
By: **Senators Haines, McCabe, and Stone**
Introduced and read first time: February 2, 2001
Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

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

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

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

16 **Article - Education**

17 5-112.

18 (a) This section does not apply to:

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

21 (2) Emergency repairs.

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

26 (2) THE COUNTY BOARD:

1 (I) SHALL DRAFT SPECIFICATIONS TO OBTAIN MAXIMUM
2 PRACTICABLE COMPETITION FOR CONTRACTS FOR SCHOOL BUILDING,
3 IMPROVEMENT, SUPPLIES, OR EQUIPMENT WITHOUT MODIFYING THE
4 REQUIREMENTS OF THE COUNTY BOARD;

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

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

11 (c) (1) A contract for the school building, improvements, supplies, or other
12 equipment shall be awarded to the lowest responsible bidder who conforms to
13 specifications with consideration given to:

- 14 (i) The quantities involved;
- 15 (ii) The time required for delivery;
- 16 (iii) The purpose for which required;
- 17 (iv) The competency and responsibility of the bidder;
- 18 (v) The ability of the bidder to perform satisfactory service; and
- 19 (vi) The plan for utilization of minority contractors.

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

22 (d) (1) In this subsection, the term "minority business enterprise" has the
23 meaning stated in § 14-301 of the State Finance and Procurement Article.

24 (2) In Montgomery County, by resolution and by implementing
25 regulations, the Montgomery County Board of Education shall establish a minority
26 business utilization program to facilitate the participation of responsible certified
27 minority business enterprises in contracts awarded by the Montgomery County Board
28 of Education in accordance with competitive bidding procedures.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2001.