WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
Com. Sub. for
HOUSE BILL No. 1724

(By Mr. Green and 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
ARTICLE 3. PURCHASING DIVISION.

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

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

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

The director may make a purchase of commodities and printing of five thousand dollars or less in amount in the open market, but such purchase shall, wherever possible, be based on at least three competitive bids.
The director may authorize spending units to purchase commodities and printing in the amount of one thousand dollars in 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.

Bids shall be based on the standard specifications promulgated and adopted in accordance with the provisions of section five of this article, and shall not be altered or withdrawn after the appointed hour for the opening of such bids. All open market orders, purchases based on advertised bid requests or contracts made by the director or by a state department shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles to be supplied, their conformity with specifications, their suitability to the requirements of the government and the delivery terms. Any or all bids may be rejected. If all bids received on a pending contract are for the same unit price or total amount, the director shall have authority to reject all bids, and to purchase the required commodities and printing in the open market, if the price paid in the open market does not exceed the bid prices.

All bidders submitting bid proposals to the purchasing division are required to submit an extra or duplicate copy to the state auditor. Both copies must be received at the respective offices prior to the specified date and time of the bid openings. The failure to deliver or the nonreceipt of these bid forms at either of these offices prior to the appointed date and hour are grounds for rejection of the bids. In the event of any deviation between the copies submitted to the purchasing division and the state auditor, such bids as to which there is such deviation shall be rejected, if the deviation relates to the quantity, quality or specifications of the commodities or printing to be furnished or to the price therefor or to the date of delivery or performance. After the award of the order or contract, the director, or someone appointed by him for that purpose, shall indicate upon the successful bid and its copy in the office of the state auditor that it was the successful bid. Thereafter, the copy of each bid in the possession of
the director and the state auditor shall be maintained as a public record by both of them, shall be open to public inspection in the office of both the director and the state auditor and shall not be destroyed by either of them without the written consent of the legislative auditor: Provided, That the board of regents may certify in writing to the director the need for a specific item essential to a particular usage either for instructional or research purposes at an institution of higher education and the director upon review of such certification may provide for the purchase of said specific items in the open 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.

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

The county commission of any county is hereby authorized and empowered to promulgate rules and regulations governing the procedure of competitive bids.

As used in this section, the terms “commodities” and “printing” shall have the same meaning as those terms are defined 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.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district and shall have power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five thousand dollars for construction work or for the purchase of
equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the district. The publication shall not be less than ten days prior to the making of any such contract. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within _approved_ this the 22 day of _March_, 1982.

[Signature]

Governor