

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 928 (Delegate Morhaim)
 Health and Government Operations

**Procurement - Environmentally Preferable Products and Equipment - Report
 and Purchase**

This bill repeals existing purchasing and price preferences for recycled paper and mercury-free products, and creates a broader requirement that State agencies purchase environmentally preferable products and equipment when their quality is consistent with bid specifications and they meet or exceed the performance standards of other products and equipment. The Secretary of General Services must submit a report on actual and potential procurement of environmentally preferable products and equipment to the Board of Public Works (BPW) and the General Assembly by October 1, 2008.

The bill takes effect June 1, 2007 except that the repeal of existing preferences and a requirement that BPW develop regulations both take effect July 1, 2009. The reporting requirement expires December 31, 2008.

Fiscal Summary

State Effect: The net short-term cost or long-term savings of purchasing environmentally preferable products cannot be reliably estimated. General fund expenditures by BPW for contractual services could increase by \$15,000 annually beginning in FY 2008.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	15,000	15,000	15,000	15,000	15,000
Net Effect	(\$15,000)	(\$15,000)	(\$15,000)	(\$15,000)	(\$15,000)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines environmentally preferable products and equipment as those that are manufactured and designed in accordance with a broad range of measures that prevent or minimize environmental degradation, including: • resource conservation; • source reduction; • waste minimization; • recycling; • use of innovative technology; and • use of components that are free of, or minimize the use of, toxic or degrading agents.

Agencies are exempt from applying this preference if doing so would cause the denial of federal monies or be inconsistent with federal law.

By October 1, 2008, the Department of General Services (DGS) must report to BPW on the actual and potential procurement of environmentally preferable products and equipment by each State agency, and the short- and long-term impacts on the State budget, according to specifications included in the bill. State agencies are required to provide DGS with information necessary to complete its report, and also establish short-term objectives and long-range goals for maximizing the use of environmentally preferable products and equipment. After receiving the DGS report, and by December 31, 2009, BPW must develop regulations to implement the provisions of the bill. After a period of public comment, BPW must also develop a list of environmentally preferable products and equipment to share with the public.

Current Law: There is no requirement that the State purchase environmentally preferable products and equipment. State procurement law currently authorizes three price preferences:

- a 5% percentage price preferences for products made from recycled paper;
- a 5% percentage price preference for products that are free of mercury; and
- a 5% percentage price preference for locally grown food.

Furthermore, to the extent practicable, DGS can purchase only paper products made from recycled paper; at a minimum, 40% of DGS' paper product purchases must be from recycled paper. All agencies are required to give preference to products that are free of mercury.

Certain State agencies are exempted in whole or in part from most State procurement law, so they would not be required to purchase environmentally preferable products and equipment for all or some of their procurements. They are:

- University System of Maryland;
- Morgan State University;
- St. Mary's College of Maryland;
- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

State Fiscal Effect: Environmentally preferable products typically have a higher purchase price than comparable products that are not deemed environmentally friendly, but their life-cycle costs are often lower. For example, triple-paned windows cost more than traditional single- or double-paned windows, but over their lifespan they can reduce heating and cooling costs. The bill's requirement that agencies purchase environmentally preferable products and equipment will likely require a larger up-front procurement expenditure than would have been paid for comparable products, but it could reduce agencies' operating costs over time. Cost premiums for environmentally preferable products and equipment vary by product, so they cannot be reliably estimated, nor can the net cost or savings once lifecycle costs are considered. Repeal of the existing price preferences beginning in fiscal 2009 could mitigate the cost premiums.

The bill could also generate more bid protests stemming from the requirement that environmentally preferable products and equipment are consistent with bid specifications and meet or exceed certain performance standards. Losing bidders may dispute that products identified on BPW's list satisfy bid specifications or meet or exceed performance standards.

BPW estimates that it will cost \$15,000 annually to retain a consultant to develop and maintain the list of environmentally preferable products and equipment required by the bill, beginning in fiscal 2008. It can develop regulations to implement the new requirement using existing resources.

Additional Information

Prior Introductions: None.

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, Department of Legislative Services

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nas/rhh

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