.

3 BY repealing and reenacting, without amendments,
4 Article – Education
5 Section 16–505(c)(1)(x)
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2020 Supplement)

8 BY adding to
9 Article – Education
10 Section 16–505.3
11 Annotated Code of Maryland
12 (2018 Replacement Volume and 2020 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – State Finance and Procurement
15 Section 3A–302, 3A–402, 4–401(d), and 4–402(a), ~~4–406(a), 11–203(e), and 12–202~~
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – State Finance and Procurement
20 Section 4–401(a)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2020 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – State Finance and Procurement
25 Section 11–203(e)
26 Annotated Code of Maryland
27 (2015 Replacement Volume and 2020 Supplement)
28 (As enacted by Chapters 2 and 32 of the Acts of the General Assembly of 2021)

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

31 **Article – Education**

32 16–505.

33 (c) (1) The Board of Trustees shall:

34 (x) Address the information technology and infrastructure needs of
35 the College, including whether oversight by the Department of Information Technology is
36 advisable;

1 **16-505.3.**

2 (A) (1) EXCEPT AS PROVIDED IN § 11-203(E) OF THE STATE FINANCE
3 AND PROCUREMENT ARTICLE, THE COLLEGE IS EXEMPT FROM DIVISION II OF THE
4 STATE FINANCE AND PROCUREMENT ARTICLE.

5 (2) (I) SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF
6 PUBLIC WORKS AND THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE,
7 AND LEGISLATIVE REVIEW OF THE GENERAL ASSEMBLY, THE BOARD OF TRUSTEES
8 SHALL DEVELOP POLICIES AND PROCEDURES GOVERNING PROCUREMENTS BY THE
9 COLLEGE, INCLUDING POLICIES AND PROCEDURES GOVERNING CONFLICT OF
10 INTEREST ISSUES.

11 (II) THE POLICIES AND PROCEDURES DEVELOPED UNDER
12 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROMOTE THE PURPOSES OF STATE
13 PROCUREMENT LAW AS SET FORTH IN § 11-201 OF THE STATE FINANCE AND
14 PROCUREMENT ARTICLE.

15 (B) (1) THE BOARD OF TRUSTEES SHALL DEVELOP AN INFORMATION
16 TECHNOLOGY PLAN FOR THE COLLEGE THAT INCLUDES INFORMATION
17 TECHNOLOGY POLICIES AND STANDARDS, INCLUDING POLICIES AND STANDARDS
18 FOR INFORMATION MANAGEMENT AND TELECOMMUNICATION SYSTEMS.

19 (2) THE INFORMATION TECHNOLOGY PLAN DEVELOPED UNDER
20 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE FUNCTIONALLY COMPATIBLE WITH
21 THE STATEWIDE INFORMATION TECHNOLOGY MASTER PLAN ESTABLISHED UNDER
22 TITLE 3A, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND
23 MEET THE REQUIREMENTS OF § 16-505(C)(1)(X) OF THIS SUBTITLE.

24 **Article – State Finance and Procurement**

25 3A-302.

26 (a) This subtitle does not apply to changes relating to or the purchase, lease, or
27 rental of information technology by:

28 (1) public institutions of higher education solely for academic or research
29 purposes;

30 (2) the Maryland Port Administration;

31 (3) the University System of Maryland;

32 (4) St. Mary's College of Maryland;

- 1 (5) Morgan State University; [or]
2 (6) the Maryland Stadium Authority; **OR**
3 (7) **BALTIMORE CITY COMMUNITY COLLEGE.**

4 (b) Except as provided in subsection (a) of this section, this subtitle applies to any
5 project of a unit of the Executive Branch of State government that involves an agreement
6 with a public institution of higher education for a portion of the development of the project,
7 whether the work on the development is done directly or indirectly by the public institution
8 of higher education.

9 (c) Notwithstanding any other provision of law, except as provided in subsection
10 (a) of this section and §§ 3A-307(a)(2), 3A-308, and 3A-309 of this subtitle, this subtitle
11 applies to all units of the Executive Branch of State government including public
12 institutions of higher education other than Morgan State University, the University
13 System of Maryland, [and] St. Mary's College of Maryland, **AND BALTIMORE CITY**
14 **COMMUNITY COLLEGE.**

15 3A-402.

16 (a) The provisions of this subtitle do not apply to a telecommunication system or
17 service that is owned or operated by the University System of Maryland, Morgan State
18 University, **BALTIMORE CITY COMMUNITY COLLEGE**, or a unit of the Legislative or
19 Judicial Branch.

20 (b) The provisions of this subtitle do not preempt the authority of the Maryland
21 Public Broadcasting Commission to own, operate, or manage telecommunication
22 equipment, systems, or services.

23 4-401.

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

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

27 (1) owned or constructed by the State or any unit of the State government,
28 including the University System of Maryland, St. Mary's College of Maryland, [and]
29 Morgan State University, **AND BALTIMORE CITY COMMUNITY COLLEGE**; or

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

31 4-402.

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

3 (1) the Department of Transportation or a unit in that Department;

4 (2) any housing authority created under Division II of the Housing and
5 Community Development Article;

6 (3) the Maryland–National Capital Park and Planning Commission;

7 (4) the Washington Suburban Sanitary Commission;

8 (5) the Baltimore County Metropolitan District;

9 (6) a county, municipal corporation, or unit of a county or municipal
10 corporation;

11 (7) the University System of Maryland;

12 (8) Morgan State University; [or]

13 (9) St. Mary's College of Maryland; OR

14 **(10) BALTIMORE CITY COMMUNITY COLLEGE, IF THE VALUE OF THE**
15 **CONTRACT FOR THE PUBLIC IMPROVEMENT IS \$500,000 OR LESS.**

16 ~~4–406.~~

17 ~~(a) (1) The Department shall advise the Board of Public Works and any unit~~
18 ~~of the State government in connection with any engineering question or matter concerning~~
19 ~~a public improvement.~~

20 ~~(2) The Department shall supervise any engineering question or matter~~
21 ~~concerning a public improvement.~~

22 ~~(3) Any contract, plan, or specification for any public improvement that~~
23 ~~involves an engineering question:~~

24 ~~(i) shall be submitted to the Department; and~~

25 ~~(ii) is subject to the approval of the Department.~~

26 ~~(4) At the request of the Board of Public Works, the Department shall~~
27 ~~advise the Board of Public Works on any contract that:~~

~~(I) exceeds \$500,000 if the contract involves an engineering question or a matter concerning a public improvement undertaken by the University System of Maryland, Morgan State University, or St. Mary's College of Maryland; OR~~

~~(H) EXCEEDS \$300,000 IF THE CONTRACT INVOLVES AN ENGINEERING QUESTION OR A MATTER CONCERNING A PUBLIC IMPROVEMENT UNDERTAKEN BY BALTIMORE CITY COMMUNITY COLLEGE.~~

11-203.

(e) (1) In this subsection, "University" means the University System of Maryland, Morgan State University, or St. Mary's College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, [or] St. Mary's College of Maryland, **OR BALTIMORE CITY COMMUNITY COLLEGE.**

(3) (i) A procurement by a University **OR BALTIMORE CITY COMMUNITY COLLEGE** shall comply with the policies and procedures developed by the University **OR BALTIMORE CITY COMMUNITY COLLEGE** and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with:

1. § 12-112 of the Education Article for the University System of Maryland[,];

2. § 14-109 of the Education Article for Morgan State University[, or];

3. § 14-405(f) of the Education Article for St. Mary's College of Maryland; **OR**

4. **§ 16-505.3 OF THE EDUCATION ARTICLE FOR BALTIMORE CITY COMMUNITY COLLEGE.**

(ii) 1. The review and approval of the Board of Public Works shall be required for the following types of contracts with a value that exceeds \$1,000,000 **FOR A UNIVERSITY OR ~~\$300,000~~ \$500,000 FOR BALTIMORE CITY COMMUNITY COLLEGE:**

A. capital improvements; and

B. services.

1 2. In its review of a contract for services or capital
 2 improvements with a value that exceeds \$1,000,000 ~~FOR A UNIVERSITY OR \$300,000~~
 3 ~~FOR BALTIMORE CITY COMMUNITY COLLEGE~~, the Board of Public Works may request
 4 the comments of the appropriate agencies, including the Department of Budget and
 5 Management and the Department of General Services.

6 **3. FOR BALTIMORE CITY COMMUNITY COLLEGE**
 7 **CONTRACTS THAT ARE NOT SUBJECT TO THE REVIEW AND APPROVAL OF THE BOARD**
 8 **OF PUBLIC WORKS UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH:**

9 **A. CONTRACTS WITH A VALUE OF \$100,000 OR LESS**
 10 **SHALL BE REVIEWED AND APPROVED BY THE PRESIDENT OF BALTIMORE CITY**
 11 **COMMUNITY COLLEGE OR THE PRESIDENT’S DESIGNEE; AND**

12 **B. CONTRACTS WITH A VALUE THAT EXCEEDS \$100,000**
 13 **BUT DOES NOT EXCEED \$500,000 SHALL BE APPROVED BY THE BOARD OF TRUSTEES**
 14 **OF BALTIMORE CITY COMMUNITY COLLEGE.**

15 (4) [A University’s] **THE** policies **OF A UNIVERSITY OR BALTIMORE**
 16 **CITY COMMUNITY COLLEGE** shall:

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

19 (ii) promote the purposes of the regulations adopted by the
 20 Department of General Services governing the procurement of architectural and
 21 engineering services;

22 (iii) promote the purposes of § 13–402 of the State Personnel and
 23 Pensions Article; ~~and~~

24 (iv) to the maximum extent practicable, be similar to § 13–218.1 of
 25 this article; and

26 (v) to the maximum extent practicable, require the procurement of
 27 food in accordance with Title 14, Subtitle 7 of this article.

28 (5) (i) Except as provided in paragraph (7) of this subsection, the
 29 following provisions of Division II of this article apply to a University **AND TO BALTIMORE**
 30 **CITY COMMUNITY COLLEGE:**

31 1. § 11–205 of this subtitle (“Collusion”);

32 2. § 11–205.1 of this subtitle (“Falsification, concealment,
 33 etc., of material facts”);

1 3. § 13–219 of this article (“Required
2 clauses – 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 14, Subtitle 7 of this article (“Certified Local Farm
7 Enterprise Program”);

8 ~~7.~~ Title 15, Subtitle 1 of this article (“Procurement Contract
9 Administration”);

10 ~~8.~~ § 15–226 of this article (“Policy established; timing of
11 payments; notice upon nonpayment; disputes; appeals”); and

12 ~~9.~~ Title 16 of this article (“Suspension and Debarment of
13 Contractors”).

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

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

19 1. the University System of Maryland before July 1, 1999;
20 [and]

21 2. Morgan State University before July 1, 2004; **AND**

22 3. **BALTIMORE CITY COMMUNITY COLLEGE BEFORE**
23 **JULY 1, 2021.**

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

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

32 (iv) At the election of the Board of Trustees of St. Mary’s College of
33 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 **(v) AT THE ELECTION OF THE BOARD OF TRUSTEES OF**
4 **BALTIMORE CITY COMMUNITY COLLEGE AND SUBJECT TO THE APPROVAL OF THE**
5 **BOARD OF PUBLIC WORKS, THE STATE BOARD OF CONTRACT APPEALS SHALL**
6 **HAVE AUTHORITY OVER CONTRACT CLAIMS RELATED TO PROCUREMENT**
7 **CONTRACTS AWARDED BY BALTIMORE CITY COMMUNITY COLLEGE AFTER JUNE 30,**
8 **2021.**

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

10 (i) procurement by a University **OR BALTIMORE CITY**
11 **COMMUNITY COLLEGE** from:

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

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

- 22 1. direct resale;
- 23 2. remanufacture and subsequent resale; or
- 24 3. procurement by the University for overseas programs; or

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

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

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

5 ~~12-202.~~

6 ~~(a) This section does not apply to capital expenditures:~~

7 ~~(1) for public school construction under Title 5, Subtitle 3 of the Education~~
8 ~~Article; or~~

9 ~~(2) by the Department of Transportation or the Maryland Transportation~~
10 ~~Authority, in connection with State roads, bridges, or highways.~~

11 ~~(b) Before execution, a contract for a capital expenditure other than in connection~~
12 ~~with a State correctional facility, St. Mary's College of Maryland, Morgan State University,~~
13 ~~BALTIMORE CITY COMMUNITY COLLEGE, or the University System of Maryland shall~~
14 ~~be:~~

15 ~~(1) reviewed by the Secretary of General Services; and~~

16 ~~(2) except as provided in § 12-203 of this subtitle and § 13-108 of this~~
17 ~~article, after that review, approved by the Board.~~

18 ~~(c) Before execution, a contract for a capital expenditure in connection with a~~
19 ~~State correctional facility shall be:~~

20 ~~(1) reviewed by the Secretary of Public Safety and Correctional Services;~~
21 ~~and~~

22 ~~(2) except as provided in § 12-203 of this subtitle, after that review,~~
23 ~~approved by the Board.~~

24 ~~(d) Before execution, a contract for a capital expenditure in connection with the~~
25 ~~University System of Maryland shall be:~~

26 ~~(1) subject to the provisions of Title 4, Subtitle 4 of this article;~~

27 ~~(2) approved by the Board of Regents of the University System of~~
28 ~~Maryland; and~~

29 ~~(3) approved by the Board of Public Works.~~

30 ~~(e) Before execution, a contract for a capital expenditure in connection with St.~~
31 ~~Mary's College of Maryland shall be:~~

1 ~~(1) subject to the provisions of Title 4, Subtitle 4 of this article;~~

2 ~~(2) approved by the Board of Trustees of St. Mary's College of Maryland;~~

3 ~~and~~

4 ~~(3) approved by the Board of Public Works.~~

5 ~~(f) Before execution, a contract for a capital expenditure in connection with~~
6 ~~Morgan State University shall be:~~

7 ~~(1) subject to the provisions of Title 4, Subtitle 4 of this article;~~

8 ~~(2) approved by the Board of Regents of Morgan State University; and~~

9 ~~(3) approved by the Board of Public Works.~~

10 ~~**(G) BEFORE EXECUTION, A CONTRACT FOR A CAPITAL EXPENDITURE IN**~~
11 ~~**CONNECTION WITH BALTIMORE CITY COMMUNITY COLLEGE SHALL BE:**~~

12 ~~**(1) SUBJECT TO THE PROVISIONS OF TITLE 4, SUBTITLE 4 OF THIS**~~
13 ~~**ARTICLE;**~~

14 ~~**(2) APPROVED BY THE BOARD OF TRUSTEES OF BALTIMORE CITY**~~
15 ~~**COMMUNITY COLLEGE; AND**~~

16 ~~**(3) APPROVED BY THE BOARD OF PUBLIC WORKS.**~~

17 ~~**[(g)] (H) The Board shall supervise the expenditure of any money that the**~~
18 ~~**General Assembly appropriates for:**~~

19 ~~(1) buildings;~~

20 ~~(2) equipment;~~

21 ~~(3) new construction; or~~

22 ~~(4) any other capital expenditure.~~

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2021.