

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943

## ENROLLED

SENATE BILL No. 180

(By Mr. Mitchell)

PASSED March 6 1943

In Effect Ninety days from Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.



180

ENROLLED

Senate Bill No. 180

(By MR. MITCHELL, by request)

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[Passed March 6, 1943; in effect ninety days from passage]

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AN ACT to amend and reenact section twenty, article four, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, being section twenty, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to highway contractors' bonds.

*Be it enacted by the Legislature of West Virginia:*

That section twenty, article four, chapter forty, acts of the Legislature of West Virginia, first extraordinary session, one

thousand nine hundred thirty-three, being section twenty, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 20. *Execution of Contract and Bond by Successful Bidder; Copy Furnished Clerk of County Court; Forfeiture or Return of Checks or Bonds.* In any case where a contract for work and materials shall be let as a result of competitive bidding, the successful bidder shall promptly and within twenty days after notice of award execute a formal contract to be approved as to its form, terms and conditions by the commissioner, and shall also execute and deliver to the commissioner a good and sufficient surety or collateral bond, payable to the state of West Virginia, to be approved by the commissioner, in such amount as the commissioner may require, but not to exceed the contract price, conditioned that such contractor shall well and truly perform his contract and shall pay in full to the persons entitled thereto for all material, gas,

16 oil, repairs, supplies, equipment, rental charges for equip-  
17 ment and charges for the use of equipment, and labor used  
18 by him in and about the performance of such contract.

19 An action, either at law or in equity, may be maintained  
20 upon such bond for breach thereof by any person for  
21 whose benefit the same was executed or by his assignee.

22 The bidder who has the contract awarded to him and who  
23 fails within twenty days after notice of the award to  
24 execute the required contract and bond shall forfeit such  
25 check or bond, and the check or bond shall be taken and  
26 considered as liquidated damages and not as a penalty  
27 for failure of such bidder to execute such contract and  
28 bond. Upon the execution of such contract and bond by  
29 the successful bidder his check or bond shall be returned

- 30 to him. The checks or bonds of the unsuccessful bidders  
31 shall be returned to them promptly after the bids are  
32 opened and the contract awarded to the successful bidder.  
33 A duplicate copy of such contract and bond shall be fur-  
34 nished by the state road commissioner in loose leaf form,  
35 to the clerk of the county court of the county in which

36 such contract is to be performed and it shall be the duty  
37 of the clerk to bind and preserve the same in his office,  
38 and index the same in the name of the commissioner and  
39 of the contractor.

The Joint Committee on Enrolled Bills hereby certifies that  
the foregoing bill is correctly enrolled.

Ray Z. Johnson  
Chairman Senate Committee

Frank H. Putney  
Chairman House Committee

Originated in the

Senate

Takes effect

Ninety days from

passage

W. Sam Watkins  
Clerk of the Senate

Stalliff  
Clerk of the House of Delegates

James Paule  
President of the Senate

John E. Cross  
Speaker House of Delegates

The within

approved

this the

9

day of

March

1943.

Matthew M. Peery  
Governor.

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Filed in the office of the Secretary of State  
of West Virginia MAR 9 1943

Wm. S. O'BRIEN,  
Secretary of State