

HOUSE BILL 1226

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2001 Regular Session  
11r1913  
CF 11r1632

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By: **Delegates Rosenberg, Dewberry, and Dobson**  
Introduced and read first time: February 9, 2001  
Assigned to: Appropriations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: April 2, 2001

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CHAPTER 545

1 AN ACT concerning

2 **Elementary and Secondary Education - Procurement - Competition**

3 FOR the purpose of requiring county boards of education to draft certain  
4 specifications ~~to obtain maximum competition~~ in certain public school  
5 procurement contracts; ~~and prohibiting specifications favoring a single~~  
6 ~~prospective bidder or offeror, with the exception of specification of brand name~~  
7 ~~products for heating and cooling products or electrical systems requiring that~~  
8 brand name specifications allow substitution of equivalent products except in  
9 certain circumstances; and generally relating to competition for certain public  
10 school procurement contracts.

11 BY repealing and reenacting, with amendments,  
12 Article - Education  
13 Section 5-112  
14 Annotated Code of Maryland  
15 (1999 Replacement Volume and 2000 Supplement)

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

18 **Article - Education**

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; and

1 (2) Emergency repairs.

2 (b) (1) If the cost of any school building, improvement, supplies, or  
3 equipment is more than \$15,000, the county board, at least 2 weeks before bids are to  
4 be filed, shall advertise for bids in at least one newspaper of general circulation in the  
5 county.

6 ~~(2) THE COUNTY BOARD:~~

7 ~~(4) SHALL DRAFT SPECIFICATIONS TO OBTAIN MAXIMUM~~  
8 ~~PRACTICABLE COMPETITION FOR CONTRACTS FOR SCHOOL BUILDING,~~  
9 ~~IMPROVEMENT, SUPPLIES, OR EQUIPMENT WITHOUT MODIFYING THE~~  
10 ~~REQUIREMENTS OF THE COUNTY BOARD;~~

11 ~~(II) MAY NOT DRAFT THE SPECIFICATIONS IN A MANNER TO FAVOR~~  
12 ~~A SINGLE PROSPECTIVE BIDDER OR OFFEROR; BUT~~

13 ~~(III) [The county board may] MAY name in the specifications and~~  
14 ~~advertisements for bids the particular make, kind, or brand of article to be contracted~~  
15 ~~for or purchased FOR THE PROCUREMENT OF HEATING AND COOLING PRODUCTS OR~~  
16 ~~ELECTRICAL SYSTEMS.~~

17 (2) (I) THE COUNTY BOARD SHALL DRAFT SPECIFICATIONS THAT  
18 PROVIDE A CLEAR AND ACCURATE DESCRIPTION OF THE FUNCTIONAL  
19 CHARACTERISTICS OR THE NATURE OF AN ITEM TO BE PROCURED, WITHOUT  
20 MODIFYING THE COUNTY BOARD'S REQUIREMENTS.

21 (II) THE SPECIFICATIONS MAY:

22 1. INCLUDE A STATEMENT OF ANY OF THE COUNTY BOARD'S  
23 REQUIREMENTS; AND

24 2. PROVIDE FOR THE SUBMISSION OF SAMPLES,  
25 INSPECTION, OR TESTING OF THE ITEM BEFORE PROCUREMENT.

26 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
27 SUBSECTION, SPECIFICATIONS THAT USE ONE OR MORE MANUFACTURER'S  
28 PRODUCT TO DESCRIBE THE STANDARD OF QUALITY, PERFORMANCE, OR OTHER  
29 CHARACTERISTICS NEEDED TO MEET THE COUNTY BOARD'S REQUIREMENTS, MUST  
30 ALLOW FOR THE SUBMISSION OF EQUIVALENT PRODUCTS.

31 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY IF  
32 THE COUNTY BOARD DETERMINES IN THE WRITTEN SPECIFICATION THAT:

33 1. A PARTICULAR MANUFACTURER'S PRODUCT IS REQUIRED  
34 TO MAINTAIN COMPATIBILITY OF SERVICE OR EQUIPMENT;

35 2. A PARTICULAR MANUFACTURER'S PRODUCT IS REQUIRED  
36 TO MEET THE HEALTH NEEDS OF STUDENTS;

