

CHAPTER 454

(House Bill 1363)

AN ACT concerning

County Boards of Education – Procurement of Green Product Cleaning Supplies

FOR the purpose of requiring a county board of education to procure green product cleaning supplies for its schools *under certain circumstances*; requiring a county board to adopt certain specifications; providing that the specifications may not preclude the use of certain products that are regulated by a certain federal law and shall allow multiple avenues for obtaining green product cleaning supplies certification; defining a certain term; authorizing a county board to use certain cleaning supplies until those supplies are exhausted; providing for the application of this Act; and generally relating to the procurement of green product cleaning supplies by county boards of education.

BY repealing and reenacting, with amendments,

Article – Education

Section 5–112

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

5–112.

(a) This section does not apply to:

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

(2) Emergency repairs; and

(3) [A] **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, 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.

(b) (1) Except as provided in paragraph (2) of this subsection, if the cost of any school building, improvement, supplies, or equipment is more than \$25,000, the county board, at least 2 weeks before bids are to be filed, shall advertise for bids in a medium accessible to the general public, which includes:

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

(2) If the amount specified in paragraph (1) of this subsection differs from the amount in § 13–109(a) of the State Finance and Procurement Article, the amount in § 13–109(a) of the State Finance and Procurement Article shall apply under paragraph (1) of this subsection.

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

- (ii) The specifications may:
 1. Include a statement of any of the county board's requirements; and
 2. Provide for the submission of samples, inspection, or testing of the item before procurement.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, specifications that use one or more manufacturer's product to describe the standard of quality, performance, or other characteristics needed to meet the county board's requirements, must allow for the submission of equivalent products.

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

1. A particular manufacturer's product is required to maintain compatibility of service or equipment;
2. A particular manufacturer's product is required to meet the health needs of students;
3. Replacement parts or maintenance are a paramount consideration; or

4. A product is purchased for resale.

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

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

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

(d) (1) In this subsection, the term “minority business enterprise” has the meaning stated in § 14–301 of the State Finance and Procurement Article.

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

(E) (1) IN THIS SUBSECTION, “GREEN PRODUCT CLEANING SUPPLIES” ~~INCLUDES~~ MEANS CLEANING AND SANITIZING SUPPLIES THAT PERFORM WELL AND THAT HAVE POSITIVE ENVIRONMENTAL ATTRIBUTES, INCLUDING:

- (I) BIODEGRADABILITY;**
- (II) LOW TOXICITY;**
- (III) LOW VOLATILE ORGANIC COMPOUND CONTENT;**
- (IV) REDUCED PACKAGING; AND**
- (V) LOW LIFE CYCLE ENERGY USE.**

(2) (I) TO THE EXTENT PRACTICABLE, AND ECONOMICALLY FEASIBLE, A COUNTY BOARD SHALL PROCURE GREEN PRODUCT CLEANING SUPPLIES FOR USE IN ITS SCHOOLS.

(II) IN ACCORDANCE WITH SUBSECTION (B)(3) OF THIS SECTION, A COUNTY BOARD SHALL DRAFT SPECIFICATIONS THAT PROVIDE A CLEAR AND ACCURATE DESCRIPTION OF THE FUNCTIONAL CHARACTERISTICS OR NATURE OF THE GREEN PRODUCT CLEANING SUPPLIES THAT ARE TO BE PROCURED.

(III) THE SPECIFICATIONS DRAFTED BY A COUNTY BOARD UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH:

1. MAY NOT PRECLUDE THE USE WHEN NECESSARY OF A DISINFECTANT, DISINFECTING CLEANER, SANITIZER, OR OTHER ANTIMICROBIAL PRODUCT REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT UNDER 7 U.S.C. § 136 ET SEQ.; AND

2. SHALL ALLOW FOR MULTIPLE AVENUES TO OBTAIN GREEN PRODUCT CLEANING SUPPLIES CERTIFICATION, INCLUDING:

A. THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S DESIGN FOR THE ENVIRONMENT PROGRAM (DFE);

B. GREEN SEAL, GREEN LABEL, ENVIRONMENTAL CHOICE, OR U.S. GREEN BUILDING COUNCIL; AND

C. ANY OTHER ACCREDITATION THE COUNTY BOARD DETERMINES TO BE APPROPRIATE.

[(e)] (F) 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.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not prohibit a county board from using cleaning supplies in its inventory on the effective date of this Act until those supplies are exhausted.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have

any effect on or application to any obligation or contract for cleaning supplies existing before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 7, 2009.