

# SENATE BILL 1029

F5, P2

4r2826  
CF HB 1329

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By: **Senator Zirkin**

Introduced and read first time: February 13, 2014

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County Board of Education – Procurement for**  
3 **Construction–Related Projects for Schools**

4 FOR the purpose of making certain provisions of law concerning the advertising for  
5 bids for certain procurements costing more than a certain amount apply to  
6 construction–related projects for schools in Baltimore County; making  
7 provisions of law concerning the award of certain procurement contracts apply  
8 to construction–related projects for schools in Baltimore County; defining  
9 certain terms; providing for the application of this Act; and generally relating to  
10 procurement for construction–related projects for schools in Baltimore County.

11 BY repealing and reenacting, with amendments,  
12 Article – Education  
13 Section 5–112(a)  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume and 2013 Supplement)

16 BY adding to  
17 Article – Education  
18 Section 5–112.1  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2013 Supplement)

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

23 **Article – Education**

24 5–112.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) This section does not apply to:

2 [(1)] (I) Contracts for the purchase of books and other materials of  
3 instruction as defined in the State Department of Education Financial Reporting  
4 Manual;

5 [(2)] (II) Emergency repairs; and

6 [(3)] (III) Except as provided in subsection (e) of this section, a county  
7 board's participation in contracts for goods or commodities that are awarded by other  
8 public agencies or by intergovernmental purchasing organizations if the lead agency  
9 for the contract follows public bidding procedures.

10 (2) PARAGRAPH (1)(III) OF THIS SUBSECTION AND SUBSECTIONS  
11 (B) AND (C) OF THIS SECTION DO NOT APPLY TO BALTIMORE COUNTY.

12 5-112.1.

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
14 MEANINGS INDICATED.

15 (2) "COMMODITIES" MEANS AN ITEM OF PURCHASE, WHICH MAY  
16 INCLUDE:

17 (I) OFFICE GOODS AND MATERIALS;

18 (II) FOOD;

19 (III) PRINTING;

20 (IV) COPYING;

21 (V) ENERGY; AND

22 (VI) ANY OTHER ITEMS NEEDED TO SUPPORT NORMAL  
23 OPERATIONS.

24 (3) (I) "CONSTRUCTION" MEANS THE PROCESS OF BUILDING,  
25 ALTERING, REPAIRING, IMPROVING, OR DEMOLISHING ANY STRUCTURE OR  
26 BUILDING OR MAKING ANY OTHER IMPROVEMENT TO REAL PROPERTY.

27 (II) "CONSTRUCTION" INCLUDES ANY MAJOR WORK  
28 NECESSARY TO REPAIR, PREVENT DAMAGE TO, OR SUSTAIN EXISTING  
29 COMPONENTS OF AN IMPROVEMENT TO REAL PROPERTY.

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

3           (5) “IMPROVEMENT” MEANS THE CONSTRUCTION,  
4 MAINTENANCE, AND REPAIR OF ANY BUILDING, STRUCTURE, OR OTHER PUBLIC  
5 WORK ACQUIRED BY THE BALTIMORE COUNTY BOARD OF EDUCATION  
6 REGARDLESS OF THE DATE OF THE ACQUISITION.

7           (B) THIS SECTION APPLIES TO BALTIMORE COUNTY.

8           (C) EXCEPT AS PROVIDED IN § 5-112(F) OF THIS SUBTITLE, THIS  
9 SECTION DOES NOT APPLY TO THE COUNTY BOARD’S PARTICIPATION IN  
10 CONTRACTS FOR GOODS OR COMMODITIES THAT ARE AWARDED BY OTHER  
11 PUBLIC AGENCIES OR BY INTERGOVERNMENTAL PURCHASING ORGANIZATIONS  
12 IF THE LEAD AGENCY FOR THE CONTRACT FOLLOWS PUBLIC BIDDING  
13 PROCEDURES.

14           (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
15 SUBSECTION, IF THE COST OF ANY SCHOOL BUILDING, IMPROVEMENT,  
16 CONSTRUCTION, SUPPLIES, OR EQUIPMENT IS MORE THAN \$25,000, THE  
17 COUNTY BOARD, AT LEAST 2 WEEKS BEFORE BIDS ARE TO BE FILED, SHALL  
18 ADVERTISE FOR BIDS IN A MEDIUM ACCESSIBLE TO THE GENERAL PUBLIC,  
19 WHICH INCLUDES:

20                   (I) A NEWSPAPER OF GENERAL CIRCULATION IN THE  
21 REGION;

22                   (II) THE MARYLAND CONTRACT WEEKLY OR COMPARABLE  
23 STATE PUBLICATION; AND

24                   (III) AN ELECTRONIC POSTING ON A BID BOARD AND  
25 PHYSICAL POSTING ON THE LOCAL SCHOOL SYSTEM BID BOARD.

26           (2) IF THE AMOUNT SPECIFIED IN PARAGRAPH (1) OF THIS  
27 SUBSECTION DIFFERS FROM THE AMOUNT IN § 13-109(A) OF THE STATE  
28 FINANCE AND PROCUREMENT ARTICLE, THE AMOUNT IN § 13-109(A) OF THE  
29 STATE FINANCE AND PROCUREMENT ARTICLE SHALL APPLY UNDER  
30 PARAGRAPH (1) OF THIS SUBSECTION.

31           (3) (I) THE COUNTY BOARD SHALL DRAFT SPECIFICATIONS  
32 THAT PROVIDE A CLEAR AND ACCURATE DESCRIPTION OF THE FUNCTIONAL

1 CHARACTERISTICS OR THE NATURE OF AN ITEM TO BE PROCURED, WITHOUT  
2 MODIFYING THE COUNTY BOARD'S REQUIREMENTS.

3 (II) THE SPECIFICATIONS MAY:

4 1. INCLUDE A STATEMENT OF ANY OF THE COUNTY  
5 BOARD'S REQUIREMENTS; AND

6 2. PROVIDE FOR THE SUBMISSION OF SAMPLES,  
7 INSPECTION, OR TESTING OF THE ITEM BEFORE PROCUREMENT.

8 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
9 PARAGRAPH, SPECIFICATIONS THAT USE ONE OR MORE MANUFACTURER'S  
10 PRODUCTS TO DESCRIBE THE STANDARD OF QUALITY, PERFORMANCE, OR  
11 OTHER CHARACTERISTICS NEEDED TO MEET THE COUNTY BOARD'S  
12 REQUIREMENTS MUST ALLOW FOR THE SUBMISSION OF EQUIVALENT  
13 PRODUCTS.

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

17 1. A PARTICULAR MANUFACTURER'S PRODUCT IS  
18 REQUIRED TO MAINTAIN THE COMPATIBILITY OF SERVICE OR EQUIPMENT;

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

21 3. REPLACEMENT PARTS OR MAINTENANCE ARE A  
22 PARAMOUNT CONSIDERATION; OR

23 4. A PRODUCT IS PURCHASED FOR RESALE.

24 (E) (1) A CONTRACT FOR THE SCHOOL BUILDING, IMPROVEMENTS,  
25 CONSTRUCTION, SUPPLIES, OR OTHER EQUIPMENT SHALL BE AWARDED TO THE  
26 LOWEST RESPONSIBLE BIDDER WHO CONFORMS TO SPECIFICATIONS WITH  
27 CONSIDERATION GIVEN TO:

28 (I) THE QUANTITIES INVOLVED;

29 (II) THE TIME REQUIRED FOR DELIVERY;

30 (III) THE PURPOSE FOR WHICH REQUIRED;

1                   **(IV) THE COMPETENCY AND RESPONSIBILITY OF THE**  
2 **BIDDER;**

3                   **(V) THE ABILITY OF THE BIDDER TO PROVIDE**  
4 **SATISFACTORY SERVICE; AND**

5                   **(VI) THE PLAN FOR UTILIZATION OF MINORITY**  
6 **CONTRACTORS.**

7                   **(2) THE COUNTY BOARD MAY REJECT ANY AND ALL BIDS AND**  
8 **READVERTISE FOR OTHER BIDS.**

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

13           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2014.