

HOUSE BILL 492

Unofficial Copy
F5

2002 Regular Session
2lr0848
CF 2lr0506

By: **Delegates Morhaim, Heller, Shriver, Bozman, Barkley, Barve, Boutin, Bronrott, Burns, Busch, Carlson, Clagett, D'Amato, DeCarlo, Dembrow, Dewberry, Donoghue, Doory, Dypski, Eckardt, Frush, Giannetti, Glassman, Goldwater, Hammen, Hubbard, Hubers, Hurson, James, Kach, Kagan, Klausmeier, Kopp, Leopold, Mandel, Marriott, McIntosh, McKee, Menes, Nathan-Pulliam, Parrott, Phillips, Pitkin, Ports, Redmer, Riley, Rosenberg, Shank, Sher, Sophocleus, Stocksedale, Weir, and Zirkin**

Introduced and read first time: January 30, 2002
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **School Buying Consortium - County Boards of Education - Procurement -**
3 **Exceptions**

4 FOR the purpose of authorizing a county board to participate in certain contracts for
5 goods or commodities; authorizing the advertisement of bids for certain
6 procurements in certain media; authorizing nonpublic schools to participate in
7 certain contracts for goods or commodities; and requiring the Department of
8 Education to establish a process that allows access to certain information.

9 BY repealing and reenacting, with amendments,
10 Article - Education
11 Section 5-112
12 Annotated Code of Maryland
13 (2001 Replacement Volume)

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; AND

1 (3) A COUNTY BOARD'S PARTICIPATION IN CONTRACTS FOR GOODS OR
2 COMMODITIES THAT ARE AWARDED BY OTHER PUBLIC AGENCIES OR BY
3 INTERGOVERNMENTAL PURCHASING ORGANIZATIONS IF THE LEAD AGENCY FOR
4 THE CONTRACT FOLLOWS PUBLIC BIDDING PROCEDURES.

5 (b) (1) If the cost of any school building, improvement, supplies, or
6 equipment is more than \$15,000, the county board, at least 2 weeks before bids are to
7 be filed, shall advertise for bids in [at least one newspaper of general circulation in
8 the county] A MEDIUM ACCESSIBLE TO THE GENERAL PUBLIC, WHICH INCLUDES:

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

10 (II) THE MARYLAND CONTRACT WEEKLY OR COMPARABLE STATE
11 PUBLICATION; OR

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

14 (2) (i) The county board shall draft specifications that provide a clear
15 and accurate description of the functional characteristics or the nature of an item to
16 be procured, without modifying the county board's requirements.

17 (ii) The specifications may:

18 1. Include a statement of any of the county board's
19 requirements; and

20 2. Provide for the submission of samples, inspection, or
21 testing of the item before procurement.

22 (3) (i) Except as provided in subparagraph (ii) of this subsection,
23 specifications that use one or more manufacturer's product to describe the standard of
24 quality, performance, or other characteristics needed to meet the county board's
25 requirements, must allow for the submission of equivalent products.

26 (ii) Subparagraph (i) of this paragraph does not apply if the county
27 board determines in the written specification that:

28 1. A particular manufacturer's product is required to
29 maintain compatibility of service or equipment;

30 2. A particular manufacturer's product is required to meet
31 the health needs of students;

32 3. Replacement parts or maintenance are a paramount
33 consideration; or

34 4. A product is purchased for resale.

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

- 4 (i) The quantities involved;
- 5 (ii) The time required for delivery;
- 6 (iii) The purpose for which required;
- 7 (iv) The competency and responsibility of the bidder;
- 8 (v) The ability of the bidder to perform satisfactory service; and
- 9 (vi) The plan for utilization of minority contractors.

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

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

14 (2) In Montgomery County, by resolution and by implementing
15 regulations, the Montgomery County Board of Education shall establish a minority
16 business utilization program to facilitate the participation of responsible certified
17 minority business enterprises in contracts awarded by the Montgomery County Board
18 of Education in accordance with competitive bidding procedures.

19 (E) NONPUBLIC SCHOOLS MAY PARTICIPATE UNDER ANY CONTRACTS FOR
20 GOODS OR COMMODITIES THAT ARE AWARDED BY COUNTY BOARDS, OTHER PUBLIC
21 AGENCIES, OR INTERGOVERNMENTAL PURCHASING ORGANIZATIONS, IF THE LEAD
22 AGENCY FOR THE CONTRACT AWARD FOLLOWS PUBLIC BIDDING PROCEDURES.

23 [(e)] (F) A contract entered into or purchase made in violation of this section
24 is void.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Department shall
26 establish a process, which may include a website, that provides access to information
27 about contracts for goods or commodities held by public agencies or
28 intergovernmental purchasing organizations.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect October 1, 2002.