

# SENATE BILL 515

F1, P2

6lr1418  
CF HB 330

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By: **Senator DeGrange**

Introduced and read first time: February 4, 2016

Assigned to: Education, Health, and Environmental Affairs

Reassigned: Budget and Taxation, February 5, 2016

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **County Boards of Education – Procurements for Construction or Repair of**  
3 **School Projects**

4 FOR the purpose of making certain provisions of law concerning the advertising for bids for  
5 procurements costing more than a certain amount applicable to construction or  
6 repair for certain school projects in the State; including certain construction and  
7 repair ~~services~~ projects under certain provisions of law concerning the award of  
8 certain procurement contracts to certain bidders; requiring the award of certain  
9 contracts to consider a certain plan for meeting or exceeding certain minority  
10 business enterprise goals; defining certain terms; providing for the application of this  
11 Act; providing for a delayed effective date; and generally relating to procurement for  
12 construction and repair ~~services for~~ of schools.

13 BY repealing and reenacting, with amendments,  
14 Article – Education  
15 Section ~~4-101 and 5-112~~  
16 Annotated Code of Maryland  
17 (2014 Replacement Volume and 2015 Supplement)

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

20 **Article – Education**

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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.



1 ~~1-101.~~

2 (a) ~~In this article, unless the context requires otherwise, the following words have~~  
3 ~~the meanings indicated.~~

4 (b) ~~“Any state” means:~~

5 (1) ~~Any state, possession, or territory of the United States;~~

6 (2) ~~The District of Columbia; and~~

7 (3) ~~The Commonwealth of Puerto Rico.~~

8 (c) (1) ~~“COMMODITIES” MEANS AN ITEM OF PURCHASE.~~

9 (2) ~~“COMMODITIES” INCLUDES:~~

10 (I) ~~OFFICE GOODS AND MATERIALS;~~

11 (II) ~~FOOD;~~

12 (III) ~~PRINTED MATERIAL;~~

13 (IV) ~~COPIED MATERIAL;~~

14 (V) ~~ENERGY; AND~~

15 (VI) ~~OTHER ITEMS NEEDED TO SUPPORT NORMAL OPERATIONS~~  
16 ~~OF A PUBLIC SCHOOL SYSTEM.~~

17 (d) (1) ~~“CONSTRUCTION” MEANS THE PROCESS OF BUILDING, ALTERING,~~  
18 ~~REPAIRING, IMPROVING, OR DEMOLISHING ANY STRUCTURE OR BUILDING OR~~  
19 ~~MAKING ANY OTHER IMPROVEMENT TO REAL PROPERTY.~~

20 (2) ~~“CONSTRUCTION” INCLUDES ANY MAJOR WORK NECESSARY TO~~  
21 ~~REPAIR, PREVENT DAMAGE TO, OR SUSTAIN EXISTING COMPONENTS OF AN~~  
22 ~~IMPROVEMENT TO REAL PROPERTY.~~

23 ~~[(e)] (E) “County” means a county of this State and includes Baltimore City.~~

24 ~~[(d)] (F) “County board” means the board of education of a county and includes~~  
25 ~~the Baltimore City Board of School Commissioners.~~

1 ~~[(e)] (G) "County superintendent" means the county superintendent of schools~~  
2 ~~of a county and includes the Chief Executive Officer of the Baltimore City Board of School~~  
3 ~~Commissioners.~~

4 ~~[(f)] (H) "Department" means the State Department of Education.~~

5 ~~[(g)] (I) "Elementary and secondary education" means education and programs~~  
6 ~~of education from and including preschool through the end of high school and their~~  
7 ~~equivalent.~~

8 ~~(J) "GOODS" MEANS TANGIBLE OR MOVABLE PERSONAL PROPERTY OTHER~~  
9 ~~THAN MONEY.~~

10 ~~(K) "IMPROVEMENT" MEANS THE CONSTRUCTION, MAINTENANCE, AND~~  
11 ~~REPAIR OF ANY BUILDING, STRUCTURE, COMPONENT, OR OTHER PUBLIC WORK.~~

12 ~~[(h)] (L) "Includes" or "including" means includes or including by way of~~  
13 ~~illustration and not by way of limitation.~~

14 ~~[(i)] (M) "Person" includes:~~

15 ~~(1) An individual, receiver, trustee, guardian, executor, administrator,~~  
16 ~~fiduciary, or representative of any kind and any partnership, firm, association, public or~~  
17 ~~private corporation, or other entity; and~~

18 ~~(2) The State, any county, municipal corporation, or other political~~  
19 ~~subdivision of this State, and any of their agencies or units.~~

20 ~~[(j)] (N) "Property" means any real or personal property or any interest in real~~  
21 ~~or personal property.~~

22 ~~[(k)] (O) "Public schools" means the schools in the public elementary and~~  
23 ~~secondary education system of this State.~~

24 ~~[(l)] (P) "State Board" means the State Board of Education.~~

25 ~~[(m)] (Q) "State Superintendent" means the State Superintendent of Schools.~~

26 5-112.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
28 INDICATED.

1                   **(2) “CONSTRUCTION” MEANS THE PROCESS OF BUILDING, ALTERING,**  
 2 **REPAIRING, IMPROVING, OR DEMOLISHING ANY STRUCTURE OR BUILDING OR**  
 3 **MAKING ANY OTHER IMPROVEMENT TO REAL PROPERTY.**

4                   **(3) “CONSTRUCTION” INCLUDES ANY MAJOR WORK NECESSARY TO**  
 5 **REPAIR, PREVENT DAMAGE TO, OR SUSTAIN EXISTING COMPONENTS OF AN**  
 6 **IMPROVEMENT TO REAL PROPERTY.**

7           ~~(a)~~ **(B)**           This section does not apply to:

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

10                  (2)   Emergency repairs; and

11                  (3)   Except as provided in subsection ~~(e)~~ **(F)** of this section, a county board’s  
 12 participation in contracts for goods or commodities that are awarded by other public  
 13 agencies or by intergovernmental purchasing organizations if the lead agency for the  
 14 contract follows public bidding procedures.

15           ~~(b)~~ **(C)**           (1)   Except as provided in paragraph (2) of this subsection, if the cost  
 16 of any school building, improvement, ~~CONSTRUCTION, REPAIR,~~ supplies, or equipment is  
 17 more than \$25,000 **OR THE COST OF ANY CONSTRUCTION OR REPAIR PROJECT THAT**  
 18 **RECEIVES AN APPROPRIATION IN THE STATE CAPITAL BUDGET THAT IS GREATER**  
 19 **THAN \$25,000**, the county board, at least 2 weeks before bids are to be filed, shall advertise  
 20 for bids in a medium accessible to the general public, which includes:

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

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

23 or

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

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

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

33                   (ii)   The specifications may:





- 1 9. Window cleaners;
- 2 10. Whiteboard cleaners; and
- 3 11. Soap.

4 (iii) "Green product cleaning supplies" does not include:

- 5 1. Room deodorizers;
- 6 2. Air fresheners;
- 7 3. Toilet deodorizers; or
- 8 4. Hand cleaners.

9 (2) (i) Subject to subsection ~~(G)~~ **(G)** of this section, to the extent  
10 practicable, and economically feasible, a county board shall procure green product cleaning  
11 supplies for use in its schools.

12 (ii) In accordance with subsection ~~(b)(3)~~ **(C)(3)** of this section, a  
13 county board shall draft specifications that provide a clear and accurate description of the  
14 functional characteristics or nature of the green product cleaning supplies that are to be  
15 procured.

16 (iii) The specifications drafted by a county board under subparagraph  
17 (ii) of this paragraph:

18 1. May not preclude the use when necessary of a disinfectant,  
19 disinfecting cleaner, sanitizer, or other antimicrobial product regulated by the Federal  
20 Insecticide, Fungicide, and Rodenticide Act under 7 U.S.C. § 136 et seq.; and

21 2. Shall allow for multiple avenues to obtain green product  
22 cleaning supplies certification, including:

23 A. Green Seal, Green Label, Environmental Choice,  
24 TerraChoice, or Ecologo; and

25 B. Any other nationally recognized independent third-party  
26 entity that certifies environmentally preferable products that the county board determines  
27 to be appropriate.

28 (3) (i) Except as provided in paragraph (2)(i) of this subsection, on or  
29 before July 1, 2013, a county board shall adopt written policies for the procurement of green  
30 product cleaning supplies for use in its schools.

1 (ii) The written policies shall:

2 1. Require the use of green product cleaning supplies;

3 2. On or before July 1, 2014, establish guidelines for  
4 purchasing green product cleaning supplies that meet the certification requirements of any  
5 established and nationally recognized independent third-party entity that certifies  
6 environmentally preferable products and adheres to consensus standards for lesser or  
7 reduced effects on human health and the environment when compared to competing  
8 products that serve the same purpose;

9 3. Establish green cleaning practices, including storage,  
10 application, frequency of use, and disposal of the supplies to ensure that the occupants of a  
11 school building do not suffer any adverse health effects as the result of these practices; and

12 4. Require staff training on implementing the policy.

13 ~~(G)~~ **(G)** On or before June 30 each year, a county board that does not procure  
14 green product cleaning supplies for use in its schools because doing so is not practicable or  
15 economically feasible shall provide annual written notice of this fact to the Department.

16 ~~(H)~~ **(H)** Nonpublic schools may participate under any contracts for goods or  
17 commodities that are awarded by county boards, other public agencies, or  
18 intergovernmental purchasing organizations, if the lead agency for the contract award  
19 follows public bidding procedures.

20 ~~(I)~~ **(I)** A contract entered into or purchase made in violation of this section is  
21 void.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
23 apply only prospectively and may not be applied or interpreted to have any effect on or  
24 application to any contract in effect before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~  
26 January 1, 2016 ~~2017~~.