

Department of Legislative Services  
 Maryland General Assembly  
 2005 Session

**FISCAL AND POLICY NOTE**

House Bill 346 (Delegate Cardin, *et al.*)  
 Health and Government Operations Education, Health, and Environmental Affairs

**Procurement - Percentage Price Preference - Environmentally Preferable Products or Equipment**

This bill requires the Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland (USM) to establish a price preference for the purchase of environmentally preferable products and equipment (EPPs). The bill directs the Board of Public Works to adopt specified regulations and requires units of State government to review specifications for the procurement of goods and services currently in place and adjust those specifications to the extent possible to apply a percentage price preference for purchases of EPPs.

**Fiscal Summary**

**State Effect:** Any effect on procurement costs for supplies and equipment cannot be reliably estimated at this time. General fund expenditures could increase by \$81,000 in FY 2006 for personnel costs. Future year expenditures reflect annualization, inflation, and continued updates to the EPP list.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	81,000	106,900	113,300	120,200	127,700
GF/SF/FF Exp.	0	-	-	-	-
Net Effect	(\$81,000)	(\$106,900)	(\$113,300)	(\$120,200)	(\$127,700)

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** EPPs are products, including supplies, and equipment manufactured and designed for utilization in accordance with a broad range of measures that prevent or minimize environmental degradation. Measures include: (1) recycling; (2) resource conservation; (3) source reduction; (4) use of components that are free of toxic or degrading agents or contain the least amount of toxic or degrading agents necessary to meet applicable job specifications; (5) use of innovative technology; (6) use of renewable resources; and (7) waste minimization.

**Current Law:** The Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland are required to establish a percentage price preference, not to exceed 5%, for the purchase of products made from recycled materials. Recycled materials include post-consumer material, industrial scrap material, compost, and obsolete inventories.

To encourage the maximum purchase of commodities utilizing recycled materials, the Department of General Services (DGS), in consultation with the Maryland Department of the Environment, USM, the Maryland Environmental Service, the Maryland Department of Transportation, the Department of Natural Resources, the Department of Health and Mental Hygiene, and as necessary with representatives of the recycling industry and environmental organizations, shall establish a list of acceptable products that contain recycled materials.

**Background:** The federal EPP purchasing program was implemented in the mid-1990s by a series of Executive Orders. The program was designed to provide federal agencies with:

- improved ability to meet existing environmental goals;
- improved worker safety and health;
- reduced liabilities; and
- reduced health and disposal costs.

This program, administered by the U.S. Environmental Protection Agency (EPA), provides a series of regulations and guidances on implementing the program. EPA encourages agencies to take the following steps:

- include environmental considerations as part of the normal purchasing process;
- emphasize pollution prevention early in the purchasing process;

- examine multiple environmental attributes throughout a product's or service's life cycle;
- compare relevant environmental impacts when selecting products and services; and
- collect and base purchasing decisions on accurate and meaningful information about environmental performance.

EPA also provides an online database of EPPs, organized by type of commodity or supply.

State programs for purchasing EPPs are in place in Minnesota, Ohio, Massachusetts, Michigan, Missouri, North Carolina, and Vermont. Additionally, Delaware, California, New Jersey, Pennsylvania, and Wisconsin have recycled product purchasing programs (the status quo in Maryland).

DGS procures approximately \$141 million worth of 850 different types of commodities that would be subject to the provisions of this bill.

**State Expenditures:** General fund expenditures could increase by \$80,986 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects the cost of hiring one procurement specialist lead and one agency procurement specialist to develop a list of EPPs and annually update the product list. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$75,533
Other Operating Expenses	<u>5,453</u>
<b>Total FY 2006 State Expenditures</b>	<b>\$80,986</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The bill's effect on procurement costs cannot be readily ascertained. In some cases, the presence of the new EPP list will make agencies aware of products that cost less than non-EPPs. EPA cites an EPP program in King County, Washington for example of savings generated by EPP purchasing programs. In 2002, King County, Washington purchased 4,380 remanufactured toner cartridges for laser printers at nearly a third of the cost of new cartridges, saving the county \$280,000. The remanufactured cartridges meet original equipment manufacturer's standards and provide full performance guarantees.

To the extent that the State purchases EPPs, when less expensive non-EPPs are available, State procurement costs could increase. However, agency responses often indicated that EPPs were far more expensive than non-EPPs. Where the EPP option far exceeds the non-EPP option, the cost of the procurement would not increase. Even a 5% price preference would not encompass these products. For example, the State Highway Administration indicated that in the case of road de-icing product, regular road salt costs approximately \$9.50 per road mile, whereas potassium acetate (the EPP option) is about \$110 per road mile. If potassium acetate was the only EPP alternative on a procurement for road de-icer, then the department would not be subject to a price preference or any increase in cost.

To the extent, however, that an EPP bid is within 5% of a non-EPP bid, the cost of the procurement will rise up to 5%. This would be mitigated to an unknown degree by the purchase of remanufactured products and reduced energy costs and savings in public health expenditures by increased air and water quality levels. There is currently no reliable estimate of the extent to which the State is already procuring items that would be included on an EPP list. Several USM institutions already have informal policies to purchase recycled paper and toner cartridges.

**Small Business Effect:** To the extent that small businesses' contract bids with EPPs are within 5% of a non-EPP bid, these businesses will benefit.

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### **Additional Information**

**Prior Introductions:** HB 811 of 2004 passed the House and the Senate, and was vetoed by the Governor.

**Cross File:** None.

**Information Source(s):** Department of General Services, Board of Public Works, University System of Maryland, Maryland Department of Transportation, Department of Budget and Management, U.S. Environmental Protection Agency, Department of Legislative Services

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