

# SENATE BILL 725

F5, P2  
SB 1029/14 – EHE

5lr1735  
CF 5lr2898

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By: **Senator Zirkin**

Introduced and read first time: February 12, 2015

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of making certain provisions of law concerning the advertising for bids for  
5 certain procurements costing more than a certain amount apply to  
6 construction–related projects for schools in Baltimore County; making provisions of  
7 law concerning the award of certain procurement contracts apply to  
8 construction–related projects for schools in Baltimore County; defining certain  
9 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 (2014 Replacement Volume and 2014 Supplement)

16 BY adding to  
17 Article – Education  
18 Section 5–112.1  
19 Annotated Code of Maryland  
20 (2014 Replacement Volume and 2014 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
22 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 Manual;

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

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

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

11 5-112.1.

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

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

16 (I) OFFICE GOODS AND MATERIALS;

17 (II) FOOD;

18 (III) PRINTING;

19 (IV) COPYING;

20 (V) ENERGY; AND

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

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

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

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

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

7           **(B) THIS SECTION APPLIES TO BALTIMORE COUNTY.**

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

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

18                   **(I) A NEWSPAPER OF GENERAL CIRCULATION IN THE REGION;**

19                   **(II) THE MARYLAND CONTRACT WEEKLY OR COMPARABLE**  
20 **STATE PUBLICATION; AND**

21                   **(III) AN ELECTRONIC POSTING ON A BID BOARD AND PHYSICAL**  
22 **POSTING ON THE LOCAL SCHOOL SYSTEM BID BOARD.**

23           **(2) IF THE AMOUNT SPECIFIED IN PARAGRAPH (1) OF THIS**  
24 **SUBSECTION DIFFERS FROM THE AMOUNT IN § 13–109(A) OF THE STATE FINANCE**  
25 **AND PROCUREMENT ARTICLE, THE AMOUNT IN § 13–109(A) OF THE STATE FINANCE**  
26 **AND PROCUREMENT ARTICLE SHALL APPLY UNDER PARAGRAPH (1) OF THIS**  
27 **SUBSECTION.**

28           **(3) (I) THE COUNTY BOARD SHALL DRAFT SPECIFICATIONS THAT**  
29 **PROVIDE A CLEAR AND ACCURATE DESCRIPTION OF THE FUNCTIONAL**  
30 **CHARACTERISTICS, OR THE NATURE OF AN ITEM TO BE PROCURED, WITHOUT**  
31 **MODIFYING THE REQUIREMENTS OF THE COUNTY BOARD.**

32                   **(II) THE SPECIFICATIONS MAY:**

1                   1.    INCLUDE A STATEMENT OF ANY OF THE  
2 REQUIREMENTS OF THE COUNTY BOARD; AND

3                   2.    PROVIDE FOR THE SUBMISSION OF SAMPLES,  
4 INSPECTION, OR TESTING OF THE ITEM BEFORE PROCUREMENT.

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

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

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

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

16                   3.    REPLACEMENT PARTS OR MAINTENANCE ARE A  
17 PARAMOUNT CONSIDERATION; OR

18                   4.    A PRODUCT IS PURCHASED FOR RESALE.

19                  (E) (1)   A CONTRACT FOR THE SCHOOL BUILDING, IMPROVEMENTS,  
20 CONSTRUCTION, SUPPLIES, OR OTHER EQUIPMENT SHALL BE AWARDED TO THE  
21 LOWEST RESPONSIBLE BIDDER WHO CONFORMS TO SPECIFICATIONS WITH  
22 CONSIDERATION GIVEN TO:

23                   (I)   THE QUANTITIES INVOLVED;

24                   (II)  THE TIME REQUIRED FOR DELIVERY;

25                   (III) THE PURPOSE FOR WHICH REQUIRED;

26                   (IV)  THE COMPETENCY AND RESPONSIBILITY OF THE BIDDER;

27                   (V)   THE ABILITY OF THE BIDDER TO PROVIDE SATISFACTORY  
28 SERVICE; AND

29                   (VI)  THE PLAN FOR UTILIZATION OF MINORITY CONTRACTORS.

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

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

6                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
7 1, 2015.