

HOUSE BILL 330

F1, P2

6lr2397
CF 6lr1418

By: **Delegates Jones, Gaines, Haynes, Hettleman, A. Miller, Morhaim, Stein, and Zucker**

Introduced and read first time: January 27, 2016

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **County Boards of Education – Procurements for Construction or Repair of**
3 **School Projects**

4 FOR the purpose of making certain provisions of law concerning the advertising for bids for
5 procurements costing more than a certain amount applicable to construction or
6 repair for certain school projects in the State; including construction and repair
7 services under certain provisions of law concerning the award of certain procurement
8 contracts to certain bidders; defining certain terms; providing for the application of
9 this Act; and generally relating to procurement for construction and repair services
10 for schools.

11 BY repealing and reenacting, with amendments,
12 Article – Education
13 Section 1–101 and 5–112
14 Annotated Code of Maryland
15 (2014 Replacement Volume and 2015 Supplement)

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

18 **Article – Education**

19 1–101.

20 (a) In this article, unless the context requires otherwise, the following words have
21 the meanings indicated.

22 (b) “Any state” means:

23 (1) Any state, possession, or territory of the United States;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The District of Columbia; and

2 (3) The Commonwealth of Puerto Rico.

3 (c) (1) **“COMMODITIES” MEANS AN ITEM OF PURCHASE.**

4 (2) **“COMMODITIES” INCLUDES:**

5 (i) **OFFICE GOODS AND MATERIALS;**

6 (ii) **FOOD;**

7 (iii) **PRINTED MATERIAL;**

8 (iv) **COPIED MATERIAL;**

9 (v) **ENERGY; AND**

10 (vi) **OTHER ITEMS NEEDED TO SUPPORT NORMAL OPERATIONS**
11 **OF A PUBLIC SCHOOL SYSTEM.**

12 (d) (1) **“CONSTRUCTION” MEANS THE PROCESS OF BUILDING, ALTERING,**
13 **REPAIRING, IMPROVING, OR DEMOLISHING ANY STRUCTURE OR BUILDING OR**
14 **MAKING ANY OTHER IMPROVEMENT TO REAL PROPERTY.**

15 (2) **“CONSTRUCTION” INCLUDES ANY MAJOR WORK NECESSARY TO**
16 **REPAIR, PREVENT DAMAGE TO, OR SUSTAIN EXISTING COMPONENTS OF AN**
17 **IMPROVEMENT TO REAL PROPERTY.**

18 [(c)] (E) **“County” means a county of this State and includes Baltimore City.**

19 [(d)] (F) **“County board” means the board of education of a county and includes**
20 **the Baltimore City Board of School Commissioners.**

21 [(e)] (G) **“County superintendent” means the county superintendent of schools**
22 **of a county and includes the Chief Executive Officer of the Baltimore City Board of School**
23 **Commissioners.**

24 [(f)] (H) **“Department” means the State Department of Education.**

25 [(g)] (I) **“Elementary and secondary education” means education and programs**
26 **of education from and including preschool through the end of high school and their**
27 **equivalent.**

1 **(J) “GOODS” MEANS TANGIBLE OR MOVABLE PERSONAL PROPERTY OTHER**
2 **THAN MONEY.**

3 **(K) “IMPROVEMENT” MEANS THE CONSTRUCTION, MAINTENANCE, AND**
4 **REPAIR OF ANY BUILDING, STRUCTURE, COMPONENT, OR OTHER PUBLIC WORK.**

5 **[(h)] (L)** “Includes” or “including” means includes or including by way of
6 illustration and not by way of limitation.

7 **[(i)] (M)** “Person” includes:

8 (1) An individual, receiver, trustee, guardian, executor, administrator,
9 fiduciary, or representative of any kind and any partnership, firm, association, public or
10 private corporation, or other entity; and

11 (2) The State, any county, municipal corporation, or other political
12 subdivision of this State, and any of their agencies or units.

13 **[(j)] (N)** “Property” means any real or personal property or any interest in real
14 or personal property.

15 **[(k)] (O)** “Public schools” means the schools in the public elementary and
16 secondary education system of this State.

17 **[(l)] (P)** “State Board” means the State Board of Education.

18 **[(m)] (Q)** “State Superintendent” means the State Superintendent of Schools.

19 5–112.

20 (a) This section does not apply to:

21 (1) Contracts for the purchase of books and other materials of instruction
22 as defined in the State Department of Education Financial Reporting Manual;

23 (2) Emergency repairs; and

24 (3) Except as provided in subsection (e) of this section, a county board’s
25 participation in contracts for goods or commodities that are awarded by other public
26 agencies or by intergovernmental purchasing organizations if the lead agency for the
27 contract follows public bidding procedures.

28 (b) (1) Except as provided in paragraph (2) of this subsection, if the cost of any
29 school building, improvement, **CONSTRUCTION, REPAIR**, supplies, or equipment is more
30 than \$25,000, the county board, at least 2 weeks before bids are to be filed, shall advertise
31 for bids in a medium accessible to the general public, which includes:

- 1 (i) A newspaper of general circulation in the region;
- 2 (ii) The Maryland Contract Weekly or comparable State publication;
- 3 or
- 4 (iii) An electronic posting on a bid board and physical posting on the
- 5 local school system bid board.

6 (2) If the amount specified in paragraph (1) of this subsection differs from

7 the amount in § 13–109(a) of the State Finance and Procurement Article, the amount in §

8 13–109(a) of the State Finance and Procurement Article shall apply under paragraph (1) of

9 this subsection.

10 (3) (i) The county board shall draft specifications that provide a clear

11 and accurate description of the functional characteristics or the nature of an item to be

12 procured, without modifying the county board's requirements.

13 (ii) The specifications may:

- 14 1. Include a statement of any of the county board's
- 15 requirements; and
- 16 2. Provide for the submission of samples, inspection, or
- 17 testing of the item before procurement.

18 (4) (i) Except as provided in subparagraph (ii) of this paragraph,

19 specifications that use one or more manufacturer's product to describe the standard of

20 quality, performance, or other characteristics needed to meet the county board's

21 requirements, must allow for the submission of equivalent products.

22 (ii) Subparagraph (i) of this paragraph does not apply if the county

23 board determines in the written specification that:

- 24 1. A particular manufacturer's product is required to
- 25 maintain compatibility of service or equipment;
- 26 2. A particular manufacturer's product is required to meet
- 27 the health needs of students;
- 28 3. Replacement parts or maintenance are a paramount
- 29 consideration; or
- 30 4. A product is purchased for resale.

1 (c) (1) A contract for the school building, improvements, **CONSTRUCTION,**
2 **REPAIR,** supplies, or other equipment shall be awarded to the lowest responsible bidder
3 who conforms to specifications with consideration given to:

4 (i) The quantities involved;

5 (ii) The time required for delivery;

6 (iii) The purpose for which required;

7 (iv) The competency and responsibility of the bidder;

8 (v) The ability of the bidder to perform satisfactory service; and

9 (vi) The plan for utilization of minority contractors.

10 (2) The county board may reject any and all bids and readvertise for other
11 bids.

12 (d) (1) In this subsection, the term “minority business enterprise” has the
13 meaning stated in § 14–301 of the State Finance and Procurement Article.

14 (2) In Montgomery County, by resolution and by implementing
15 regulations, the Montgomery County Board of Education shall establish a minority
16 business utilization program to facilitate the participation of responsible certified minority
17 business enterprises in contracts awarded by the Montgomery County Board of Education
18 in accordance with competitive bidding procedures.

19 (e) (1) (i) In this subsection, “green product cleaning supplies” means
20 environmentally preferable cleaning and cleaning maintenance products and supplies
21 intended for routine cleaning and cleaning maintenance that perform well and that have
22 positive health and environmental attributes, including:

23 1. Biodegradability;

24 2. Low toxicity;

25 3. Low volatile organic compound content;

26 4. Reduced packaging;

27 5. Low life cycle energy use; and

28 6. Lesser or reduced effects on human health and the
29 environment when compared to competing products that serve the same purpose.

30 (ii) “Green product cleaning supplies” includes:

- 1 1. General purpose cleaners;
- 2 2. Bathroom cleaners;
- 3 3. Carpet cleaners;
- 4 4. Glass cleaners;
- 5 5. Floor cleaners, floor finishes, and floor strippers;
- 6 6. Wall cleaners;
- 7 7. Desk cleaners;
- 8 8. Surface cleaners;
- 9 9. Window cleaners;
- 10 10. Whiteboard cleaners; and
- 11 11. Soap.

12 (iii) “Green product cleaning supplies” does not include:

- 13 1. Room deodorizers;
- 14 2. Air fresheners;
- 15 3. Toilet deodorizers; or
- 16 4. Hand cleaners.

17 (2) (i) Subject to subsection (f) of this section, to the extent practicable,
18 and economically feasible, a county board shall procure green product cleaning supplies for
19 use in its schools.

20 (ii) In accordance with subsection (b)(3) of this section, a county
21 board shall draft specifications that provide a clear and accurate description of the
22 functional characteristics or nature of the green product cleaning supplies that are to be
23 procured.

24 (iii) The specifications drafted by a county board under subparagraph
25 (ii) of this paragraph:

1 1. May not preclude the use when necessary of a disinfectant,
2 disinfecting cleaner, sanitizer, or other antimicrobial product regulated by the Federal
3 Insecticide, Fungicide, and Rodenticide Act under 7 U.S.C. § 136 et seq.; and

4 2. Shall allow for multiple avenues to obtain green product
5 cleaning supplies certification, including:

6 A. Green Seal, Green Label, Environmental Choice,
7 TerraChoice, or Ecologo; and

8 B. Any other nationally recognized independent third-party
9 entity that certifies environmentally preferable products that the county board determines
10 to be appropriate.

11 (3) (i) Except as provided in paragraph (2)(i) of this subsection, on or
12 before July 1, 2013, a county board shall adopt written policies for the procurement of green
13 product cleaning supplies for use in its schools.

14 (ii) The written policies shall:

15 1. Require the use of green product cleaning supplies;

16 2. On or before July 1, 2014, establish guidelines for
17 purchasing green product cleaning supplies that meet the certification requirements of any
18 established and nationally recognized independent third-party entity that certifies
19 environmentally preferable products and adheres to consensus standards for lesser or
20 reduced effects on human health and the environment when compared to competing
21 products that serve the same purpose;

22 3. Establish green cleaning practices, including storage,
23 application, frequency of use, and disposal of the supplies to ensure that the occupants of a
24 school building do not suffer any adverse health effects as the result of these practices; and

25 4. Require staff training on implementing the policy.

26 (f) On or before June 30 each year, a county board that does not procure green
27 product cleaning supplies for use in its schools because doing so is not practicable or
28 economically feasible shall provide annual written notice of this fact to the Department.

29 (g) Nonpublic schools may participate under any contracts for goods or
30 commodities that are awarded by county boards, other public agencies, or
31 intergovernmental purchasing organizations, if the lead agency for the contract award
32 follows public bidding procedures.

33 (h) A contract entered into or purchase made in violation of this section is void.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 apply only prospectively and may not be applied or interpreted to have any effect on or
3 application to any contract in effect before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2016.