



BOARD OF REGENTS

**SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION**

TOPIC: USM Public Corporation Initiative

COMMITTEE: Effectiveness and Efficiency

DATE OF COMMITTEE MEETING: January 25, 2012

SUMMARY: At the December meeting, the Effectiveness and Efficiency Committee agreed that USM staff should begin discussions regarding strategies to improve the USM's effectiveness as a public corporation.

A set of legislative recommendations, made by the USM's Public Corporation Workgroup, has been included by the Governor in SB 239, which was introduced on January 24, 2012.

Note: A copy of the bill is available for Board members.

ALTERNATIVES(S): This is an information item only.

FISCAL IMPACT: This is an information item only.

CHANCELLOR'S RECOMMENDATION: This is an information item only.

COMMITTEE RECOMMENDATION: Received as information. **DATE:** January 25, 2012

BOARD ACTION: **DATE:**

SUBMITTED BY: Joseph F. Vivona (301) 445-1923

IMPROVING USM EFFECTIVENESS AS AN ENGINE OF STATE ECONOMIC GROWTH: 2012 LEGISLATIVE PROPOSAL

INTRODUCTION

In this era of global and national economic uncertainty, the strength of Maryland's economy and the well-being of its citizens face profound and continuing challenges. Those challenges are all too familiar: intractable unemployment rates, the loss of traditional manufacturing and other jobs, increasing poverty, a years-long housing crisis, a looming federal deficit, and more. We can take small comfort in the fact that—to date-- Maryland has been spared of the some of the worst harms of the current economic crisis. At least as compared to other states, Maryland's saving grace has been the eminence of its knowledge economy.

Maryland's economic future will be driven by its ability to preserve and expand the State's capacity for research, innovation, and the development of cutting-edge discoveries and technologies into successful business enterprises. We hope that the USM's contributions have had a major impact on Maryland's current knowledge economy eminence to date. However, we believe firmly that the USM and its institutions can and must do more to serve the State and its citizens as we struggle to preserve and enhance that reputation and, in the process, restore Maryland's economic growth.

The USM's 2011 Strategic Plan, "Powering Maryland Forward," sets ambitious goals for the USM through 2020 to accomplish just that. These include:

- Doubling externally funded research funding from their current \$1.2 billion level;
- Creating 325 new companies;
- Increasing USM research space by one million net assignable square feet;
- Instilling a culture of innovation and entrepreneurship throughout the USM with strengthened technology transfer and commercialization of research products; and
- Bolster programs to alleviate key workforce shortages, especially in high-demand health care and cyber-security fields.

The USM and its institutions already have instituted an array of measures to better serve the State's economic needs, and we continue to pursue opportunities to more effectively use our existing resources through our long-standing Effectiveness and Efficiency initiative. Nonetheless, we have had to postpone major economic development activities set out in the Strategic Plan for lack of resources in the current economic environment. The sad reality is that our ability to advance Maryland's economic growth by actions taken solely within the USM is limited under present conditions.

We will, of course, work with the Governor and General Assembly over the coming months and years to secure needed new resources. At the same time, however, we hope to seek the help of the State's political leadership to maximize the USM's ability to "do more with less" in service to Maryland's economic growth. In particular, we propose a narrow legislative proposal targeted at strengthening the USM's position as a competitive force in a rapidly moving economy.

The USM as a Public Corporation

More than a decade ago, the General Assembly foresaw the USM's potential to advance economic growth in Maryland and thus established the USM as a "public corporation." In landmark 1999 legislation, (S.B. 682), the General Assembly re-structured the USM as a "public corporation." 12-204(B)(1). When established by a government, a "public corporation" is a "corporation established for a specific public purpose by government, but with a large degree of financial and operational independence from the government authority that created it . . ." *The American Heritage Dictionary of Business Terms (2010)*. By designating the USM as a public corporation, the General Assembly's specific goal was to provide enlarged financial and operational independence needed by the USM to perform its essential functions.

S.B. 682 enacted into law the recommendations of the *1999 General Assembly Task Force to Study the Governance, Coordination, and Funding of the University System of Maryland*. With a view toward the 21st century, the *1999 Task Force* recommendation was driven by its determination that "[i]nstitutions need increasing flexibility" to succeed in the rapidly changing higher education environment. *Task Force Report, p. 2*.

In S.B. 682, the General Assembly acknowledged that the USM was "encumbered by State administrative regulations and procedures" and required "management flexibility necessary to respond to the needs of the student, State and citizens in a changing economy." The legislation recognized that "higher education is an engine that drives economic growth and will be key to competing successfully in the 21st century." *Preamble, S.B. 682*. Thus, the re-structuring of the USM as a public corporation was accompanied by other measures that lay the foundation for a modern higher education system: exemption from many procurement requirements; greater independence for each institution to manage its own affairs, subject to broad USM Board of Regents oversight; and authority for the USM and its institutions to form business entities.

Since that time, the USM's role in areas critical to the State's economy has accelerated at an extraordinary pace, creating expectations that the USM must:

- Attract ever-increasing research funding, activity and expertise to enhance Maryland's stature as a center for the bio-sciences, homeland security and other key knowledge industry fields;
- Based upon that research, improve the health and wellbeing of Maryland's citizens;
- Be a driving force in State economic development as its research enterprise translates into technology transfer, innovation, and entrepreneurship that spurs new business in Maryland;
- Integrate workforce development and the needs of older and non-traditional students into its educational mission; and
- Perform all of these functions in an increasingly global community and marketplace.

As these functions become more central to the State's economic success, the USM must meet challenges that are never faced by traditional public agencies. First, it is confronted by competition from the private sector on many fronts: from private industry in its efforts in technology transfer and innovation; from the world's most heavily endowed private universities in its effort to secure federal and other funding to seed its research enterprise; from private, for-profit universities in meeting its mission to prepare the workforce required for the 21st century job market. Second, the USM must forge close and quickly-evolving relationships with the private sector to create needed new business

development in the State and translate its research efforts into products that improve health, safety and a sustainable environment for Maryland's citizens. Finally, the USM must operate in the global community, dealing effectively with multi-national corporations and foreign governments and adapting efficiently to constantly evolving technologies.

The General Assembly envisioned this phenomenon when it enacted HB 682. With a decade of operation and a solid track record of the results of HB 682, we re-visited the USM's effectiveness as a public corporation and developed a targeted economic development legislative proposal to improve the USM's ability to compete in the fast-moving national and global economy. With three modest enhancements to the USM's role as a public corporation, it will reduce significant bureaucratic obstacles to the USM's effective and nimble interactions with the private sector while maintaining strong accountability to the Board of Public Works, General Assembly and the State agencies that routinely scrutinize major USM transactions.

This proposal also aligns with the Governor's call, as articulated in recent Executive Order (01.01.211.12), for "the efficient and expedited review" of public initiatives that can create economic development and job creation" in Maryland.

THE NEED FOR THE PROPOSAL

The need for this targeted legislative initiative is best illustrated by recent examples:

- One of our research institutions wishes to partner with a dynamic technology company that proposes to build a state-of-the-art facility with multi-million dollar technology on unused institution land. The facility will create jobs, advance research and provide new therapies for Maryland citizens. Time is of the essence in finalizing this development, as institutions elsewhere will likely step in to compete for the facility.
 - Under current law, this transaction is subject to a lengthy, sequential process of state agency approvals that requires, in order, submission to: 1) the Department of Planning, which, in turn, distributes the proposal to a series of other agencies for review and comment (45 days); 2) the Board of Public Works (BPW), for property surplus declaration (14-30 days); 3) the General Assembly budget committees for review and comment (minimum of 45 days); the BPW for approval of property disposition (14-30 days). If none of these agencies raises any concern, this process takes approximately four months, and it can extend by many more weeks if comments are made at any point in the sequence.
 - *Under the proposed strategy, the USM—as an effective public corporation-- would manage this now-extended process according to its own sequence and timelines. We believe that the proposal would decrease the entire state review timeline to approximately 45 days, thus reducing the possibility of losing the opportunity to a private institution.*
- An institution takes a small equity interest in an incubator start-up housed in its research park. The company thrives, and a fast-moving deal is imminent to sell it to a European corporation. Because the institution's equity share is now valued at \$200,000, its sale as part of that

transaction must be approved by the Board of Public Works. The two-week delay in gaining BPW approval nearly kills the deal.

- *Under the proposed strategy, the institution's equity sale would not need BPW approval unless it was valued at more than one million dollars.*
- A small USM institution needs to purchase office furnishings in a new building built with bond funds authorized by the General Assembly whose construction was approved by the BPW.
 - Because those furnishings will be purchased with bond funds, additional BPW approval must be sought to buy a \$127 bookcase, triggering a series of administrative processes on the part of the staffs of the institution, the USM, the BPW, and each of the members of the BPW.
 - *The proposed strategy would eliminate this inefficiency by putting a threshold on the requirement of BPW review of bond-funded purchases.*
- The USM wishes to collaborate with other Maryland four-year institutions and community colleges on a critical technology initiative. The most effective way to accomplish this is through the creation of a non-for-profit consortium involving all of the partners.
 - Under current law, however, USM staff could not work for the entity, and our institutions could not obtain services from the entity without first undertaking a full-scale competitive procurement process.
 - *Under the new strategy, the USM could seamlessly share resources and services with the consortium, subject to appropriate accountability and ethics standards.*

ELEMENTS OF THE STRATEGY

The proposed legislative strategy for addressing situations like those described above has three parts:

I. *Promoting High Impact Economic Development Activities by the USM*

- To enable USM to spur “high impact economic development” (i.e. initiatives that create twenty or more jobs, produce one million dollars or more in annual revenue, establish a new company in Maryland, etc.), the lengthy, multi-layered state review process that can take to five months or more must be streamlined. The first element of this legislative strategy will require that the USM take full responsibility for managing State agency review and approval of initiatives that have the promise of significant state economic development. Without eliminating any current scrutiny over those transactions, this proposal will substantially reduce the review timeline and eliminate unnecessary delays in the review process that can jeopardize important business development. It will ensure that all appropriate bodies have a reasonable period to complete their reviews, while securing Maryland’s ability to take advantage of high impact economic development opportunities.

II. Promoting Business and other Affiliated Entities

A second emphasis of a USM strategy is the provision of stronger statutory tools for the USM and institutions to create affiliated entities to advance economic development, i.e., corporations, foundations, consortia or other entities to support expanded research, faculty entrepreneurship, or collaborative initiatives among USM institutions and other organizations. This proposal will lay the foundation for the Board to shape concrete priorities for the development of such entities, as well as standards and safeguards for their prudent use by USM institutions. Under this approach, resources and services could seamlessly be shared, subject to appropriate accountability and ethics standards.

III. Improved Effectiveness and Efficiency

Finally, the third prong of the strategy will update outmoded statutory provisions that are contrary to the intent of SB 682, and improve the efficiency of the USM, in keeping with the Governor's call to reduce regulations that impede economic development. According to current interpretations of State law, BPW review for USM activities is now required for:

- Acquisition of real property—Educ. 12-104(h)
- Contract for services or capital improvements over \$500,000—SF&P 11-203(e)
- GO Bond funded purchases, regardless of value—SF&P 8-301
- Disposition of personal property funded with an appropriation with appraised value over \$100,000—SF&P 10-305(b)

The proposal would increase the general threshold for BPW review of contracts for services and capital improvements for the first time in over a decade to \$1,000,000; apply that threshold uniformly to all non-real estate transactions of the USM; and clarify the definition of “service contract.” After careful consideration of the types and dollar values of USM transactions currently processed through the BPW and the results of BPW review, we believe that this proposal strikes a sound balance between efficient administration of USM activities and effective BPW scrutiny over major USM transactions.