

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

House Bill 906 (Delegate Lawton, *et al.*)  
Health and Government Operations

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**Procurement - Public Schools and Facilities - Preference for Locally Grown Foods**

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This bill requires each county school board to adopt regulations that establish a preference for “locally grown food” in their procurement of food for schools and facilities.

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**Fiscal Summary**

**State Effect:** None. The bill applies only to local school boards.

**Local Effect:** None. Federal regulations governing the National School Lunch Program and the School Breakfast Program prohibit the use of geographic preferences such as the one required by this bill.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Locally grown food is defined as food that is grown in Maryland.

County school boards must adopt regulations establishing a percentage price preference not exceeding 5% for the purchase of locally grown food for schools and facilities. The price preference must be used to the extent practicable, and may not be used in conjunction with any other price preference. The price preference does not apply to a procurement if it is inconsistent with federal law or might cause the denial of federal funds.

**Current Law:** County school boards are not required to establish percentage price preferences for locally grown food in their food service procurements. Chapter 360 of 2006 established a percentage price preference for locally grown food for State food service procurements.

Federal regulations, specifically 7 CFR 3016.60(c), prohibit the use of geographic preferences in all food service procurements by recipients of federal school breakfast and lunch grants. The regulation states, “Procurements under U.S. Department of Agriculture (USDA) entitlement program shall be conducted in a manner that prohibits the use of statutorily or administratively imposed State or local geographic preference.” USDA guidance issued to local school systems in January 2007 states, “Federal procurement regulation clearly prohibit the use of State or local geographic preferences.”

**Background:** A percentage price preference allows a procurement officer to award a contract to a bidder other than the bidder with the lowest responsible bid if the bidder with the higher bid meets the terms of the price preference. In the case of locally grown foods, for instance, a bidder on a county food service contract who offers locally grown food may be awarded the contract if his or her bid exceeds the lowest responsible bid without locally grown food by 5% or less.

Maryland receives approximately \$170 million in federal grants annually under USDA Child Nutrition Programs, including \$110 million under the National School Lunch and School Breakfast programs. Those funds serve approximately 900,000 Maryland children.

**Local Fiscal Effect:** All Maryland school systems receive federal school breakfast and lunch grants that subsidize meals provided to students. Under the exemption provided in the bill, none of the school systems would be required to use the percentage price preference because doing so would be a violation of federal law and could cause them to lose their grants.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 496 (Senator Raskin) – Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland State Department of Education, Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2007  
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