WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED
Committee Substitute
SENATE BILL NO. 273

(By Senator Stalnaker, 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, DITTMAR, 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 COMMODITIES AND SERVICES FROM THE HANDICAPPED.

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

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

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

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

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

(d) Present an annual report for each fiscal year concerning the operations of its nonprofit workshops to the director of the division of rehabilitation services.
§5A-3A-3. Committee for the purchase of commodities and services from the handicapped.

(a) The committee for the purchase of commodities and services from the handicapped is hereby created and shall be composed of the following six members who are to be appointed by the governor with the advice and consent of the Senate: A private citizen who is conversant with the problems incidental to the employment of handicapped persons; a representative of a producing nonprofit workshop; a representative of the division of rehabilitation services; a representative of the department of finance and administration; a representative of private business who is knowledgeable in the activities involved in the sale of commodities or services to governmental entities; and a representative of organized labor who is knowledgeable in matters relating to employment of the disabled. The governor shall appoint one member to serve as chairperson.

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

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

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

The committee shall have the following duties and responsibilities:

(a) Determining the fair market price of all commodities, printing and services produced by nonprofit
workshops and offered for sale by the central non-profit agency to the various departments and political subdivisions of the state. Prices shall be revised periodically to reflect changing market conditions.

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

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

(d) Maintaining records pertaining to its activities under the act including records of sales, formal grievances, number of handicapped workers employed, a summary of disabilities for workers providing services, a list of workshop products and services, and the geographic distribution of provider workshops. On or before the first day of January of each year the committee shall file with the governor and the presiding officer of each house of the Legislature a written report summarizing the above records and giving a detailed accounting for all funds received and disbursed by the committee during the preceding year.


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

1 Exceptions from the operation of the mandatory provisions of section twelve, article three-a of this code may be made in any case where the commodity or service so produced or provided does not meet the reasonable requirements of the purchasing unit or cannot be reasonably provided by a nonprofit workshop in the opinion of the committee or the central nonprofit agency. No spending unit may evade the intent of this section when required goods or services 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.

Jesse H. Martin
Clerk of the Senate

Donald J. Kopp
Clerk of the House of Delegates

F. Garvin Black
President of the Senate

Robert C. Kastor
Speaker House of Delegates

The within bill approved this the 25th day of December, 1988.

Robert C. Kastor
Governor