

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 21

(By Mr. Carson, Mr. President)

PASSED March 27th 1961

In Effect July 18th 1961 Passage



ENROLLED

Senate Bill No. 21

(By MR. CARSON, MR. PRESIDENT)

[Passed March 2, 1961; in effect July 1, 1961.]

AN ACT to repeal articles five and eight, chapter five; section ten, article nine, chapter six; section ten-a, article one, chapter twenty-five; chapter twenty-five-a; and articles eight and eleven, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend said code by adding thereto a new chapter designated chapter five-a, all relating to the administration and financial affairs of the state and to the department of finance and administration, its powers and duties.

Be it enacted by the Legislature of West Virginia:

That articles five and eight, chapter five; section ten, article nine, chapter six; section ten-a, article one, chapter twenty-

five; chapter twenty-five-a; and articles eight and eleven, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said code be amended by adding thereto a new chapter designated chapter five-a, to read as follows:

**CHAPTER 5A. DEPARTMENT OF FINANCE AND
ADMINISTRATION**

Article 1. Department of Finance and Administration

Section 1. *Definitions.*—For the purpose of this chapter:

2 “Commissioner” means the commissioner of finance and
3 administration and, as used in article two of this chapter,
4 the director of the budget.

5 “Board” means the board of public works.

6 “Director” means the director of the division referred
7 to in the heading of the article in which the word appears.

8 “Spending unit” means a department, agency or insti-
9 tution of the state government for which an appropria-
10 tion is requested, or to which an appropriation is made by
11 the legislature.

12 “Spending officer” means the executive head of a spend-
13 ing unit, or a person designated by him.

14 “Commodities” means supplies, material, equipment,
15 contractual services, and any other articles or things used
16 by or furnished to a department, agency or institution of
17 the state government.

18 “Contractual services” shall include telephone, tele-
19 graph, electric light and power, water and similar services.

20 “Printing” means printing, binding, ruling, lithograph-
21 ing, engraving and other similar services.

22 “Expendable commodities” means those commodities
23 which, when used in the ordinary course of business,
24 will become consumed or of no market value within the
25 period of one year or less.

26 “Removable property” means any personal property not
27 permanently affixed to or forming a part of real estate.

Sec. 2. *Department of Finance and Administration;*
2 *Commissioner; Divisions.*—The department of finance and
3 administration and the office of commissioner of finance
4 and administration are hereby created in the state gov-
5 ernment. The commissioner shall be the chief executive
6 officer of the department and director of the budget and
7 shall be appointed by the governor, by and with the ad-

8 vice and consent of the senate for a term not exceeding
9 the term of the governor. The annual compensation of the
10 commissioner shall be ten thousand (\$10,000.00) dollars.
11 There shall be in the department of finance and adminis-
12 tration a budget division, a purchasing division and a
13 general services division. Each division shall be headed
14 by a director, who shall be appointed by the commissioner
15 to serve at his will and pleasure.

Sec. 2-a. *Powers and Duties of Commissioner.*—The com-
2 missioner shall have control and supervision of the de-
3 partment of finance and administration and shall be re-
4 sponsible for the work of each of its employees. The
5 commissioner shall have the authority to employ such
6 assistants as may be necessary for the efficient operation
7 of the department. The commissioner, the division heads,
8 and the employees of the department shall perform the
9 duties herein specified and shall also perform such other
10 duties as the board may prescribe.

Sec. 3. *Council of Finance and Administration.*—The
2 council of finance and administration is hereby created
3 and shall be composed of ten members, four of whom shall

4 serve ex officio and six of whom shall be appointed as
5 herein provided. The ex officio members shall be the gov-
6 ernor, attorney general, the state treasurer, and the state
7 auditor. From the membership of the legislature, the
8 president of the senate shall appoint three senators as
9 members of the council, not more than two of whom shall
10 be members of the same political party, and the speaker
11 of the house shall appoint three delegates as members of
12 the council, not more than two of whom shall be members
13 of the same political party. Members of the council ap-
14 pointed by the president of the senate and the speaker of
15 the house shall serve at the will and pleasure of the officer
16 making their appointment. The commissioner of finance
17 and administration shall serve as chairman of the council.
18 Meetings of the council shall be upon call of the chair-
19 man or a majority of the members thereof.

20 The council shall serve the department of finance and
21 administration in an advisory capacity only and shall have
22 the following duties:

23 (1) To advise with the commissioner as to all budget
24 proposals to be submitted to the board of public works;

25 (2) At the time of the submission of the proposed
26 budget to the board of public works, to report to the board
27 its conclusions concerning the proposed budget and any
28 additions, modifications or adjustments that it may care
29 to suggest;

30 (3) To advise with the commissioner concerning such
31 studies of government and administration as it may con-
32 sider appropriate;

33 (4) To advise with the commissioner in the preparation
34 of studies designed to provide long term capital planning
35 and finance for state institutions and agencies. Members
36 of the council shall be paid all necessary expenses incur-
37 red in the discharge of their duties.

 Sec. 4. *Annual Report by Commissioner.*—The com-
2 missioner shall make an annual report to the governor
3 and to the board concerning the conduct of the department
4 and the administration of the state finances. He shall
5 also make such other reports as the governor and the board
6 may require.

 Sec. 5. *Oath and Bond of Commissioner; Bonds for Di-*
2 *rectors and Employees.*—The commissioner, before en-

3 tering upon the duties of his office, shall take and subscribe
4 to the oath prescribed by section five, article four of the
5 constitution. He shall execute a bond in the penalty of
6 twenty-five thousand dollars, approved by the board, in
7 form prescribed by the attorney general, and conditioned
8 upon the faithful performance of his duties and the ac-
9 counting for all money and property coming into his hands
10 by virtue of his office. The oath and bond shall be filed
11 with the secretary of state. The division heads and all
12 other employees shall be covered by bonds in cases where
13 the commissioner thinks it necessary, which bonds shall
14 be in the penalty prescribed by the commissioner and
15 shall be filed with the secretary of state.

Sec. 6. *Delegation of Powers and Duties by Commis-*
2 *sioner and Directors.*—The powers and duties vested in
3 the commissioner by this chapter may be delegated by
4 him to his assistants and employees, but the commissioner
5 shall be responsible for all official acts of the department.

Article 2. Budget Division

Section 1. *Budget Division; Powers and Duties.*—The
2 budget division shall act as staff agency for the board of

3 public works in the exercise of its powers and duties un-
4 der section fifty-one, article six of the state constitution
5 and shall exercise and perform the other powers and
6 duties conferred upon it by this article.

Sec. 2. *Director of the Budget; Powers and Duties.*—

2 The commissioner, under the immediate supervision of
3 the board, shall have the power and duty to:

4 (1) Exercise general supervision of, and make rules
5 and regulations for, the government of this division;

6 (2) Prepare, in accordance with this article, requests
7 for appropriations, estimates of cost, and the contents of
8 the state budget into a tentative budget for submission to
9 the board;

10 (3) Administer the budget in accordance with this
11 article;

12 (4) Serve as staff agency to the board in the considera-
13 tion of requests for appropriations and the preparation of
14 the budget document;

15 (5) Make such investigations and submit such reports
16 as the board may require;

17 (6) Make a continuous study of state expenditures and

18 make such recommendations to the board for the more
19 economical use of state funds as he shall find practicable;

20 (7) Render assistance to spending officers with respect
21 to the fiscal affairs of spending units;

22 (8) Exercise such other powers as are vested in him by
23 this article, or which may be appropriate to the discharge
24 of his duties.

Sec. 3. *Requests for Appropriations; Copies to Legis-*
2 *lative Auditor.*—The spending officer of each spending
3 unit, other than the legislature and the judicial branch of
4 state government, shall on or before the first day of Sep-
5 tember of each year submit to the commissioner a request
6 for appropriations for the fiscal year next ensuing. Im-
7 mediately upon receipt of such requests the commissioner
8 shall transmit two copies thereof to the legislative auditor
9 for the use of the finance committees of the legislature.

Sec. 4. *Contents of Requests.*—A request for an appro-
2 priation for a spending unit shall specify and itemize in
3 written form:

4 (1) A statement showing the amount and kinds of rev-
5 enue and receipts collected for use of the spending agency

6 during the next preceding fiscal year and anticipated col-
7 lections for the fiscal year next ensuing;

8 (2) A statement by purposes and objects, of the amount
9 of appropriations requested for the spending unit without
10 deducting the amount of anticipated collections of special
11 revenue, special general revenue, federal aid, or other
12 receipts;

13 (3) A statement showing the actual expenditures of the
14 spending unit for the last preceding year and estimated
15 expenditures for the current fiscal year itemized by pur-
16 poses and objects, including those from regular and sup-
17 plementary appropriations, federal aid, private contribu-
18 tions, transfers, allotments from an emergency or con-
19 tingent fund, and any other expenditures made by or for
20 the spending unit;

21 (4) A statement showing the number, classification and
22 compensation of persons employed by the spending unit
23 distinguishing between regular, special and casual em-
24 ployees during the last preceding fiscal year and during
25 the current fiscal year. The statement shall show the
26 personnel requirements in similar form for the ensuing

27 fiscal year for which appropriations are requested;

28 (5) A statement showing in detail the purposes for
29 which increased amounts of appropriations, if any, are
30 requested, and giving a justification statement for the ex-
31 penditure of the increased amount. A construction or
32 other improvement request shall show in detail the kind
33 and scope of construction or improvement requested;

34 (6) A statement of money claims against the state aris-
35 ing out of the activities of the spending unit;

36 (7) Such other information as the commissioner may
37 request.

Sec. 5. *Forms of Requests.*—The commissioner shall
2 specify the form and the detail of itemization of requests
3 for appropriations and statements to be submitted by a
4 spending unit. He shall furnish blank forms for this
5 purpose.

Sec. 6. *Information Concerning State Finances.*—The
2 commissioner shall ascertain for the last preceding year
3 and as estimated for the current fiscal year:

4 (1) The condition of each of the funds of the state;

5 (2) A statement of all revenue collections both general
6 and special;

7 (3) Such other information relating to the finances of
8 the state as the governor may request.

Sec. 7. *Appropriations for the Judiciary.*—The governor
2 shall transmit to commissioner the appropriations re-
3 quired by law for the judiciary for the fiscal year next
4 ensuing and which have been certified to the governor by
5 the auditor. The auditor shall certify such appropriations
6 to the governor in accordance with section fifty-one, ar-
7 ticle six of the state constitution on or before September
8 first of each year.

Sec. 8. *Examination of Requests for Appropriations.*—
2 The commissioner shall examine the requests of a spend-
3 ing unit with respect to requested appropriations, itemiza-
4 tion, sufficiency of justification statements, and accuracy
5 and completeness of all other information which the
6 spending officer is required to submit.

7 If the commissioner finds a request, report, or state-
8 ment of a spending unit inaccurate, incomplete or in-
9 adequate, he shall consult with the spending officer of the

10 unit and require the submission of the requests in proper
11 form and content. The commissioner shall assist spending
12 officers in the preparation of their requests.

Sec. 9. Appropriations for Other than Spending Units.—

2 A person or organization, other than a spending officer,
3 who desires to request a general appropriation in the state
4 budget, shall submit his request to the commissioner on
5 or before the first day of September of each year. The re-
6 quest shall be in the form prescribed by the commissioner
7 and shall be accompanied by a justification statement.

Sec. 10. Preparation of Tentative Budget Submitted to

2 *Board.*—The commissioner shall prepare for the consider-
3 ation of the board a tentative budget for the fiscal year
4 next ensuing. The budget shall state, at least, actual re-
5 ceipts and expenditures for the fiscal year next preceding,
6 estimated receipts and expenditures for the current fiscal
7 year, and it shall state also the requested amounts, or
8 estimates, for the fiscal year next ensuing with respect to:
9 (1) Appropriations requested by each spending unit
10 and requested general appropriations;

11 (2) The amount of the total of each appropriation to
12 be paid out of collections;

13 (3) Amounts and purposes of appropriations requested
14 other than for spending units of the state;

15 (4) Revenue of each of the funds of the state;

16 (5) A summary statement of requests and revenues
17 showing the amount of an anticipated surplus or deficit.

18 On or before December first, the commissioner shall
19 submit the tentative budgets to the board. The commis-
20 sioner shall convey to the board all explanatory and justi-
21 fication statements and statements of personnel require-
22 ments of spending units as reported and filed in his office.

Sec. 11. *Itemization of Tentative Budget.*—The tenta-
2 tive budget submitted by the commissioner shall itemize
3 appropriations separately for:

4 (1) "Personal services" which shall mean salaries,
5 wages, fees and other compensation for skill, work or
6 employment;

7 (2) "Current expenses" which shall mean operating
8 costs other than personal services, and shall not include
9 equipment, repairs and alterations, buildings, or lands;

10 (3) "Equipment" which shall mean equipment items
11 which have an appreciable and calculable period of use-
12 fulness in excess of one year;

13 (4) "Repairs and alterations" which shall mean repairs
14 to structures and improvements to property which do not
15 increase the capital asset;

16 (5) "Buildings" which shall include construction and
17 alteration of structures and the improvement of lands
18 and shall include shelter, support, storage, protection, or
19 the improvement of a natural condition;

20 (6) "Lands" which shall mean the purchase of real
21 property or interests in real property.

22 A spending unit or other person requesting an appro-
23 priation may submit a different itemization with the prior
24 approval of the commissioner, if the uniform itemization
25 does not apply.

Sec. 12. *Powers of the Commissioner in the Administra-*
2 *tion of Expenditures.*—The commissioner shall supervise
3 and control the expenditure of appropriations made by
4 the legislature except those made to the legislature and
5 those made to the judicial branch of the state government.

6 The expenditure of an appropriation made by the legis-
7 lature except that made for the legislature itself and the
8 judicial branch of the state government shall be condi-
9 tioned upon compliance by the spending unit with the
10 provisions of this article. An appropriation made by the
11 legislature except that made for the legislature itself and
12 the judicial branch of the state government shall be
13 expended only in accordance with this article.

Sec. 13. *Reports on Revenue Collections.*—The com-
2 missioner shall ascertain the collection of the revenue of
3 the state and shall determine each quarter of the fiscal
4 year the proportion which the amount actually collected
5 bears to the collection estimated for that period. The
6 commissioner shall certify to the board, as soon as possible
7 after the close of each quarter, and at such other times
8 as the board may request, the condition of the state
9 revenues and of the several funds of the state. For the
10 purposes of this section the commissioner shall have the
11 authority to require all necessary estimates and reports
12 from any spending unit of the state government.

Sec. 14. *Expenditure Schedules.*—Prior to the beginning

2 of each fiscal year the spending officer of a spending unit
3 shall submit to the commissioner a detailed expenditure
4 schedule for the ensuing fiscal year. The schedule shall
5 be submitted in such form and at such time as the com-
6 missioner may require.

7 The schedule shall show:

8 (1) A proposed monthly rate of expenditure for
9 amounts appropriated for personal services;

10 (2) A proposed quarterly rate of expenditure for
11 amounts appropriated for current expenses, equipment,
12 and repairs and alterations;

13 (3) A proposed yearly plan of expenditure for amounts
14 appropriated for buildings and lands.

15 The commissioner may accept a differently itemized
16 expenditure schedule from a spending unit to which the
17 above itemizations are not applicable.

18 The commissioner shall consult with and assist spending
19 officers in the preparation of expenditure schedules.

Sec. 15. *Examination and Approval of Expenditure*

2 *Schedules.*—The commissioner shall examine the ex-
3 penditure schedule of each spending unit and if he finds

4 that it conforms to the appropriations made by the legis-
5 lature, the requirements of this article, and is in accord-
6 ance with sound fiscal policy, he shall approve the
7 schedule.

8 The expenditure of the appropriations made to a spend-
9 ing unit shall be only in accordance with the approved
10 expenditure unless the schedule is amended with the
11 consent of the commissioner, or unless appropriations are
12 reduced in accordance with the provisions of sections
13 twenty-two to twenty-five, inclusive, of this article.

Sec. 16. *Reserve for Emergencies.*—The commissioner,
2 with the approval of the board, may require that an ex-
3 penditure schedule provide for a reserve for emergencies
4 out of the total amount appropriated to the spending unit.
5 The amount of the reserve shall be determined by the
6 commissioner in consultation with the spending officer.

Sec. 17. *Requests for Quarterly Allotments; Approval*
2 *by Board.*—At least thirty days prior to the beginning of
3 each quarter of the fiscal year, each spending officer shall
4 submit to the commissioner a request for an allotment of
5 public funds sufficient to operate the unit during the

6 ensuing quarter in accordance with the approved ex-
7 penditure schedule.

8 The commissioner shall examine the requests and, if he
9 finds that the amounts requested are in accordance with
10 the approved expenditure schedules and are in accord-
11 ance with sound fiscal policy, he shall submit the requests
12 to the board. The commissioner shall also submit a
13 summary statement showing the amounts expended under
14 the budget for each preceding quarter of the fiscal year
15 and the total amount requested for allotment during the
16 ensuing quarter.

17 The board shall consider the amount of requests for
18 allotment and the collection of revenues. If the board
19 finds that the collection of revenue warrants the expendi-
20 ture of the amount requested in the allotment, it shall ap-
21 prove the allotment of funds for the ensuing quarter.
22 If the board finds that the collection of revenue does not
23 warrant the allotment of the requested amount, it may
24 reduce the amount of allotments pending the collection
25 of sufficient revenue.

Sec. 18. *Limitation on Expenditures.*—The expenditures

2 of a spending unit during a quarter of the fiscal year shall
3 not exceed the amount of the approved allotment, unless
4 the board approves the expenditure of a larger amount.
5 Any amounts remaining unexpended at the close of the
6 quarter shall be available for reallocation and expenditure
7 during any succeeding quarter of the same fiscal year.

Sec. 19. Transfers Between Items of an Appropriation;

2 *Notices to Auditor and Treasurer.*—Upon the written re-
3 quest of a spending officer, the commissioner may, with
4 the approval of the board, transfer amounts between
5 items of the total appropriation for a spending unit in
6 order to protect or increase the efficiency of the service,
7 but a transfer shall not increase the total amount appro-
8 priated for personal services. Notices of any such transfer
9 shall be sent to the state auditor and the state treasurer.

Sec. 20. Expenditure of Excess in Collections; Notices

2 *to Auditor and Treasurer.*—If the amount actually col-
3 lected by a spending unit exceeds the amount which it is
4 authorized to expend from collections, the excess in col-
5 lections shall be set aside in a special surplus fund for
6 the spending unit. Expenditures from this fund shall be

7 made only in accordance with the following procedure:

8 The spending officer shall submit to the commissioner:

9 (1) A plan of expenditure showing the purposes for
10 which the surplus is to be expended, and

11 (2) A justification statement showing the reasons why
12 the expenditure is necessary and desirable.

13 The commissioner shall submit the request to the board
14 with his recommendation.

15 If the board approves the plan of expenditure and
16 justification statement, and is satisfied that the expendi-
17 ture is required to defray the additional cost of the service
18 or activity of the spending unit, and that the expenditure
19 is in accordance with sound fiscal policy, it may authorize
20 the use of the surplus during the current fiscal year.

21 Notices of such authorization shall be sent to the state
22 auditor and the state treasurer.

23 An expenditure from a special surplus fund without the
24 authorization of the board, or other than in accordance
25 with this section shall be an unlawful use of public funds.

Sec. 21. *Records by Spending Units.*—A spending unit
2 shall submit to the commissioner such reports with re-

3 spect to the work and expenditures of the unit as the com-
4 missioner may request for the purposes of this article.

Sec. 22. *Reduction of Appropriations.*—The board may
2 reduce appropriations according to any of the methods
3 set forth in sections twenty-three, twenty-four and twen-
4 ty-five of this article.

Sec. 23. *General Fund; Pro Rata Reductions.*—If the
2 board determines that the amounts, or parts thereof, ap-
3 propriated from the general revenue cannot be expended
4 without creating an overdraft or a deficit in the general
5 fund, it may instruct the commissioner to reduce equally
6 and pro rata all appropriations out of general revenue in
7 such a degree as may be necessary to prevent an overdraft
8 or a deficit in the general fund.

Sec. 24. *Other Funds; Pro Rata Reductions.*—The board,
2 in the manner set forth in section twenty-three, may re-
3 duce appropriations from:

- 4 (1) Funds supported by designated taxes or fees;
- 5 (2) Fees or other collections set aside for the support
6 of designated activities or services.

7 Each fund and each fee or collection account shall be

8 treated separately, but appropriations from the same fund
9 or account shall be treated equally and reduced pro rata.

10 *Sec. 25. Reduction After Classification of Appropri-*
11 *ations.*—If the board determines that the reductions au-
12 thorized in sections twenty-three and twenty-four will
13 dangerously impair the existence of the essential services
14 of government, it may instruct the commissioner to reduce
15 the amount to be expended from separate appropriations
16 in accordance with the following method:

17 (1) The commissioner shall first classify appropriations
18 as follows:

19 Class one: For agencies collecting revenue and admin-
20 istering the fiscal operations of government, including the
21 offices and departments of the tax commissioner, auditor,
22 treasurer, and sinking fund commission;

23 Class two: For agencies vested with the supervision,
24 control, and direction of executive policy and law enforce-
25 ment, including the governor's office, the attorney gen-
26 eral's office, the department of finance and administration,
27 and the department of public safety;

19 Class three: For state institutions, education, charitable
20 and corrective;

21 Class four: For other departments and services of the
22 state government;

23 Class five: For transfers from the general fund.

24 (2) The commissioner shall first reduce the appropri-
25 ations from class five and then, if necessary, for the other
26 classes in descending numerical order as follows:

27 Class four, class three, class two, class one. All reduc-
28 tions shall be in multiples of five percent, but a fixed re-
29 lationship shall be maintained between the classes which
30 shall be measured by a difference of five percent in the
31 rate of reduction. The maximum reduction shall not ex-
32 ceed twenty-five percent in class five and in the other
33 classes it shall be proportional according to the following
34 table:

35	Classes	Five	Four	Three	Two	One
36	Percent	5%				
37	of reductions	10%	5%			
38	from	15%	10%	5%		
39	total	20%	15%	10%	5%	
40	appropriations	25%	20%	15%	10%	5%

Sec. 26. *Approval of Commissioner of Requests for Federal Aid.*—Every agency of the state government when making requests or preparing budgets to be submitted to the federal government for funds, equipment, material or services, the grant or allocation of which is conditioned upon the use of state matching funds, shall have such request or budget approved in writing by the commissioner before submitting it to the proper federal authority. When such federal authority has approved the request or budget, the agency of the state government shall resubmit it to the commissioner for recording before any allotment or encumbrance of the federal funds can be made. Whenever any agency of the state government shall receive from any agency of the federal government a grant or allocation of funds which do not require state matching, the state agency shall report to the commissioner for his information the amount of the federal funds so granted or allocated.

Sec. 27. *Management Accounting.*—The commissioner shall formulate the requirements of a system of management accounting for the planning, management, report-

4 ing, and control of state expenditures. The requirements
5 shall include methods for recording the collection of all
6 income, amounts available for expenditure, obligations,
7 encumbrances and disbursements for each spending unit,
8 and publication of a detailed statement of receipts and
9 expenditures of state moneys. The system shall include
10 the accounts to be kept by the commissioner, the auditor,
11 and the treasurer. The commissioner shall, after the sys-
12 tem has been approved by the board of public works, re-
13 quire its use by all spending units.

14 The board is hereby authorized to direct by executive
15 order, not inconsistent with the provisions of this article,
16 the transfer of such records, equipment, personnel, and
17 appropriations between the departments of finance and
18 administration, the auditor, and the treasurer as may be
19 necessary to effectuate the purposes of central accounting
20 and reporting.

Sec. 28. *System of Accounting to be Certified to Legis-*
2 *lative Auditor.*—The commissioner shall certify the sys-
3 tem of accounting and reporting installed pursuant to the

4 provisions of this article, and any changes made therein,
5 to the legislative auditor.

Sec. 29. *Expenditure of Appropriations.*—The expendi-
2 ture of an appropriation made by the legislature shall be
3 conditioned upon compliance by the spending unit with
4 the following provisions of this article.

Sec. 30. *Expenditure Procedure; Other Than for Pur-*
2 *chases of Commodities.*—A requisition for expenditure,
3 other than an order for the purchase of commodities, shall
4 be submitted as follows:

5 (1) The spending officer shall prepare and submit to
6 the director a requisition showing the amount, purpose,
7 and appropriation from which the expenditure is re-
8 quested;

9 (2) The director shall examine the requisition and de-
10 termine whether the amount is within the quarterly allot-
11 ment, is in accordance with the approved expenditure
12 schedule, and otherwise conforms to the provisions of this
13 article and of article two of this chapter;

14 (3) If the director approves the requisition he shall
15 encumber the proper account in the amount of the requi-

16 sition and shall transmit the requisition to the auditor for
17 disbursement in accordance with law;

18 (4) If the director disapproves the requisition, he shall
19 return it to the spending unit with a statement of his
20 reasons.

Sec. 31. *Expenditure Procedure for Purchase of Com-*
2 *modities.*—If a requisition is a request for a purchase of
3 commodities, the spending unit shall transmit the requisi-
4 tion to the budget division for the purpose of ascertaining
5 whether it conforms to the expenditure schedule. If it
6 does not so conform, the requisition shall be returned by
7 the budget division to the spending unit. If it conforms,
8 the budget division shall transmit the requisition to the
9 purchasing division for purchase in accordance with
10 article three of this chapter. When a copy of the purchase
11 order issued pursuant thereto is received from the pur-
12 chasing division by the director in accordance with the
13 provisions of section sixteen, article three of this chapter,
14 the director shall ascertain whether the unencumbered
15 balance in the appropriation concerned, in excess of all
16 unpaid obligations, is sufficient to defray the cost of such

17 order, and, if so, shall encumber the proper account and
18 so certify the fact to the purchasing division, and, if not,
19 shall notify the purchasing division which upon receipt
20 of such notification shall return the requisition to the
21 spending unit.

Sec. 32. Requisition for Payment of Personal Services.—

2 A requisition for the payment of personal services shall
3 upon receipt by the director be checked against the per-
4 sonal schedule of the spending unit making the requisi-
5 tion. The director shall approve a requisition for personal
6 services only if the amounts requested are in accordance
7 with the personnel schedule of the director.

*Sec. 33. Legislative and Judicial Expenditures.—*The

2 provisions of sections thirty-two, thirty-three and thirty-
3 four of this article shall not apply to the expenditure of
4 amounts appropriated for the use of the legislature or for
5 the judiciary. In the case of appropriations made for the
6 legislature, the clerk of the house of delegates, or the
7 clerk of the senate, as the case may be, shall present his
8 requisition directly to the auditor. In the case of appro-
9 priations made for the judiciary, the clerk of the court

10 shall present his requisition or claim directly to the audi-
11 tor. In the case of appropriations made for criminal
12 charges, the clerk or the proper officer shall present his
13 claim directly to the auditor.

Sec. 34. Additional Powers and Duties of Commissioner.

2 —The commissioner shall prepare and recommend a per-
3 sonnel classification which shall classify the offices and
4 employments in the state government and its agencies
5 so as to reflect the differences in training, experience,
6 ability and responsibility required for the different types
7 or kinds of service or employment, and shall recommend
8 uniform salaries and wage scales within each class. The
9 commissioner shall also prepare and recommend uniform
10 hours of work, vacation, sick leave, and notice of termina-
11 tion of employment schedules. The commissioner may
12 from time to time recommend amendments and revisions
13 to the personnel classification, compensation schedule and
14 other schedules. The commissioner shall submit the plan
15 and any amendments or revisions to the board. If the
16 board approves the plan or any revisions thereof, the
17 classification of offices and employment, the uniform

18 salary and wage scales and other schedules shall control
19 the employment and compensation of all persons em-
20 ployed in the state government unless otherwise provided
21 by law.

22 The provisions of this section shall not apply to:

- 23 (1) Institutions under the control of the state board
24 of education, the board of governors of West Virginia uni-
25 versity and the commissioner of public institutions;
- 26 (2) The department of public assistance;
- 27 (3) The department of employment security;
- 28 (4) The department of mental health;
- 29 (5) The state department of health;
- 30 (6) The conservation commissioner;
- 31 (7) State board of vocational education.

Sec. 35. *Classification of Employment and Compensation*
2 *by Certain Departments.*—The state departments or
3 agencies to which the provisions of the preceding section
4 do not apply shall, as to their respective departments, pre-
5 pare personnel classification and uniform compensation,
6 hours of work, vacation, sick leave, and notice of termina-
7 tion of employment schedules in the same manner as the

8 director prepares such classifications and uniform sched-
9 ules for other departments of the state government. Per-
10 sonnel classifications and uniform schedules shall be
11 certified by the board or officer preparing them to the
12 commissioner.

Sec. 36. *Certification of Personnel by Spending Officer.*

2 —The spending officer of each spending unit, within
3 thirty days prior to the beginning of each fiscal year, shall
4 certify to the commissioner a schedule of persons ap-
5 pointed to or employed by the spending unit and showing
6 the personnel classification and compensation approved
7 for each person. Amounts appropriated for personal serv-
8 ices shall be expended upon requisition only for the ap-
9 pointees and employees included upon the personnel
10 schedule and only in accordance with the rate of compen-
11 sation shown by the schedule.

Sec. 37. *Personnel, Classification and Compensation*

2 *Schedules.*—The commissioner shall prepare schedules of
3 the approved or certified personnel showing the personnel
4 employed in each spending unit of the state government
5 and the classification and compensation authorized to be

6 paid for each person employed. Such schedules shall be
7 preserved as a public record and shall be open to inspec-
8 tion by any person showing good cause.

Sec. 38. *To Whom Personnel Provisions Not to Apply.*—

2 The provisions of sections thirty-six to thirty-nine, in-
3 clusive, shall not apply to personal services paid in the
4 legislative branch of the state government, to salaries of
5 the judiciary and employees of the judiciary, or to salaries
6 of officers of the state government fixed by law.

Article 3. Purchasing Division.

Section 1. *Departments to Which Article Applies.*—The

2 provisions of this article for the purchase of commodities
3 and printing shall apply to all of the departments of the
4 state government, except as is otherwise provided by this
5 article or by law: *Provided, however,* that the provisions
6 of this article shall in no wise apply to purchase of com-
7 modities, of the legislative department unless the legisla-
8 ture or either house thereof requests the director to render
9 specific services under the provisions of this chapter.

Sec. 2. *Books and Records of Director.*—The director

2 shall keep in his offices accurate books, accounts and rec-

3 ords of all transactions of his department, and such books,
4 accounts and records shall be public records and shall at
5 all proper times be available for inspection by any tax-
6 payer of the state.

Sec. 3. *Powers and Duties of Director.*—The director,
2 under the direction and supervision of the commissioner,
3 shall be the executive officer of the purchasing division
4 and shall have the power and duty to:

5 (1) Purchase or contract for, in the name of the state,
6 the commodities and printing required by the departments
7 of the state government;

8 (2) Apply and enforce standard specifications estab-
9 lished in accordance with section five of this article, as
10 hereinafter provided;

11 (3) Negotiate for all grounds, buildings, office or other
12 space required by state departments;

13 (4) Transfer to or between departments or sell com-
14 modities that are surplus, obsolete, or unused, as herein-
15 after provided;

16 (5) Have charge of central store rooms for the supply
17 of departments;

18 (6) Establish and maintain a laboratory for the testing
19 of commodities and make use of existing facilities in state
20 institutions for that purpose, as hereinafter provided;

21 (7) Direct the state agency for surplus property as pro-
22 vided in sections forty-four and forty-five of this ar-
23 ticle;

24 (8) Recommend to the commissioner that the right and
25 privilege of a person to bid on state purchases be sus-
26 pended when the director has evidence that such person
27 has violated any of the provisions of the purchasing law
28 or the rules and regulations of the director.

Sec. 4. Rules and Regulations of Director.—The director:

2 shall adopt and amend rules and regulations to:

3 (1) Authorize a department to purchase directly, speci-
4 fied commodities and prescribe the manner in which such
5 purchases shall be made;

6 (2) Authorize, in writing, a department to purchase
7 commodities in the open market for immediate delivery
8 in emergencies, define such emergencies, and prescribe
9 the manner in which such purchases shall be made and
10 reported to the director; and for the purposes mentioned

11 in paragraphs (1) and (2) of this section, the head of any
12 department, or the financial governing board of any in-
13 stitution, may, with the approval of the director, make
14 requisitions upon the auditor for a sum to be known as
15 an advance allowance account, in no case to exceed five
16 percent of the total of the appropriations for any such
17 department, and the auditor shall draw his warrant upon
18 the treasurer for such accounts. All such advance allow-
19 ance accounts shall be accounted for by the head of the
20 department or institution once every thirty days or oft-
21 ener if required by the state auditor or director;

22 (3) Prescribe the manner in which commodities shall
23 be purchased, delivered, stored and distributed;

24 (4) Prescribe the time for making requisitions and esti-
25 mates of commodities, the future period which they are
26 to cover, the form in which they shall be submitted, and
27 the manner of their authentication;

28 (5) Prescribe the manner of inspecting all deliveries
29 of commodities, and making chemical and physical tests
30 of samples submitted with bids and samples of deliveries
31 to determine compliance with specifications;

32 (6) Prescribe the amount of deposit or bond to be sub-
33 mitted with a bid or contract and the amount of deposit
34 or bond to be given for the faithful performance of a
35 contract;

36 (7) Provide for such other matters as may be necessary
37 to give effect to the foregoing rules and regulations and
38 the provisions of this article.

Sec. 5. *Standard Specifications; Promulgation and*
2 *Adoption by Director; to Apply to All Purchases.*—The
3 director shall classify all commodities and shall promul-
4 gate and adopt a schedule of standard specifications based
5 on scientific and technical data, which schedule shall es-
6 tablish the quality within each particular classification or
7 subclassification to which all commodities to be purchased
8 and services to be contracted for by the state must con-
9 form. After adoption the standard specification shall apply
10 to every future purchase of or contract for the commo-
11 dities described in the specifications. The purchases of no
12 department may be exempt from compliance with the
13 standard specifications so established, but the director,
14 whenever he deems it necessary and advisable, may ex-

15 empt therefrom the purchase of particular items.

16 It shall be the duty of the director to keep such standard
17 specifications up to date and in conformity with all tech-
18 nical and scientific advancements pertaining to commodi-
19 ties and services covered in such schedule and to that end
20 he may, from time to time, revise and amend the standard
21 specifications therein included.

Sec. 6. Commissioner May Appoint Advisers on Stand-
2 *ard Specifications to Act as Herein Provided.*—The com-
3 missioner may from time to time request any official or
4 employee of any department to aid and advise the director
5 in formulating, revising or amending the schedule of
6 standard specifications provided for in section five of this
7 article. Such official or employee shall act at the request
8 of the commissioner and shall be entitled to receive his
9 necessary expenses incurred in compliance therewith, but
10 shall receive no additional compensation therefor.

Sec. 7. Preference Given State Products.—The director
2 shall, in the purchases of commodities and printing, give
3 preference, so far as may be practicable and not conflict-

4 ing with the provisions of this article, to commodities and
5 printing produced in this state.

Sec. 8. *Director to Advise with Heads of State Institu-*
2 *tions.*—The director shall advise with the heads of the
3 various state institutions producing commodities, with
4 the view to making these articles suitable for the needs
5 of state departments.

Sec. 9. *Facilities of Department Available to Local Gov-*
2 *ernmental Bodies.*—The director shall make available the
3 facilities and services of his department to county, school,
4 municipal and other local government bodies within this
5 state. The actual expenses incurred thereby shall be paid
6 by the local government body.

Sec. 10. *Examination and Testing of Purchases.*—Within
2 the limits of funds available for the purpose, the director,
3 or some person appointed by him for that purpose, shall
4 examine and test upon delivery commodities purchased
5 by the state to determine whether such commodities con-
6 form to the standard specifications promulgated pursuant
7 to section five of this article, and whether the commodities
8 delivered conform with the purchase contracts therefor.

Sec. 11. *Competitive Bids.*—A purchase of and contract
2 for commodities and printing shall be based, whenever
3 possible, on competitive bids.

Sec. 12. *Publication of Solicitation for Sealed Bids.*—
2 The director shall solicit sealed bids for the purchase of
3 commodities and printing that is estimated to exceed two
4 thousand dollars. No spending unit shall issue a series of
5 requisitions which would circumvent this two thousand
6 dollars maximum. Bids shall be obtained by public notice
7 inserted at least twice in a newspaper having a general
8 circulation in the county where the department or agency
9 making the requisition is located and in a daily news-
10 paper of general circulation at least two weeks before
11 the final date of submitting bids and by any other adver-
12 tising medium the director may deem advisable. The di-
13 rector may also solicit sealed bids by sending requests
14 by mail to prospective suppliers and by posting notice on
15 a bulletin board in his office.

Sec. 13. *Purchase in Open Market on Competitive Bids.*
2 —The director may make a purchase of commodities and
3 printing of less than two thousand dollars in amount, in

4 the open market, but such purchase shall, wherever pos-
5 sible, be based on at least three competitive bids.

Sec. 14. *Bids Based on Standard Specifications; Awards*
2 *to Lowest Responsible Bidder; Uniform Bids; Record of*
3 *Bids.*—Bids shall be based on the standard specifications
4 promulgated and adopted in accordance with the pro-
5 visions of section five of this article. All open market
6 orders, purchases based on advertised bid requests, or
7 contracts made by the director or by a state department
8 shall be awarded to the lowest responsible bidder, taking
9 into consideration the qualities of the articles to be sup-
10 plied, their conformity with specifications, their suitability
11 to the requirements of the state government, and the de-
12 livery terms. Any or all bids may be rejected. If all bids
13 received on a pending contract are for the same unit price
14 or total amount, the director shall have authority to
15 reject all bids, and to purchase the required commodities
16 and printing in the open market, if the price paid in the
17 open market does not exceed the bid prices.

18 Each bid, with the name of the bidder, shall be entered
19 on a record and each record, with the successful bid indi-

20 cated thereon, shall, after the award of the order or con-
21 tract, be open to public inspection.

Sec. 15. *Contracts Signed by Commissioner; Form Ap-
2 proved; Filing.*—Contracts shall be signed by the com-
3 missioner in the name of the state. They shall be approved
4 as to form by the attorney general. A contract that re-
5 quires more than six months for its fulfilment shall be
6 filed with the state auditor.

Sec. 16. *Copies of Purchase Orders Sent to Other Divi-
2 sions; When Orders For Delivery on Contracts or on Open
3 Market not Awarded.*—A copy of all purchase orders shall
4 be transmitted to the director of the budget division so
5 that the proper account may be encumbered before they
6 are sent to the vendors. Except in an emergency, an order
7 for delivery on a contract or open market for commodities
8 for a spending unit shall not be awarded until it has
9 been certified to the director by the commissioner as di-
10 rector of the budget that the unencumbered balance in
11 the appropriation concerned, in excess of all unpaid obli-
12 gations, is sufficient to defray the cost of such order. An
13 order for equipment shall not be awarded until it has also

14 been certified to the director by the supervisor of inven-
15 tory control that there is no such equipment in stock and
16 not in use.

Sec. 17. *Emergency Purchase in Open Market.*—The di-
2 rector may authorize, in writing, a state department to
3 purchase in the open market, without filing requisition or
4 estimate, specific commodities for immediate delivery to
5 meet bona fide emergencies arising from unforeseen causes,
6 including delays by contractors, delays in transportation,
7 and unanticipated volume of work. A report of any such
8 purchase, together with a record of the competitive bids
9 upon which it was based, shall be submitted at once to
10 the director by the head of the state department con-
11 cerned, together with a full account of the circumstances
12 of the emergency. Such report shall be entered on a
13 record and shall be open to public inspection.

Sec. 18. *Special Fund; Purposes; How Composed.*—
2 There is hereby created a special revenue fund to be ad-
3 ministered by the director to finance and facilitate the
4 following functions of the director:

5 (1) Purchase in volume and for maintenance of stocks
6 and commodities to supply the needs of state departments;

7 (2) Performance for state departments of all mimeo-
8 graphing, photostating, microfilming, multilithing, multi-
9 graphing, and other work as provided by section thirty-
10 three of this article.

11 The amount of the fund may be fixed and changed by
12 the board upon the recommendation of the commissioner.

13 If at the end of each fiscal year the cash balance plus value
14 of commodity inventories on hand exceeds the amount so
15 fixed, the excess in cash shall be transferred by the board
16 upon recommendation of the commissioner to the general
17 revenue fund and become a part of the general revenue
18 of the state. The fund shall be composed of the following:

19 (1) The cash balance and inventories of the fund here-
20 tofore established by this section;

21 (2) Charges made by the director for commodities sold
22 and services rendered to the state departments as herein
23 described: Provided, that charges shall not exceed total
24 cost to the fund, which total cost shall include storage,
25 supplies, equipment and salaries and wages of employees

26 necessary to supply commodities and services in addition
27 to purchase price of commodities.

28 *Sec. 19. Void Purchase or Contract of a Department;*

29 *Personal Liability.*—If a department purchases or con-
30 tracts for commodities contrary to the provisions of this
31 article or the rules and regulations made thereunder, such
32 purchase or contract shall be void and of no effect. The
33 head of such department shall be personally liable for the
34 costs of such purchase or contract, and, if already paid out
35 of state funds, the amount thereof may be recovered in
36 the name of the state in an appropriate action instituted
37 therefor.

38 *Sec. 20. Purchase or Substitution of Particular Trade*

39 *Name or Brand.*—If a department requests the purchase
40 of a commodity bearing a particular trade name or brand,
41 and if the commodity is covered by standard specifications
42 adopted as provided by section five of this article, the di-
43 rector may substitute a commodity bearing a different
44 trade name or brand, if the substituted commodity rea-
45 sonably conforms to the adopted standard specifications
46 and can be obtained at a lower price.

Sec. 21. *Purchase from Federal Government.*—Notwith-
2 standing any other provision of this article, the director
3 may, upon the recommendation of a state department,
4 purchase from the government of the United States, com-
5 modities or equipment, by tendering bids therefor.

Sec. 22. *Department Heads to Submit List of Expend-*
2 *able Commodities.*—The head of every department shall
3 submit a list of expendable commodities such department
4 has on hand whenever requested to do so by the director.

Sec. 23. *Disposition by Director of Commodities; Appli-*
2 *cation of Proceeds from Sale.*—The director shall have the
3 exclusive power and authority to make disposition of com-
4 modities or expendable commodities now owned or in the
5 future acquired by the state, when any such commodities
6 are or shall have become obsolete, unusable or are not
7 being used, or need to be replaced, and are so reported in
8 writing by the department owning or having custody or
9 control thereof as available for the director's disposition.

10 It shall be the duty of the director to determine what
11 commodities or expendable commodities should be dis-
12 posed of and he shall make such disposition in the manner

13 which in his opinion will be most advantageous to the
14 state, either by transferring the particular commodities
15 or expendable commodities between departments, by
16 trading in such commodities as a part payment on the
17 purchase of new commodities, or by sale thereof to the
18 highest bidder by means of public auctions or sealed bids
19 after having first advertised the time, terms and place of
20 such sale once a week for two successive weeks in some
21 newspaper published or having general circulation in the
22 county wherein the sale is to be conducted and any other
23 advertising medium the director may deem advisable.
24 The director shall have the authority to sell to the highest
25 bidder or to any one or more of the highest bidders if
26 there be more than one or if in his opinion the best interest
27 of the state will be served, to reject all bids. Upon the
28 transfer of commodities or expendable commodities be-
29 tween departments, the director shall set the price to be
30 paid by the receiving department with due consideration
31 given to current market prices. The proceeds of such sales
32 or transfers shall be deposited in the state treasury to the
33 credit on a pro rata basis of the fund or funds out of

34 which the purchase of the particular commodities or ex-
35 pendable commodities was made.

Sec. 24. *Contracts for Public Printing and Paper for*
2 *Departments.*—The director shall contract for public
3 printing and for printing paper for the use of departments
4 in the manner provided for contracts under sections
5 eleven through twenty-one of this article, and in accord-
6 ance with the specifications adopted as provided by sec-
7 tion five of this article.

Sec. 25. *Director to Supply Printing; Printing Plants*
2 *at Institutions.*—The director shall supply the depart-
3 ments with printing in the same manner as provided for
4 commodities under sections eleven through twenty-one
5 of this article. But the provisions of this section shall not
6 be construed to prohibit the state from maintaining at
7 educational, benevolent, penal or correctional institutions
8 printing plants for the purpose of instruction or for print-
9 ing for a state department.

Sec. 26. *Legislative Printing.*—Notwithstanding any
2 other provision of this article, the letting of all contracts
3 for legislative printing shall be subject only to the pro-

4 visions of this section.

5 Upon request of the legislature, or either house thereof,
6 all contracts for legislative printing shall be let on com-
7 petitive bids by the director to the lowest responsible
8 bidder. Each such contract shall be subject to the ap-
9 proval of the governor, and in case of his disapproval the
10 contract shall be relet on competitive bids submitted in
11 the same manner as the original bids on the contract that
12 was disapproved. Each bid on every such contract shall
13 be within the maximum limits that may be fixed from
14 time to time by concurrent resolution of the legislature.
15 The clerk of the senate and the clerk of the house of dele-
16 gates shall have exclusive control of all printing author-
17 ized by their respective legislative bodies, and shall ap-
18 prove the specifications included in any contract before
19 an invitation for bids is released by the director of pur-
20 chases. Before presenting for payment any bill for such
21 legislative printing, the printer shall have the same ap-
22 proved by the purchasing division as correct and according
23 to contract specifications. A copy of all bills for legislative
24 printing shall be furnished the clerk of the house for which

25 such printing was done. When properly approved bills are
26 presented to the clerk of the senate or to the clerk of the
27 house of delegates, he shall draw his requisition upon the
28 auditor in the amount of the bill, payable from the legis-
29 lative printing fund, and the auditor shall honor the
30 requisition and issue to the printer a state draft therefor.

Sec. 27. *Publication of Reports of Supreme Court of Appeals.*—Notwithstanding any of the provisions of this
2 article, the official reporter of the supreme court of ap-
3 peals shall have charge and supervision of the printing
4 and binding of the reports of the decisions of the supreme
5 court of appeals of the state, and shall contract for their
6 publication in the same manner that the director of the
7 purchasing division contracts under sections eleven
8 through twenty-one of this article. Such contract shall
9 provide for the publication of fifteen hundred copies or
10 such additional number as the reporter and supreme court
11 of appeals may jointly direct on such paper and to be
12 bound in accordance with directions and specifications as
13 may be specified by the reporter by and with the con-
14 currence of the court. The size of type and page shall be
15

16 prescribed by the reporter with the concurrence of the
17 court. A volume shall be published according to the terms
18 of the contract whenever ordered by the court. The re-
19 porter shall secure the copyright of each volume for the
20 benefit of the state. The reports shall be styled "West
21 Virginia Reports".

22 The printing and binding of the reports shall be done
23 under the direction of and in the manner prescribed by
24 the reporter, subject to the control of the court. The re-
25 porter shall prefix to the printed report of each case the
26 dates when the same was submitted and decided. Each
27 volume shall, if practicable, contain the reports of at
28 least eighty cases decided by the court, and shall contain
29 approximately one thousand pages unless otherwise
30 ordered by the court, exclusive of the index and table of
31 cases reported and cited. Proof sheets shall be furnished
32 by the printer to the reporter and to each judge of the
33 court, and such corrections and modifications shall be
34 made by the printer as the reporter or any of the judges
35 shall direct. If the work is not done in the manner re-
36 quired by law, the reporter shall not approve the volume
37 and shall not accept it.

38 The reports of the decisions of the supreme court of ap-
39 peals may be published in pamphlet form in advance of
40 the publication of the bound volumes of the "West Vir-
41 ginia Reports", periodically, or at such times as may be
42 directed by the reporter and the supreme court of appeals.
43 The reporter shall secure the copyright of each pamphlet
44 of opinions so published in advance. Each pamphlet shall
45 contain the report of such number of cases as the supreme
46 court of appeals and the reporter shall deem advisable.

47 The contract for the publication of such advance sheets
48 shall be made in the manner provided for the publication
49 of bound volumes of the "West Virginia Reports".

50 A charge of not less than the actual cost of printing and
51 distribution shall be made for such advance sheets.

Sec. 28. *Number of Copies of Departmental Reports.*—

2 Subject to the approval of the commissioner and the gov-
3 ernor, the director shall have the authority to limit the
4 number of copies of annual or biennial reports, bulletins
5 and other publications ordered to be printed by each de-
6 partment.

Sec. 29. *Payment from Current Expense Appropria-*

2 *tions*.—Printing, binding and stationery for all depart-
3 ments shall be paid for from the current expense appro-
4 priations for such departments.

Sec. 30. *Printing Paper and Stationery Issued as*
2 *Needed*.—All printing paper and stationery shall be de-
3 livered to the director, who shall have charge of the same
4 and issue it as needed.

Sec. 31. *Custodian of Reports and Acts; Delivery to*
2 *State Law Librarian; Sale*.—The director shall be cus-
3 todian of the West Virginia reports after they are printed
4 and bound and approved by the reporter, and of the acts
5 of the legislature after they are printed and bound and
6 approved by the clerk of the house of delegates. As soon
7 as practicable after any new volume of such reports or
8 acts has been delivered to the director, not including re-
9 prints of former volumes, he shall deliver to the state law
10 librarian sufficient copies to enable him to make distribu-
11 tion thereof in the manner prescribed by sections five and
12 six, article eight, chapter fifty-one of this code.

13 The director shall sell such copies of the reports and
14 acts as remain after the distribution provided by law has

15 been made at a price to be fixed by him with the approval
16 of the commissioner, but in no case shall such price be less
17 than the actual cost to the state of the publication thereof.
18 The proceeds of such sales shall immediately be paid into
19 the treasury.

Sec. 32. *Furnishing Paper Stock to Contractor for State
2 Printing.*—Paper stock, if furnished by the state to the
3 contractor, shall be billed at the current market price for
4 the grade furnished in the quantity furnished. It shall be
5 unlawful and discriminatory for the director to furnish
6 the contractor with paper for any state work, unless all
7 bidders are notified in advance of placing their bids at the
8 prices at which the state will supply such stock. It shall
9 also be unlawful for the director to furnish the contractor
10 any paper for other than the state work under contract.

Sec. 33. *Director to Establish a Central Duplicating De-
2 partment; Exclusion by Director of Certain Departments
3 from Provisions.*—All mimeographing, photostating, mi-
4 crofilming, multilithing, multigraphing, and other dupli-
5 cating work required to be done by or for any department
6 shall be done by a central duplicating department which

7 department shall be established by and under the super-
8 vision of the director.

9 All mimeographing, photostating, microfilming, multi-
10 lithing, multigraphing, and other duplicating equipment
11 and supplies shall be transferred to the central duplicating
12 department.

13 If the director be of the opinion that any department is
14 capable of doing such duplicating work as may be re-
15 quired by such particular department more efficiently and
16 economically than can the central duplicating department,
17 he may, in his discretion, exempt such particular depart-
18 ment from the provisions of this section, or if the director
19 believes economy or efficiency can be effected by letting
20 such work or any part thereof to contract then he may do
21 so in the manner provided for contracts under sections
22 eleven through twenty-one of this article.

Sec. 34. *Conditions Affecting Application of Article.*—

2 The application of this article shall be subject to the fol-
3 lowing conditions:

4 (1) The purchases of stock for state liquor stores shall
5 be made by the West Virginia liquor control commission;

6 (2) Whenever the authority to acquire property other
7 than commodities and printing, by lease, agreement, con-
8 demnation or otherwise, is now specifically vested by law
9 in a department, that authority shall not be affected by
10 the provisions of this article. Whenever this authority is
11 not now specifically vested in a department, such author-
12 ity shall be exercised by the director of the purchasing
13 division;

14 (3) In the purchase and contracting for textbooks by
15 the state board of education, the director shall perform
16 only such duties as may be required by law.

Sec. 35. *Financial Interest of Commissioner, etc.; Re-*
2 *ceiving Reward from Person Awarded Contract.*—Neither
3 the commissioner, nor any employee of the department of
4 finance and administration, shall be financially interested,
5 or have any beneficial personal interest, directly or indi-
6 rectly, in the purchase of any commodities and printing,
7 nor in any firm, partnership, corporation or association
8 furnishing them. No such person shall accept or receive
9 directly or indirectly from any person, firm or corporation
10 to whom a contract may be awarded, by rebate, gift or

11 otherwise, any money or other thing of value whatsoever,
12 or any promise, obligation or contract for future reward,
13 or compensation.

14 A person who violates this section shall be guilty of a
15 misdemeanor, and upon conviction, shall be confined in
16 jail not less than three months nor more than one year,
17 or fined not less than fifty nor more than one thousand
18 dollars, or both, in the discretion of the court.

Sec. 36. *Penalty for Violation of Article.*—A person who
2 violates a provision of this article other than the provi-
3 sions of section thirty-five shall be guilty of a misde-
4 meanor and upon conviction shall be confined in jail not
5 less than ten days nor more than one year, or fined not
6 less than ten nor more than five hundred dollars, or both,
7 in the discretion of the court.

Sec. 37. *Obtaining Money and Property Under False
2 Pretenses; Defrauding State; Penalties.*—It shall be un-
3 lawful for any person to obtain from the state under any
4 contract made under the provisions of this article, by false
5 pretense, token or representation, or by delivery of in-
6 ferior commodities, with intent to defraud, money, goods

7 or other property, and upon violation thereof, such person
8 shall be guilty of a felony and upon conviction therefor
9 shall be confined in the penitentiary not less than one year
10 nor more than five years, and be fined not exceeding one
11 thousand dollars.

Sec. 38. *Conspiracy to Affect Market and Prices; Penalties.*—It shall be unlawful for any person to jointly com-
2 bine or collude or conspire in any way to affect the market,
3 or price, or supply of commodities and printing obtained
4 or to be obtained by the state under the provisions of this
5 article, and upon violation thereof such person shall be
6 guilty of a felony and upon conviction therefor shall be
7 confined in the penitentiary not less than one year nor
8 more than five years, and be fined not exceeding one
9 thousand dollars.
10

Sec. 39. *Power of Commissioner to Suspend Right to*
2 *Bid.*—The commissioner shall have the power and author-
3 ity, upon the recommendation of the director, to suspend,
4 for a period not to exceed one year, the right and privilege
5 of a person to bid on state purchases when the commis-
6 sioner has reason to believe that such person has violated

7 any of the provisions of the purchasing law or the rules
8 and regulations of the director. Every person whose right
9 to bid has been so suspended shall be notified thereof by
10 a letter posted by registered mail containing the reason
11 for such suspension.

Sec. 40. *Review by Board.*—Any person whose right
2 to bid on state purchases has been suspended by the com-
3 missioner under the authority of the preceding section
4 shall have the right to have the commissioner's action re-
5 viewed by a board composed of the governor, attorney
6 general and auditor of the state, which board shall have
7 the power and authority to set aside such suspension.

Sec. 41. *Authority Over Inventories and Property Con-*
2 *trol.*—The director shall, under the direction and super-
3 vision of the commissioner, have full authority over in-
4 ventories and property control.

Sec. 42. *Department Heads to Submit Inventory of All*
2 *Property.*—The head of every department of the state
3 government shall, on or before July fifteenth of each year,
4 file with the director an inventory of all real and personal
5 property, and of all equipment, supplies and commodities

6 in its possession as of the close of the last fiscal year.

Sec. 43. *Powers and Duties of Director.*—The director
2 shall have the power and duty to:

3 (1) Make and keep current an inventory of all remov-
4 able property belonging to the state. Such inventory shall
5 be kept on file in the office of the director as a public rec-
6 ord. The inventory shall disclose the name and address
7 of the vendor, the date of the purchase, the price paid for
8 the property therein described and the disposition thereof;

9 (2) Provide for the maintenance and repair of all of-
10 fice furniture, machinery and equipment belonging to the
11 state, either by employing personnel and facilities under
12 his direction or by contracting with state agencies or
13 private parties.

Sec. 44. *Creation of Surplus Property Agency as Sub-*
2 *division; Its Authority.*—There is hereby established as a
3 subdivision of the purchasing division an agency to be
4 known as the “State Agency for Surplus Property”. This
5 agency shall have exclusive authority to receive from the
6 department of defense and any other federal department
7 or agency such equipment, materials, books and other

8 supplies as may be declared excess and surplus property.
9 The agency shall also have exclusive authority to ware-
10 house and distribute all such excess and surplus property
11 so received to all recipients within the state as may now
12 be or hereafter become eligible therefor under federal
13 laws or regulations.

Sec. 45. *Surplus Property Agency; Authority of Direc-*
2 *tor.*—The purchasing division is hereby designated as a
3 sole agency for the purposes of sections forty-four and
4 forty-five of this article, and the director shall be the di-
5 rector of the state agency for surplus property. As such,
6 he shall have sole authority to:

7 (a) Make such reasonable rules and regulations, re-
8 quire such certifications and agreements by eligible re-
9 cipients of surplus property, and employ such persons as
10 may be necessary for the accomplishment of the purposes
11 of sections forty-four and forty-five of this article;

12 (b) Make such certification and enter into such agree-
13 ments or understandings for and in the name of the State
14 (including cooperative agreements with federal agencies)

15 as may be appropriate or required by federal law or regu-
16 lations in carrying out the functions hereby authorized;

17 (c) Require such reports and make such investigations
18 and take such action as may be necessary for the accom-
19 plishment of the purposes of this and the preceding
20 section.

Article 4. General Services Division.

Section 1. *Care, Control and Custody of Capitol Build-*
2 *ings and Grounds.*—The director shall be charged with
3 the full responsibility for the care, control and custody of
4 the capitol buildings and grounds, and in this connection
5 he shall:

6 (1) Furnish guards and janitors for the capitol build-
7 ings and grounds, together with all the apartments there-
8 in, or connected therewith, regardless of the budget or
9 budgets, departmental or otherwise, from which such
10 guards and janitors are paid, and shall furnish janitorial
11 supplies, light, heat and ventilation for all the rooms and
12 corridors of the building. Under the direction of the pres-
13 ident of the senate and speaker of the house of delegates,
14 the director shall have charge of ~~the~~ halls and committee

15 rooms of the two houses and any other quarters at the
16 state capitol provided for the use of the legislature or its
17 staff, and keep the same properly cleaned, warmed and
18 in good order, and shall do and perform such other duties
19 in relation thereto as either house may require;

20 (2) Furnish part-time messenger service to the various
21 state departments. Department heads shall be consulted
22 with reference to the amount of messenger service re-
23 quired for their departments. Janitor-messengers, or
24 part-time messengers, shall receive from the director
25 compensation for total services in the same manner as
26 other employees are paid. Any state department shall,
27 however, have authority to furnish its own messenger
28 service without using employees of the director;

29 (3) Have immediate control and direction of the switch-
30 board telephone service for the various departments of
31 the state capitol. Changes in telephone instruments or
32 equipment in the various departments of the state capitol
33 shall be referred to the director and payment for any such
34 changes will not be honored unless such changes have
35 been approved by the director. A simple accounting sys-

36 tem shall be installed and maintained by the director for
37 all telephone service to the state departments;

38 (4) Landscape and take care of the lawns and gardens;

39 (5) Direct the making of all minor repairs to and al-
40 terations of the capitol buildings and grounds. Major re-
41 pairs and alterations shall be made under the supervision
42 of the director, subject to the direction of the board.

43 The offices of the assistants and employees appointed
44 to perform these duties shall be located where designated
45 by the board, except that they shall not be located in any
46 of the legislative chambers, offices, rooms or halls. Office
47 hours shall be so arranged that emergency or telephone
48 service shall be available at all times. The hours of em-
49 ployment shall be so arranged that janitorial service shall
50 not interfere with other employment during regular office
51 hours.

Sec. 2. *Control Over Central Mailing Office in Capitol*
2 *Building.*—The central mailing office heretofore created
3 in the capitol, hereinafter called the “mailing office”, is
4 hereby placed under the control of the director.

Sec. 3. *Commissioner to Appoint Mail Clerk and Other*

2 *Necessary Employees and Fix Salaries.*—The commis-
3 sioner shall appoint a mail clerk and appoint such other
4 employees as shall be necessary to carry out the provisions
5 of the following two sections. Such mail clerk and em-
6 ployees shall hold office during the will and pleasure of
7 the commissioner. The mail clerk shall be a capable man,
8 experienced in the handling of United States mail.

Sec. 4. Duties of Mail Clerk.—The mail clerk shall have
2 general charge and supervision of the mail office, and shall
3 be responsible for its efficient administration. He shall
4 be required to:

- 5 (1) Keep proper books of account of the receipts and
6 disbursements of the mail office;
- 7 (2) Render to the director a report each month, show-
8 ing the expenses of the mail office for the preceding
9 month, and shall render such other reports as the director
10 may require;
- 11 (3) Keep the mail office open to receive early mail and
12 to serve state departments;
- 13 (4) Provide rules and regulations for the efficient and
14 prompt dispatch of the mail.

Sec. 5. *Use of Mail Office by Departments.*—All state
2 departments, boards, bureaus and commissions having
3 their offices in the capitol, except the legislative depart-
4 ment, shall dispatch all mail through the mail office:
5 *Provided, however,* That mail prepared after gathering
6 time and mail for special handling, within the limits of
7 postage available to the department, may be posted
8 through federal post office channels.

Sec. 6. *Right of Appeal.*—Upon occasion of a showing
2 that the application of the authority vested under the
3 provisions of this chapter may interfere with the success-
4 ful functioning of any department, institution or agency
5 of the government, such department, institution or agency
6 may have the right of appeal to the board for review of the
7 case and the decision or conclusion of the board shall
8 govern in such cases.

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

Arnold Davis, Jr.
Chairman Senate Committee

Mrs. Th. W. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect July 1st / 4 1961 passage.

Thomas H. Gray
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Howard Woarson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the eleventh
day of March, 1961.

W. Bann
Governor

