

No. 273

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

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ENROLLED

Committee Substitute for
SENATE BILL NO. 273

(By Senator *Stallin, et al*)

—•—
PASSED *April 6,* 1989

In Effect *July 1, 1989* 

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 273

(BY SENATORS BLATNIK, PARKER, PRITT, WIEDEBUSCH, HYLTON,
RUNDLE, CHERNENKO, DITMAR, FELTON, BURDETTE, WARNER,
HECK AND M. MANCHIN, *Original sponsors*)

[Passed April 6, 1989; to take effect July 1, 1989.]

AN ACT to amend chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-a, relating to the designation of a central nonprofit agency to coordinate sales to the state under the provisions of section twelve, article three of said chapter and setting forth its purpose; the creation of a committee for the purchase of commodities and services from the handicapped and setting forth its purpose; the establishment of rule promulgation authority of the committee; and providing exceptions.

Be it enacted by the Legislature of West Virginia:

That chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-a, to read as follows:

**ARTICLE 3A. CENTRAL NONPROFIT COORDINATING AGENCY AND
COMMITTEE FOR THE PURCHASE OF COMMODI-
TIES AND SERVICES FROM THE HANDICAPPED.**

§5A-3A-1. Purpose.

1 The purpose of this article is to further the state's
2 policy of encouraging disabled persons to achieve
3 maximum personal independence by engaging in
4 productive activities and in addition to provide state
5 agencies, institutions, and political subdivisions with a
6 method for achieving conformity with purchasing
7 procedures and requirements of nondiscrimination,
8 affirmative action, in employment matters related to
9 disabled persons.

§5A-3A-2. Central nonprofit agency.

1 A central nonprofit agency approved by the director
2 of the division of rehabilitation services is established
3 for the purpose of coordinating purchases under the
4 provisions of section twelve, article three of this
5 chapter, between various "spending units" of the state
6 and "nonprofit workshops." This agency shall have the
7 following responsibilities:

8 (a) Represent qualified nonprofit workshops in
9 dealing with state purchasing agents and the other
10 bodies charged with purchasing responsibilities;

11 (b) Evaluating the qualifications and capabilities of
12 workshops and entering, as necessary, into contracts
13 with government procuring entities for the furnishing
14 of the commodities or services provided by the
15 workshops;

16 (c) Overseeing workshops to insure compliance with
17 contract performance and quality standards; list the
18 commodities and services of participating workshops,
19 research and assist the workshops in developing new
20 products and upgrading existing ones, and shall survey
21 applicable private industry to provide input on fair
22 market prices; and

23 (d) Present an annual report for each fiscal year
24 concerning the operations of its nonprofit workshops
25 to the director of the division of rehabilitation services.

§5A-3A-3. Committee for the purchase of commodities and services from the handicapped.

1 (a) The committee for the purchase of commodities
2 and services from the handicapped is hereby created
3 and shall be composed of the following six members
4 who are to be appointed by the governor with the
5 advice and consent of the Senate: A private citizen
6 who is conversant with the problems incidental to the
7 employment of handicapped persons; a representative
8 of a producing nonprofit workshop; a representative of
9 the division of rehabilitation services; a representative
10 of the department of finance and administration; a
11 representative of private business who is knowledge-
12 able in the activities involved in the sale of commod-
13 ities or services to governmental entities; and a
14 representative of organized labor who is knowledge-
15 able in matters relating to employment of the disabled.
16 The governor shall appoint one member to serve as
17 chairperson.

18 (b) Members of the committee are appointed to
19 serve two-year terms expiring on the thirty-first day
20 of January of odd-numbered years. Members may not
21 receive compensation for their service on the commit-
22 tee or reimbursement by the state for expenses
23 incurred in performing their duties as members.

24 (c) The committee shall have as an executive secre-
25 tary the person charged with program management in
26 section twelve, article three of this chapter. The
27 secretary shall be responsible for the day-to-day
28 management of the committee and shall coordinate
29 with the central nonprofit agency to perform the
30 duties outlined in section twelve, article three of this
31 chapter.

§5A-3A-4. Responsibilities of the committee for the purchase of commodities and services from the handicapped.

1 The committee shall have the following duties and
2 responsibilities:

3 (a) Determining the fair market price of all com-
4 modities, printing and services produced by nonprofit

5 workshops and offered for sale by the central non-
6 profit agency to the various departments and political
7 subdivisions of the state. Prices shall be revised
8 periodically to reflect changing market conditions.

9 (b) Monitoring the activities of the central nonprofit
10 agency to assure that the interests of the state's
11 handicapped citizens are advanced by the agency. The
12 committee shall make rules necessary to monitor the
13 agency as well as matters related to the state's use of
14 the products and services produced by the handi-
15 capped. Except as stated in section twelve, article
16 three of this chapter, rules shall reflect agreement
17 with the policies and procedures established by the
18 state's purchasing units.

19 (c) Monitoring the performance of the central
20 nonprofit agency to see that the commodities and
21 services produced meet state specifications (or in the
22 absence of specifications meet standards in use by the
23 federal government or industry) as to quality and
24 delivery. The committee shall provide procedures for
25 formal and informal resolution of provider and
26 consumer grievances or complaints.

27 (d) Maintaining records pertaining to its activities
28 under the act including records of sales, formal
29 grievances, number of handicapped workers
30 employed, a summary of disabilities for workers
31 providing services, a list of workshop products and
32 services, and the geographic distribution of provider
33 workshops. On or before the first day of January of
34 each year the committee shall file with the governor
35 and the presiding officer of each house of the Legisla-
36 ture a written report summarizing the above records
37 and giving a detailed accounting for all funds received
38 and disbursed by the committee during the preceding
39 year.

§5A-3A-5. Rules.

1 The committee may adopt rules for the
2 implementation, extension, administration, or
3 improvement of the program authorized by this
4 article.

§5A-3A-6. Exceptions.

1 Exceptions from the operation of the mandatory
2 provisions of section twelve, article three-a of this code
3 may be made in any case where the commodity or
4 service so produced or provided does not meet the
5 reasonable requirements of the purchasing unit or
6 cannot be reasonably provided by a nonprofit work-
7 shop in the opinion of the committee or the central
8 nonprofit agency. No spending unit may evade the
9 intent of this section when required goods or services
10 are reasonably available from nonprofit workshops.

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

Frederick L. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1989.

Joel C. White
.....
Clerk of the Senate

Donald A. Nepp
.....
Clerk of the House of Delegates

Lawrence
.....
President of the Senate

W. B. [unclear]
.....
Speaker House of Delegates

The within *as approved* this the *15th*
day of *April* 1989
Gaston Caperton
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 4/14/89

Time 4:49