#### F1, P2

6lr1418 CF HB 330

#### By: Senator DeGrange

Introduced and read first time: February 4, 2016 Assigned to: Education, Health, and Environmental Affairs Reassigned: Budget and Taxation, February 5, 2016

Committee Report: Favorable with amendments Senate action: Adopted Read second time: March 30, 2016

CHAPTER \_\_\_\_\_

#### 1 AN ACT concerning

# County Boards of Education – Procurements for Construction or Repair of School Projects

4 FOR the purpose of making certain provisions of law concerning the advertising for bids for  $\mathbf{5}$ procurements costing more than a certain amount applicable to construction or 6 repair for certain school projects in the State; including certain construction and 7 repair services projects under certain provisions of law concerning the award of certain procurement contracts to certain bidders; requiring the award of certain 8 9 contracts to consider a certain plan for meeting or exceeding certain minority 10 business enterprise goals; defining certain terms; providing for the application of this 11 Act; providing for a delayed effective date; and generally relating to procurement for 12construction and repair <del>services for</del> of schools.

- 13 BY repealing and reenacting, with amendments,
- 14 Article Education
- 15 Section <del>1-101 and</del> 5-112
- 16 Annotated Code of Maryland
- 17 (2014 Replacement Volume and 2015 Supplement)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
  19 That the Laws of Maryland read as follows:
  - 5 That the Laws of Maryland read as
- 20

#### Article – Education

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

	2 SENATE BILL 515							
1	<del>1–101.</del>							
$2 \\ 3$	<del>(a)</del> <del>the meanin</del>	(a) In this article, unless the context requires otherwise, the following words have ne meanings indicated.						
4	<del>(b)</del>	<u>"Any state" means:</u>						
5		(1) Any state, possession, or territory of the United States;						
6		(2) The District of Columbia; and						
7		(3) The Commonwealth of Puerto Rico.						
8	<del>(C)</del>	(1) "Commodifies" means an item of purchase.						
9		(2) "Commodifies" includes:						
10		(I) OFFICE GOODS AND MATERIALS;						
11		<del>(II)</del> <del>FOOD;</del>						
12		(III) PRINTED MATERIAL;						
13		(IV) COPIED MATERIAL;						
14		(V) ENERGY; AND						
15		(VI) OTHER ITEMS NEEDED TO SUPPORT NORMAL OPERATIONS						
16	<del>OF A PUBL</del>	IC SCHOOL SYSTEM.						
17	<del>(D)</del>	(1) "Construction" means the process of building, altering,						
18	REPAIRING, IMPROVING, OR DEMOLISHING ANY STRUCTURE OR BUILDING OR							
19								
20		(2) "Construction" includes any major work necessary to						
21	<del>REPAIR, I</del>	REVENT DAMAGE TO, OR SUSTAIN EXISTING COMPONENTS OF AN						
22								
23	<del>[(c)]</del> -	(E) "County" means a county of this State and includes Baltimore City.						
$\begin{array}{c} 24 \\ 25 \end{array}$		<b>(F)</b> <u>"County board" means the board of education of a county and includes</u> are City Board of School Commissioners.						

1	<b>f(e)] (G)</b> "County superintendent" means the county superintendent of schools
2	of a county and includes the Chief Executive Officer of the Baltimore City Board of School
3	Commissioners.
4	[(f)] (H) "Department" means the State Department of Education.
<b>5</b>	<b>f</b> (g) <b>] (I)</b> "Elementary and secondary education" means education and programs
6	of education from and including preschool through the end of high school and their
$\overline{7}$	<del>equivalent.</del>
8	(J) "Goods" means tangible or movable personal property other
9	THAN MONEY.
10	(K) "IMPROVEMENT" MEANS THE CONSTRUCTION, MAINTENANCE, AND
11	REPAIR OF ANY BUILDING, STRUCTURE, COMPONENT, OR OTHER PUBLIC WORK.
12	[(h)] (L) <u>"Includes" or "including" means includes or including by way of</u>
13	illustration and not by way of limitation.
14	(i) (M) "Person" includes:
15	(1) An individual, receiver, trustee, guardian, executor, administrator,
16	fiduciary, or representative of any kind and any partnership, firm, association, public or
17	<del>private corporation, or other entity; and</del>
18	(2) The State, any county, municipal corporation, or other political
19	<del>subdivision of this State, and any of their agencies or units.</del>
20	[(j)] (N) "Property" means any real or personal property or any interest in real
21	<del>or personal property.</del>
22	<b>[(k)] (O)</b> "Public schools" means the schools in the public elementary and
23	secondary education system of this State.
24	[(1)] (P) "State Board" means the State Board of Education.
25	<b>f(m)] (Q)</b> "State Superintendent" means the State Superintendent of Schools.
26	5-112.
27	(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28	INDICATED.

$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	(2) <u>"Construction" means the process of building, altering,</u> <u>Repairing, improving, or demolishing any structure or building or</u> <u>Making any other improvement to real property.</u>									
4 5 6	(3) <u>"Construction" includes any major work necessary to</u> <u>REPAIR, PREVENT DAMAGE TO, OR SUSTAIN EXISTING COMPONENTS OF AN</u> <u>IMPROVEMENT TO REAL PROPERTY.</u>									
7	<del>(a)</del> <u>(B)</u>	This s	ection does not apply to:							
8 9	(1) Contracts for the purchase of books and other materials of instruction as defined in the State Department of Education Financial Reporting Manual;									
10	(2) ]	Emerg	gency repairs; and							
11 12 13 14	(3) Except as provided in subsection $(e)$ (F) of this section, a county board's participation in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations if the lead agency for the contract follows public bidding procedures.									
15 16 17 18 19 20	(b) (C) (1) Except as provided in paragraph (2) of this subsection, if the cost of any school building, improvement, CONSTRUCTION, REPAIR, supplies, or equipment is more than \$25,000 OR THE COST OF ANY CONSTRUCTION OR REPAIR PROJECT THAT RECEIVES AN APPROPRIATION IN THE STATE CAPITAL BUDGET THAT IS GREATER THAN \$25,000, the county board, at least 2 weeks before bids are to be filed, shall advertise for bids in a medium accessible to the general public, which includes:									
21	(	(i)	A newspaper of general circulation in the region;							
$\begin{array}{c} 22\\ 23 \end{array}$	or	(ii)	The Maryland Contract Weekly or comparable State publication;							
$\begin{array}{c} 24 \\ 25 \end{array}$	( local school system b	· /	An electronic posting on a bid board and physical posting on the ard.							
26 27 28 29	(2) If the amount specified in paragraph (1) of this subsection differs from the amount in § $13-109(a)$ of the State Finance and Procurement Article, the amount in § $13-109(a)$ of the State Finance and Procurement Article shall apply under paragraph (1) of this subsection.									
30 31 32	and accurate descri	-	The county board shall draft specifications that provide a clear of the functional characteristics or the nature of an item to be ing the county board's requirements.							
33	(	(ii)	The specifications may:							

1 1. Include a statement of any of the county board's  $\mathbf{2}$ requirements; and 3 2.Provide for the submission of samples, inspection, or 4 testing of the item before procurement.  $\mathbf{5}$ (4)(i) Except as provided in subparagraph (ii) of this paragraph, 6 specifications that use one or more manufacturer's product to describe the standard of 7quality, performance, or other characteristics needed to meet the county board's 8 requirements, must allow for the submission of equivalent products. 9 (ii) Subparagraph (i) of this paragraph does not apply if the county 10 board determines in the written specification that: 11 1. A particular manufacturer's product is required to 12maintain compatibility of service or equipment; 132.A particular manufacturer's product is required to meet 14 the health needs of students: 153. Replacement parts or maintenance are a paramount consideration; or 1617 4. A product is purchased for resale. 18<del>(c)</del> (D) (1)А contract for the school building, improvements, 19 **CONSTRUCTION, REPAIR,** supplies, or other equipment OR ANY CONSTRUCTION OR 20REPAIR PROJECT THAT RECEIVES AN APPROPRIATION IN THE STATE CAPITAL 21 BUDGET THAT IS GREATER THAN \$25,000 shall be awarded to the lowest responsible 22bidder who conforms to specifications with consideration given to: 23(i) The quantities involved; 24(ii) The time required for delivery; 25The purpose for which required; (iii) 26(iv) The competency and responsibility of the bidder; 27(v) The ability of the bidder to perform satisfactory service; and 28(vi) The plan for utilization of minority contractors; AND 29(VII) THE PLAN FOR MEETING OR EXCEEDING THE STATE'S MINORITY BUSINESS ENTERPRISE GOALS. 30

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

3 <del>(d)</del> (E) In this subsection, the term "minority business enterprise" has (1)4 the meaning stated in § 14–301 of the State Finance and Procurement Article.  $\mathbf{5}$ (2)In Montgomery County, by resolution and by implementing 6 regulations, the Montgomery County Board of Education shall establish a minority  $\overline{7}$ business utilization program to facilitate the participation of responsible certified minority business enterprises in contracts awarded by the Montgomery County Board of Education 8 in accordance with competitive bidding procedures. 9 In this subsection, "green product cleaning supplies" 10 <del>(e)</del> (F) (1)(i) 11 means environmentally preferable cleaning and cleaning maintenance products and supplies intended for routine cleaning and cleaning maintenance that perform well and 12that have positive health and environmental attributes, including: 13 141. Biodegradability; 2. 15 Low toxicity; 16 3. Low volatile organic compound content; 174. Reduced packaging; 18 Low life cycle energy use; and 5. 19 6. Lesser or reduced effects on human health and the 20environment when compared to competing products that serve the same purpose. 21(ii) "Green product cleaning supplies" includes: 221. General purpose cleaners; 232.Bathroom cleaners: 243. Carpet cleaners; 254. Glass cleaners: 265. Floor cleaners, floor finishes, and floor strippers; 276. Wall cleaners; 287. Desk cleaners; 298. Surface cleaners:

1		9.	Window cleaners;			
2		10.	Whiteboard cleaners; and			
3		11.	Soap.			
4	(iii)	"Gree	en product cleaning supplies" does not include:			
5		1.	Room deodorizers;			
6		2.	Air fresheners;			
7		3.	Toilet deodorizers; or			
8		4.	Hand cleaners.			
9 10 11	(2) (i) Subject to subsection $(f)$ (G) of this section, to the extent practicable, and economically feasible, a county board shall procure green product cleaning supplies for use in its schools.					
$12 \\ 13 \\ 14 \\ 15$	(ii) In accordance with subsection $(b)(3)$ (C)(3) of this section, a county board shall draft specifications that provide a clear and accurate description of the functional characteristics or nature of the green product cleaning supplies that are to be procured.					
$\frac{16}{17}$	(iii) (ii) of this paragraph:	The s	specifications drafted by a county board under subparagraph			
18 19 20	1. May not preclude the use when necessary of a disinfectant, disinfecting cleaner, sanitizer, or other antimicrobial product regulated by the Federal Insecticide, Fungicide, and Rodenticide Act under 7 U.S.C. § 136 et seq.; and					
$\begin{array}{c} 21 \\ 22 \end{array}$	cleaning supplies certific	2. cation,	Shall allow for multiple avenues to obtain green product including:			
$\begin{array}{c} 23\\ 24 \end{array}$	TerraChoice, or Ecologo;	A. and	Green Seal, Green Label, Environmental Choice,			
25 26 27	B. Any other nationally recognized independent third–party entity that certifies environmentally preferable products that the county board determines to be appropriate.					
28 29 30	(3) (i) before July 1, 2013, a cou product cleaning supplie	inty bo	pt as provided in paragraph (2)(i) of this subsection, on or ard shall adopt written policies for the procurement of green se in its schools.			

8 **SENATE BILL 515** 1 The written policies shall: (ii)  $\mathbf{2}$ 1. Require the use of green product cleaning supplies: On or before July 1, 2014, establish guidelines for 3 2. purchasing green product cleaning supplies that meet the certification requirements of any 4 established and nationally recognized independent third-party entity that certifies  $\mathbf{5}$ 6 environmentally preferable products and adheres to consensus standards for lesser or 7reduced effects on human health and the environment when compared to competing 8 products that serve the same purpose; 9 3. Establish green cleaning practices, including storage, application, frequency of use, and disposal of the supplies to ensure that the occupants of a 10 school building do not suffer any adverse health effects as the result of these practices; and 11 Require staff training on implementing the policy. 124. 13<del>(f)</del> (G) On or before June 30 each year, a county board that does not procure 14green product cleaning supplies for use in its schools because doing so is not practicable or economically feasible shall provide annual written notice of this fact to the Department. 1516 <del>(g)</del> (H) Nonpublic schools may participate under any contracts for goods or 17commodities that are awarded by county boards, other public agencies, or intergovernmental purchasing organizations, if the lead agency for the contract award 18follows public bidding procedures. 19 20<del>(h)</del> (I) A contract entered into or purchase made in violation of this section is void. 2122SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to

23 apply only prospectively and may not be applied or interpreted to have any effect on or 24 application to any contract in effect before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 26 January 1, 2016 2017.