

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-29-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982

— ● —

ENROLLED

Com. Sub. for
HOUSE BILL No. 1724

(By Mr. Green + Mr. Cook)

— ● —

Passed March 12, 1982

In Effect From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1724

(By MR. GREER and MR. COOK)

[Passed March 12, 1982; in effect from passage.]

AN ACT to amend and reenact sections twelve, thirteen and fourteen, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section eleven, article one, chapter seven and section seven, article thirteen-a, chapter sixteen of said code, all relating to level of expenditure needing bids by the state, counties and public service districts; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; purchasing in open market on competitive bids; bids to be based on standard specifications, period for alteration or withdrawal of bids, awards to lowest responsible bidder; uniform bid, record of bids, and exception by the state; purchasing in open market or competitive bids by the counties; and acquisition and operation of district properties by public service districts.

Be it enacted by the Legislature of West Virginia:

That sections twelve, thirteen and fourteen, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section

eleven, article one, chapter seven of said code, be amended and reenacted; and that section seven, article thirteen-a, chapter sixteen of said code, be amended and reenacted, all to read as follows:

CHAPTER 5. DEPARTMENT OF FINANCE AND ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-12. Publication of solicitations for sealed bids; purchase of products of nonprofit workshops.

1 The director shall solicit sealed bids for the purchase of
2 commodities and printing which is estimated to exceed five
3 thousand dollars. No spending unit shall issue a series of
4 requisitions which would circumvent this five thousand dollar
5 maximum. Bids shall be obtained by public notice published
6 as a Class II legal advertisement in compliance with the
7 provisions of article three, chapter fifty-nine of this code,
8 and the publication area for such publication shall be the
9 county where the department or agency making the requisition
10 is located. Such notice shall be so published within the
11 fourteen days next preceding the final date of submitting bids.
12 The notice may also be published by any other advertising
13 medium the director may deem advisable. The director may
14 also solicit sealed bids by sending request by mail to pros-
15 pective suppliers and by posting notice on a bulletin board
16 in his office: *Provided*, That the director shall, without com-
17 petitive bidding, purchase commodities and printing produced
18 and offered for sale by nonprofit workshops, as defined in
19 section one, article one of this chapter, which are located in
20 this state: *Provided, however*, That such commodities and
21 printing shall be of a price and quality comparable to other
22 commodities and printing otherwise available.

§5A-3-13. Purchasing in open market on competitive bids.

1 The director may make a purchase of commodities and
2 printing of five thousand dollars or less in amount in the
3 open market, but such purchase shall, wherever possible,
4 be based on at least three competitive bids.

5 The director may authorize spending units to purchase com-
6 modities and printing in the amount of one thousand dollars in
7 the open market without competitive bids.

**§5A-3-14. Bids to be based on standard specifications, period for
alteration or withdrawal of bids, awards to lowest
responsible bidder; uniform bid, record of bids, and
exception.**

1 Bids shall be based on the standard specifications promul-
2 gated and adopted in accordance with the provisions of section
3 five of this article, and shall not be altered or withdrawn after
4 the appointed hour for the opening of such bids. All open
5 market orders, purchases based on advertised bid requests or
6 contracts made by the director or by a state department shall
7 be awarded to the lowest responsible bidder, taking into con-
8 sideration the qualities of the articles to be supplied, their con-
9 formity with specifications, their suitability to the requirements
10 of the government and the delivery terms. Any or all bids may
11 be rejected. If all bids received on a pending contract are for
12 the same unit price or total amount, the director shall have
13 authority to reject all bids, and to purchase the required com-
14 modities and printing in the open market, if the price paid in
15 the open market does not exceed the bid prices.

16 All bidders submitting bid proposals to the purchasing div-
17 ision are required to submit an extra or duplicate copy to
18 the state auditor. Both copies must be received at the respec-
19 tive offices prior to the specified date and time of the bid
20 openings. The failure to deliver or the nonreceipt of these bid
21 forms at either of these offices prior to the appointed date
22 and hour are grounds for rejection of the bids. In the event
23 of any deviation between the copies submitted to the pur-
24 chasing division and the state auditor, such bids as to which
25 there is such deviation shall be rejected, if the deviation relates
26 to the quantity, quality or specifications of the commodities
27 or printing to be furnished or to the price therefor or to the
28 date of delivery or performance. After the award of the order
29 or contract, the director, or someone appointed by him for
30 that purpose, shall indicate upon the successful bid and its
31 copy in the office of the state auditor that it was the success-
32 ful bid. Thereafter, the copy of each bid in the possession of

33 the director and the state auditor shall be maintained as a
34 public record by both of them, shall be open to public inspec-
35 tion in the office of both the director and the state auditor and
36 shall not be destroyed by either of them without the written
37 consent of the legislative auditor: *Provided*, That the board of
38 regents may certify in writing to the director the need for a
39 specific item essential to a particular usage either for instruc-
40 tional or research purposes at an institution of higher educa-
41 tion and the director upon review of such certification may
42 provide for the purchase of said specific items in the open
43 market without competitive bids.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-11. Purchasing in open market or competitive bids.

1 County commissions may make a purchase of commodities
2 and printing of five thousand dollars or less in amount in the
3 open market, but a purchase of and contract for commodities
4 and printing over five thousand dollars shall be based on
5 competitive bids, except in case of emergency.

6 The county commission of any county is hereby authorized
7 and empowered to promulgate rules and regulations govern-
8 ing the procedure of competitive bids.

9 As used in this section, the terms "commodities" and "print-
10 ing" shall have the same meaning as those terms are de-
11 fined in section one, article one, chapter five-a of this code.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 16. PUBLIC SERVICE DISTRICTS FOR WATER AND SEWERAGE SERVICES.

§16-13A-7. Acquisition and operation of district properties.

1 The board of such districts shall have the supervision and
2 control of all public service properties acquired or constructed
3 by the district and shall have power, and it shall be its duty,
4 to maintain, operate, extend and improve the same. All con-
5 tracts involving the expenditure by the district of more than five
6 thousand dollars for construction work or for the purchase of

7 equipment and improvements, extensions or replacements, shall
8 be entered into only after notice inviting bids shall have been
9 published as a Class I legal advertisement in compliance with
10 the provisions of article three, chapter fifty-nine of this code,
11 and the publication area for such publication shall be the
12 district. The publication shall not be less than ten days prior to
13 the making of any such contract. Any obligations incurred of
14 any kind or character shall not in any event constitute or be
15 deemed an indebtedness within the meaning of any of the
16 provisions or limitations of the constitution but all such ob-
17 ligations shall be payable solely and only out of revenues
18 derived from the operation of the public service properties of
19 the district or from proceeds of bonds issued as hereinafter
20 provided. No continuing contract for the purchase of materials
21 or supplies or for furnishing the district with electrical energy
22 or power shall be entered into for a longer period than fifteen
23 years.

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

R. P. Bayler

Chairman Senate Committee

Fony E. Whitlow

Chairman House Committee

Originating in the House.

Takes effect from passage.

Isabel C. Willis

Clerk of the Senate

W. Blankenship

Clerk of the House of Delegates

Warner R. McInnis

President of the Senate

John M. Lee, Jr.

Speaker House of Delegates

The within *is approved* this the *22*
day of *March*, 1982.

Paul D. Regan

Governor



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OFFICE OF THE GOVERNOR

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OFFICE
SECY. OF STATE