

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 629

(Chair, Health and Government Operations
Committee)(By Request - Departmental - General
Services)

Health and Government Operations

Education, Health, and Environmental Affairs

**Environmentally Preferable Procurement - Maryland Green Purchasing
Committee**

This departmental bill expands the authority and composition of the Maryland Green Purchasing Committee, alters reporting requirements related to green purchasing, repeals existing price preferences in State law, and makes additional changes related to the Green Maryland Act of 2010.

Fiscal Summary

State Effect: Adoption of environmentally preferable purchasing (EPP) specifications by all State agencies may increase State procurement costs (all funds), but a reliable estimate of any such increase cannot be made due to the diversity of products affected. In some instances, EPP products are already the industry norm and/or do not cost more than non-EPP products; in other instances, the initial cost differential may be substantial, but it may be partially or fully offset by reduced operating costs. Repeal of the price preference for recycled products has no practical effect because it has not been widely applied. Agencies can carry out the reporting requirements with existing budgeted resources, and the Department of General Services (DGS) can staff the Maryland Green Purchasing Committee with existing budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: DGS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill repeals the 5% price preference for recycled materials in State law and instead requires each State agency, to the extent practicable, to adopt the EPP specifications developed by the Maryland Green Purchasing Committee. The committee is required to keep its specifications online. An “environmentally preferable product or service” is defined as one that, throughout its full lifecycle, (1) is energy efficient, water efficient, biobased, nonozone depleting, made with recycled content, or nontoxic or (2) has other attributes recognized as environmentally preferable by the Maryland Green Purchasing Committee. The definition of “environmentally preferable purchasing” in current law is amended to reflect that any benefits of environmentally preferable products or services are based on (1) their full lifecycles; (2) relevant international consensus standards; and (3) other relevant factors including recycling, energy recovery, climate change, fossil fuel, and ozone depletion as well as the other factors in current law.

Each State agency is required to report annually to DGS on its purchase of environmentally preferable products and services as a percentage of its gross purchases.

The committee is expanded to include the State Treasurer and the Secretaries of Information Technology and Education, or their designees. DGS is required to provide staff support to the committee, with assistance as necessary from other member agencies. The committee must (1) promote EPP through education and training and (2) establish the framework and format for State agency reports to DGS.

All bidders or offerors on State procurement contracts, not just those bidding on DGS contracts, must certify in writing that any claims of environmental attributes are consistent with the Federal Trade Commission’s guidelines for the use of environmental marketing terms.

Current Law: The Green Maryland Act of 2010 (Chapters 593 and 594) promotes the use of EPP throughout State government with a variety of study and reporting requirements and the establishment of the Maryland Green Purchasing Committee. It also increased the percentage of paper purchased by DGS that must be recycled from 40% to 90%.

“Environmentally preferable purchasing” means the procurement or acquisition of goods and services that have a lesser, or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose, based on the raw materials, manufacturing, packaging, distribution, use, reuse, operation, maintenance, and disposal of the goods or services.

The Maryland Green Purchasing Committee must provide information and assistance regarding EPP by, among other things, developing and implementing a strategy (that may include statewide policies, guidelines, programs, and regulations) and developing a “best practices manual” that may be adopted from other governmental or nongovernmental institutions. Chapters 593 and 594 include several options that the committee must consider in developing the manual and strategy. Each year, State agencies must review their purchasing practices and revise them in accordance with the best practices manual and strategy. They must also report on their procurement of recycled materials to the Maryland Department of the Environment.

The committee must designate a single point of contact for State agencies, suppliers, and others to contact regarding EPP issues. By October 1 of each year, the committee must report to the General Assembly on its activities and progress made in implementing EPP. Also, by April 1, 2011, the committee had to develop green purchasing guidelines to address practices, products, services, and food that reduce negative impacts on human health and the environment. The guidelines were required to include consumption changes and a list of contracts that include human health and environmental specifications for at least five prioritized categories of goods or services.

The Green Maryland Act did not limit or supersede recycled content requirements under any other provision of law, and it did not require State agencies to purchase goods that do not perform adequately, exclude adequate competition, or are not available at a reasonable price in a reasonable amount of time. Bidders or offerors must certify in writing that any environmental claims made in the bid or proposal for a contract with DGS are consistent with the Federal Trade Commission’s guidelines for the use of environmental marketing terms.

The Board of Public Works must adopt regulations that require the Secretaries of General Services and Transportation, as well as the Chancellor of the University System of Maryland, to establish a percentage price preference for the purchase of products made from recycled materials; the price preference may not exceed 5%. It is repealed by the bill.

Background: DGS advises that, after fulfilling its initial mandate in the Green Maryland Act, the Green Purchasing Committee has encountered challenges, including lack of participation, turnover in committee membership, and weak implementation of the committee’s guidelines. The bill strengthens the committee’s ability to hold agencies accountable for using its green purchasing specifications and guidelines, which are currently voluntary.

State Fiscal Effect: DGS advises that the committee has approved five EPP specifications, with five more specifications under consideration. In many instances,

adoption of the specifications likely has little or no fiscal effect because purchasing of EPP products is already the norm. A good example is lighting, where energy-efficient compact fluorescent lighting or LED bulbs have largely replaced traditional incandescent bulbs. DGS also advises that the statewide paint vendor advises that new specifications for EPP paint under consideration will not likely affect the price the State pays. For other products, however, the initial price differential may be substantial, but the potential for long-term savings due to reduced energy or water consumption may help offset those costs. The committee notes that it will be sensitive to potential cost implications of new specifications and, at times, offer agencies flexibility to prevent significant fiscal effects.

DGS also advises that the price preference for recycled products has not been widely used because many purchases of recycled products are made through statewide commodities contracts in which the price preference cannot be applied because the recycled products are just one category of product available through the contract. For instance, recycled office paper is often purchased through a statewide office supplies vendor that offers a wide array of items.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Maryland State Department of Education, Department of General Services, Department of Health and Mental Hygiene, Maryland Energy Administration, Department of Natural Resources, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2014
ncs/ljm Revised - House Third Reader - March 28, 2014

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Green Purchasing Committee

BILL NUMBER: HB 629

PREPARED BY: Department of General Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS