
By: **Delegates Morhaim, Boteler, Costa, Frank, Pendergrass, and Weldon**

Introduced and read first time: February 1, 2006

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Education - County Boards of Education - Competitive Bidding**

3 FOR the purpose of increasing the threshold dollar amount of a contract for which a
4 county board of education must use competitive bidding; providing that a certain
5 threshold amount shall be the same as a certain amount that applies to units of
6 State government under certain circumstances; making a stylistic change; and
7 generally relating to public school procurement.

8 BY repealing and reenacting, with amendments,
9 Article - Education
10 Section 5-112
11 Annotated Code of Maryland
12 (2004 Replacement Volume and 2005 Supplement)

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

15 **Article - Education**

16 5-112.

17 (a) This section does not apply to:

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

20 (2) Emergency repairs; and

21 (3) A county board's participation in contracts for goods or commodities
22 that are awarded by other public agencies or by intergovernmental purchasing
23 organizations if the lead agency for the contract follows public bidding procedures.

24 (b) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
25 IF the cost of any school building, improvement, supplies, or equipment is more than
26 [\$15,000] \$25,000, the county board, at least 2 weeks before bids are to be filed, shall
27 advertise for bids in a medium accessible to the general public, which includes:

- 1 (i) A newspaper of general circulation in the region;
- 2 (ii) The Maryland Contract Weekly or comparable State
3 publication; or
- 4 (iii) An electronic posting on a bid board and physical posting on the
5 local school system bid board.

6 (2) IF THE AMOUNT SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION
7 DIFFERS FROM THE AMOUNT IN § 13-109(A) OF THE STATE FINANCE AND
8 PROCUREMENT ARTICLE, THE AMOUNT IN § 13-109(A) OF THE STATE FINANCE AND
9 PROCUREMENT ARTICLE SHALL APPLY UNDER PARAGRAPH (1) OF THIS SUBSECTION.

10 [(2)] (3) (i) The county board shall draft specifications that provide a
11 clear and accurate description of the functional characteristics or the nature of an
12 item to be procured, without modifying the county board's requirements.

13 (ii) The specifications may:

14 1. Include a statement of any of the county board's
15 requirements; and

16 2. Provide for the submission of samples, inspection, or
17 testing of the item before procurement.

18 [(3)] (4) (i) Except as provided in subparagraph (ii) of this
19 [subsection] PARAGRAPH, specifications that use one or more manufacturer's product
20 to describe the standard of quality, performance, or other characteristics needed to
21 meet the county board's requirements, must allow for the submission of equivalent
22 products.

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

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

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

29 3. Replacement parts or maintenance are a paramount
30 consideration; or

31 4. A product is purchased for resale.

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

35 (i) The quantities involved;

- 1 (ii) The time required for delivery;
- 2 (iii) The purpose for which required;
- 3 (iv) The competency and responsibility of the bidder;
- 4 (v) The ability of the bidder to perform satisfactory service; and
- 5 (vi) The plan for utilization of minority contractors.

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

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

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

15 (e) Nonpublic schools may participate under any contracts for goods or
16 commodities that are awarded by county boards, other public agencies, or
17 intergovernmental purchasing organizations, if the lead agency for the contract
18 award follows public bidding procedures.

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
21 effect July 1, 2006.