

HOUSE BILL 1363

F1, M3

(9lr3077)

ENROLLED BILL

—Ways and Means/Education, Health, and Environmental Affairs—

Introduced by **Delegates Murphy and ~~Kipke~~, Kipke, Bartlett, Barve, Boteler, Cardin, Doory, Elmore, Frick, George, Gilchrist, Hixson, Howard, Ivey, Kaiser, Myers, Olszewski, Rice, Ross, Shank, Stukes, F. Turner, and Walker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **County Boards of Education – Procurement of Green Product Cleaning**
3 **Supplies**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 BY repealing and reenacting, with amendments,
2 Article – Education
3 Section 5–112
4 Annotated Code of Maryland
5 (2008 Replacement Volume)

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

8 **Article – Education**

9 5–112.

10 (a) This section does not apply to:

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

14 (2) Emergency repairs; and

15 (3) **[A] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS**
16 **SECTION, A** county board's participation in contracts for goods or commodities that
17 are awarded by other public agencies or by intergovernmental purchasing
18 organizations if the lead agency for the contract follows public bidding procedures.

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

23 (i) A newspaper of general circulation in the region;

24 (ii) The Maryland Contract Weekly or comparable State
25 publication; or

26 (iii) An electronic posting on a bid board and physical posting on
27 the local school system bid board.

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

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

4 (ii) The specifications may:

5 1. Include a statement of any of the county board's
6 requirements; and

7 2. Provide for the submission of samples, inspection, or
8 testing of the item before procurement.

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

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

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

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

19 3. Replacement parts or maintenance are a paramount
20 consideration; or

21 4. A product is purchased for resale.

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

25 (i) The quantities involved;

26 (ii) The time required for delivery;

27 (iii) The purpose for which required;

28 (iv) The competency and responsibility of the bidder;

29 (v) The ability of the bidder to perform satisfactory service; and

30 (vi) The plan for utilization of minority contractors.

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

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

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

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

14 **(I) BIODEGRADABILITY;**

15 **(II) LOW TOXICITY;**

16 **(III) LOW VOLATILE ORGANIC COMPOUND CONTENT;**

17 **(IV) REDUCED PACKAGING; AND**

18 **(V) LOW LIFE CYCLE ENERGY USE.**

19 (2) (1) **TO THE EXTENT PRACTICABLE, AND ECONOMICALLY**
20 **FEASIBLE, A COUNTY BOARD SHALL PROCURE GREEN PRODUCT CLEANING**
21 **SUPPLIES FOR USE IN ITS SCHOOLS.**

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

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

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

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

3 **A. THE UNITED STATES ENVIRONMENTAL**
4 **PROTECTION AGENCY’S DESIGN FOR THE ENVIRONMENT PROGRAM (DFE);**

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

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

9 [(e)] (F) Nonpublic schools may participate under any contracts for goods or
10 commodities that are awarded by county boards, other public agencies, or
11 intergovernmental purchasing organizations, if the lead agency for the contract award
12 follows public bidding procedures.

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

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

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
19 construed to apply only prospectively and may not be applied or interpreted to have
20 any effect on or application to any obligation or contract for cleaning supplies existing
21 before the effective date of this Act.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.