HOUSE BILL 492

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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, Stocksdale, Weir, and Zirkin Zirkin, R. Baker, Montague, Conroy, Cryor, and Rzepkowski

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

Committee Report: Favorable with amendments House action: Adopted Read second time: March 22, 2002

CHAPTER_____

1 AN ACT concerning

2 3

School Buying Consortium - County Boards of Education - Procurement -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:

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1	Article - Education						
2	5-112.						
3	(a) This section does not apply to:						
4 5	(1) Contracts for the purchase of books and other materials of instruction as defined in the State Department of Education Financial Reporting Manual; [and]						
6		(2)	Emerger	ncy repair	rs; AND		
9	 (3) 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. 						
13	1 (b) (1) If the cost of any school building, improvement, supplies, or 2 equipment is more than \$15,000, the county board, at least 2 weeks before bids are to 3 be filed, shall advertise for bids in [at least one newspaper of general circulation in 4 the county] A MEDIUM ACCESSIBLE TO THE GENERAL PUBLIC, WHICH INCLUDES:						
15	i		(I)	A NEW	SPAPER OF GENERAL CIRCULATION IN THE REGION;		
16 17	7 PUBLICATI	ON; OR	(II)	THE M.	ARYLAND CONTRACT WEEKLY OR COMPARABLE STATE		
18 19		N THE I	(III) LOCAL S		ECTRONIC POSTING ON A BID BOARD AND PHYSICAL L SYSTEM BID BOARD.		
	0 (2) (i) The county board shall draft specifications that provide a clear 1 and accurate description of the functional characteristics or the nature of an item to 2 be procured, without modifying the county board's requirements.						
23	;		(ii)	The spec	cifications may:		
24 25	i requirements	; and		1.	Include a statement of any of the county board's		
26 27	testing of the	item bet	fore proc	2. urement.	Provide for the submission of samples, inspection, or		
30	3 (3) (i) Except as provided in subparagraph (ii) of this subsection, 9 specifications that use one or more manufacturer's product to describe the standard of 9 quality, performance, or other characteristics needed to meet the county board's 1 requirements, must allow for the submission of equivalent products.						
32 33	board determ	ines in t	(ii) he writter		graph (i) of this paragraph does not apply if the county cation that:		
34 35	i maintain com	npatibilit	y of servi	1. ice or equ	A particular manufacturer's product is required to uipment;		

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 the health needs of students; 	2. A particular manufacturer's product is required to meet					
3 4 consideration; or	3. Replacement parts or maintenance are a paramount					
5	4. A product is purchased for resale.					
6 (c) (1) A contract for the school building, improvements, supplies, or other 7 equipment shall be awarded to the lowest responsible bidder who conforms to 8 specifications with consideration given to:						
9 (i)	The quantities involved;					
10 (ii)	The time required for delivery;					
11 (iii)	The purpose for which required;					
12 (iv)	The competency and responsibility of the bidder;					
13 (v)	The ability of the bidder to perform satisfactory service; and					
14 (vi)	The plan for utilization of minority contractors.					
15 (2) The co 16 other bids.						
17(d)(1)In this subsection, the term "minority business enterprise" has the18meaning stated in §14-301 of the State Finance and Procurement Article.						
19 (2) In Montgomery County, by resolution and by implementing 20 regulations, the Montgomery County Board of Education shall establish a minority 21 business utilization program to facilitate the participation of responsible certified 22 minority business enterprises in contracts awarded by the Montgomery County Board 23 of Education in accordance with competitive bidding procedures.						
 (E) NONPUBLIC SCHOOLS MAY PARTICIPATE UNDER ANY CONTRACTS FOR GOODS OR COMMODITIES THAT ARE AWARDED BY COUNTY BOARDS, OTHER PUBLIC AGENCIES, OR INTERGOVERNMENTAL PURCHASING ORGANIZATIONS, IF THE LEAD AGENCY FOR THE CONTRACT AWARD FOLLOWS PUBLIC BIDDING PROCEDURES. 						
28 [(e)] (F) A cont 29 is void.	ract entered into or purchase made in violation of this section					
30 SECTION 2. AND BE IT FURTHER ENACTED, That the Department shall 31 establish a process, which may include a website, that provides access to information 32 about contracts for goods or commodities held by public agencies or 33 intergovernmental purchasing organizations.						

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take 35 effect October 1, 2002.

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