

HOUSE BILL 928

P2

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By: **Delegate Morhaim**

Introduced and read first time: February 9, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Environmentally Preferable Products and Equipment –**
3 **Report and Purchase**

4 FOR the purpose of requiring each State unit to purchase certain environmentally
5 preferable products and equipment under certain circumstances; providing for
6 the application of certain dispute resolution procedures; requiring the Board of
7 Public Works to adopt certain regulations by a certain date and to create,
8 update, and make available a certain listing; requiring the Secretary of General
9 Services to review, evaluate, and report to certain persons by a certain date
10 regarding certain aspects of the procurement and use of certain
11 environmentally preferable products and equipment; requiring the Secretary to
12 seek certain information and recommendations from certain persons regarding
13 a certain impact of State procurement of certain environmentally preferable
14 products and equipment; requiring each State unit to provide certain
15 information at a certain time, to establish certain objectives and goals by a
16 certain date, and to initiate certain processes; expressing certain findings of the
17 General Assembly; providing for the application of this Act; defining certain
18 terms; providing for the delayed effective date of certain provisions of this Act;
19 providing for the termination of certain provisions of this Act; and generally
20 relating to the procurement of environmentally preferable products and
21 equipment.

22 BY repealing
23 Article – State Finance and Procurement
24 Section 14–402, 14–405, and 14–406
25 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2006 Replacement Volume and 2006 Supplement)

2 BY adding to

3 Article – State Finance and Procurement

4 Section 14–402

5 Annotated Code of Maryland

6 (2006 Replacement Volume and 2006 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That Section(s) 14–402, 14–405, and 14–406 of Article – State Finance
9 and Procurement of the Annotated Code of Maryland be repealed.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article – State Finance and Procurement**

13 **14–402.**

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

16 (2) “ENVIRONMENTALLY PREFERABLE PRODUCTS AND
17 EQUIPMENT” MEANS PRODUCTS, INCLUDING SUPPLIES AND EQUIPMENT
18 MANUFACTURED AND DESIGNED FOR UTILIZATION IN ACCORDANCE WITH A
19 BROAD RANGE OF MEASURES THAT PREVENT OR MINIMIZE ENVIRONMENTAL
20 DEGRADATION, INCLUDING:

21 (I) RESOURCE CONSERVATION;

22 (II) SOURCE REDUCTION;

23 (III) WASTE MINIMIZATION;

24 (IV) RECYCLING;

25 (V) USE OF INNOVATIVE TECHNOLOGY; OR

26 (VI) USE OF COMPONENTS THAT ARE FREE OF TOXIC OR
27 DEGRADING AGENTS OR CONTAIN THE LEAST AMOUNT OF TOXIC OR DEGRADING
28 AGENTS NECESSARY TO MEET APPLICABLE JOB SPECIFICATIONS.

1 **(3) “PERFORMANCE STANDARD” MEANS THE RATING OF THE**
2 **EFFICIENCY AND OVERALL IMPACT OF PRODUCTS AND EQUIPMENT IN**
3 **CONSIDERATION OF:**

4 **(I) APPLICABLE JOB SPECIFICATIONS;**

5 **(II) TOTAL COST OF OWNERSHIP, MAINTENANCE COSTS**
6 **ASSOCIATED WITH DURABILITY AND APPLICABLE WARRANTIES, AND DELIVERY**
7 **OPTIONS;**

8 **(III) PUBLIC HEALTH, ENERGY, AND ENVIRONMENTAL**
9 **BENEFITS OVER THE LIFE OF THE PRODUCTS OR EQUIPMENT; AND**

10 **(IV) CONTRACTS AWARDED TO MINORITY- AND**
11 **WOMEN-OWNED BUSINESSES.**

12 **(4) (I) “RECYCLING” MEANS THE RECOVERY OF USEABLE**
13 **MATERIAL FROM MATERIAL OTHERWISE DESTINED FOR THE WASTE STREAM.**

14 **(II) “RECYCLING” INCLUDES THE RECOVERY OF**
15 **POSTCONSUMER MATERIAL, INDUSTRIAL SCRAP MATERIAL, COMPOST, AND**
16 **OBSOLETE INVENTORIES.**

17 **(5) “TOTAL COST OF OWNERSHIP” MEANS THE INITIAL PURCHASE**
18 **PRICE PLUS THE ESTIMATED OPERATING AND MAINTENANCE COSTS.**

19 **(B) THE GENERAL ASSEMBLY FINDS THAT:**

20 **(1) LONG-TERM ENVIRONMENTALLY SUSTAINABLE PRACTICES**
21 **WORK TO ENSURE THAT FUTURE GENERATIONS WILL ENJOY CLEAN AIR, CLEAN**
22 **WATER, AND OPEN SPACE AND HAVE ACCESS TO THE SAME, IF NOT BETTER,**
23 **QUALITY OF LIFE OUR CITIZENS ENJOY TODAY;**

24 **(2) THE STATE CONDUCTS BUSINESS AND EMPLOYS A**
25 **SIGNIFICANT NUMBER OF INDIVIDUALS THROUGHOUT THE STATE;**

26 **(3) IT IS IMPERATIVE FOR STATE GOVERNMENT TO LEAD IN THE**
27 **PROMOTION OF PRACTICES AND POLICIES THAT ELIMINATE OR MINIMIZE**

1 **NEGATIVE ENVIRONMENTAL AND HEALTH IMPACTS AND THAT MAINTAIN OR**
2 **IMPROVE THE HEALTH, ENVIRONMENTAL, AND ECONOMIC INTERESTS OF THE**
3 **STATE; AND**

4 **(4) STATE AGENCIES, THROUGH CHANGES IN DAILY OPERATIONS,**
5 **ONGOING PROGRAMS, AND LONG-RANGE PLANNING, PARTICULARLY IN**
6 **PROCUREMENT, CAN HAVE A SIGNIFICANT POSITIVE IMPACT ON THE**
7 **ENVIRONMENT, THE PRIVATE SECTOR, THE ECONOMIC CLIMATE AND STABILITY**
8 **OF THE STATE, AND THE CHARACTER OF OUR COMMUNITIES THROUGHOUT THE**
9 **STATE.**

10 **(C) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS**
11 **SUBSECTION, THIS SECTION IS BROADLY APPLICABLE TO ALL PROCUREMENTS**
12 **BY THE STATE IF THE QUALITY OF PRODUCTS OR EQUIPMENT IS CONSISTENT**
13 **WITH THE REQUIREMENTS OF THE BID SPECIFICATIONS.**

14 **(2) ONLY TO THE EXTENT NECESSARY TO PREVENT THE DENIAL**
15 **OF FEDERAL MONEYS OR ELIMINATE THE INCONSISTENCY WITH FEDERAL LAW,**
16 **THIS SECTION DOES NOT APPLY TO A PROCUREMENT BY THE STATE IF THE**
17 **PROCUREMENT OFFICER DETERMINES THAT COMPLIANCE WITH THIS SECTION**
18 **WOULD:**

19 **(I) CAUSE DENIAL OF FEDERAL MONEYS; OR**

20 **(II) BE INCONSISTENT WITH THE REQUIREMENTS OF**
21 **FEDERAL LAW.**

22 **(D) EACH STATE UNIT SHALL PURCHASE ENVIRONMENTALLY**
23 **PREFERABLE PRODUCTS AND EQUIPMENT IF THE ENVIRONMENTALLY**
24 **PREFERABLE PRODUCTS AND EQUIPMENT MEET OR EXCEED THE**
25 **PERFORMANCE STANDARDS OF OTHER PRODUCTS AND EQUIPMENT.**

26 **(E) THE PROVISIONS OF TITLE 15, SUBTITLE 2 OF THIS ARTICLE APPLY**
27 **TO ANY PROTEST UNDER THIS SECTION.**

28 **(F) THE BOARD SHALL:**

1 **(1) CREATE AND PERIODICALLY UPDATE A LIST OF**
2 **ENVIRONMENTALLY PREFERABLE PRODUCTS AND EQUIPMENT AFTER**
3 **PROVIDING AN OPPORTUNITY FOR PUBLIC COMMENT;**

4 **(2) MAKE THE LIST GENERALLY AVAILABLE TO THE PUBLIC; AND**

5 **(3) ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF**
6 **THIS SECTION.**

7 SECTION 3. AND BE IT FURTHER ENACTED, That:

8 (a) On or before October 1, 2008, the Secretary of General Services shall
9 review, evaluate, and report to the Board of Public Works and, in accordance with §
10 2–1246 of the State Government Article, the General Assembly regarding the actual
11 and potential procurement and use by each State unit of environmentally preferable
12 products and equipment, which is defined under § 14–402(a)(2) of the State Finance
13 and Procurement Article, as enacted under Section 2 of this Act, including:

14 (1) the identification and listing of environmentally preferable
15 products and equipment that could be utilized by each State unit and manufacturers
16 of these products and equipment;

17 (2) the short-term and long-term impacts on the State budget,
18 including, for each State unit:

19 (i) full cost implications of environmental sustainability efforts,
20 such as short-term and long-term costs, and purchase, operational, storage, and
21 disposal costs;

22 (ii) the amount of time necessary for initial costs to be repaid
23 from savings achieved by environmentally preferable investments, other long-term
24 cost savings, productivity enhancements, and any other benefits achieved or losses
25 realized; and

26 (iii) the availability of alternative funding sources for the
27 purchase of environmentally preferable products and equipment;

28 (3) anticipated environmental benefits, including:

29 (i) conservation benefits realized, such as reduction of
30 greenhouse gas emissions, minimization of solid waste, removal of mercury from
31 agency waste streams, and harvest of fewer trees;

1 (ii) reduction of energy consumption through energy efficiency
2 and conservation;

3 (iii) decreased water consumption through conservation,
4 efficiency, and prevention strategies;

5 (iv) policies and practices currently in use by individual State
6 units to promote sustainable environmental goals that could be utilized in other units
7 of State government; and

8 (v) the feasibility of a pilot program to institute the
9 test–marketing of environmentally preferable products and equipment to State units;

10 (4) the short–term and long–term impacts on the overall economy and
11 business climate of the State, including the development of private industry as a result
12 of the increased demand and stable market for environmentally preferable products
13 and equipment, such as annual revenue generated, the number of jobs created, and
14 the amount of revenue to be contributed to the State;

15 (5) the nature and extent of education, outreach, and management
16 programs necessary to effect environmentally preferable changes throughout all State
17 units, including:

18 (i) promotion of:

19 1. planning efforts, including the siting, design,
20 construction, and management of State facilities, in an environmentally sound and
21 resource efficient manner;

22 2. changes in employee practices; and

23 3. the initiation and expansion of integrated pest
24 management practices; and

25 (ii) pilot programs, vendor fairs, workshops, and dissemination
26 of resource materials on environmental purchasing; and

27 (6) any legislative or regulatory changes necessary in order for each
28 State unit to maximize its purchase and use of environmentally preferable products
29 and equipment.

1 (b) In the preparation of the review, evaluation, and report required under
2 this section, the Secretary of General Services shall seek pertinent information and
3 recommendations from representatives of the business community regarding the likely
4 impact of State procurement of environmentally preferable products and equipment,
5 including:

6 (1) any business that, as of July 1, 2007, has a contract with the State
7 for the provision of products, equipment, or services; and

8 (2) any business engaged in the manufacture, sale, distribution, or
9 repair of environmentally preferable products or equipment within the State,
10 including small resource-based businesses and entrepreneurs.

11 (c) Each State unit shall:

12 (1) timely provide all procurement information requested by the
13 Secretary of General Services in connection with the review, evaluation, and report
14 required under this section;

15 (2) by January 1, 2009, establish short-term objectives and
16 long-range goals to maximize the use of environmentally preferable products and
17 equipment; and

18 (3) initiate processes to review internal operations, identify
19 environmental impacts, and make recommendations for the reduction of the
20 environmental impact of its operations.

21 SECTION 4. AND BE IT FURTHER ENACTED, That the Board of Public
22 Works shall adopt the regulations required under § 14-402(e) of the State Finance and
23 Procurement Article, as enacted under Section 2 of this Act, by December 31, 2009.

24 SECTION 5. AND BE IT FURTHER ENACTED, That Sections 1 and 4 of this
25 Act shall take effect July 1, 2009.

26 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to Section 5 of
27 this Act, this Act shall take effect June 1, 2007. It shall remain effective for a period of
28 1 year and 7 months and, at the end of December 31, 2008, with no further action
29 required by the General Assembly, Section 3 of this Act shall be abrogated and of no
30 further force and effect.