WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED
Committee Substitute for
SENATE BILL NO. 146

(By Senator J. Manchin)

PASSED March 9, 1990
In Effect July 1, 1990
AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new chapter, designated chapter five-g, relating to the procurement of architect-engineer services by agencies of the state and its political subdivisions; providing declaration of policy and definitions; providing procedure for selection and procurement of architectural and engineering services.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 5G. PROCUREMENT OF ARCHITECT - ENGINEER SERVICES BY STATE AND ITS SUBDIVISIONS.

ARTICLE 1. PROCUREMENT OF ARCHITECT - ENGINEER SERVICES.

§5G-1-1. Declaration of legislative policy.

1. The Legislature hereby declares it to be the policy of
2 the state, and its political subdivisions, to procure
3 architectural or engineering services or both on the
4 basis of demonstrated competence and qualification for
5 the type of professional services required.

§5G-1-2. Definitions.
1 As used in this section:
2 (a) The term "agency" means all state departments,
3 agencies, authorities, quasi-public corporations and all
4 political subdivisions, including cities, counties, boards
5 of education and public service districts.
6 (b) The term "architectural and engineering servi-
7 ces" includes those professional services of an archi-
8 tectural or engineering nature as well as incidental
9 services that members of those professions and those
10 in their employ may logically or justifiably perform.
11 (c) The term "director of purchasing" means any
12 individual assigned by any agency to procure the
13 services of architects and engineers.
14 (d) The term "firm" or "professional firm" means
15 any individual, firm, partnership, corporation, associa-
16 tion or other legal entity permitted by law to practice
17 the professions of architecture and engineering.

§5G-1-3. Contracts for architectural and engineering serv-
ices; selection process where total project
1 costs are estimated to cost two hundred fifty
2 thousand dollars or more.
3 In the procurement of architectural and engineering
4 services for projects estimated to cost two hundred
5 fifty thousand dollars or more, the director of purchas-
6 ing shall encourage such firms engaged in the lawful
7 practice of the profession to submit an expression of
8 interest, which shall include a statement of qualifica-
9 tions and performance data, and may include antici-
10 pated concepts and proposed methods of approach to
11 the project. All such jobs shall be announced by public
12 notice published as a Class II legal advertisement in
13 compliance with the provisions of article three, chap-
14 ter fifty-nine of this code. A committee of three to five
representatives of the agency initiating the request shall evaluate the statements of qualifications and performance data and other material submitted by interested firms and select a minimum of three firms which, in their opinion, are best qualified to perform the desired service. Interviews with each firm selected shall be conducted and the committee shall conduct discussions regarding anticipated concepts and proposed methods of approach to the assignment. The committee shall then rank, in order of preference, no less than three professional firms deemed to be the most highly qualified to provide the services required, and shall commence scope of service and price negotiations with the highest qualified professional firm for architectural or engineering services or both. Should the agency be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee determined to be fair and reasonable, price negotiations with the firm of second choice shall commence. Failing accord with the second most qualified professional firm, the committee shall undertake price negotiations with the third most qualified professional firm. Should the agency be unable to negotiate a satisfactory contract with any of the selected professional firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached.

§5G-1-4. Contracts for architectural and engineering services; selection process where total project costs are estimated to cost less than two hundred fifty thousand dollars.

In the procurement of architectural and engineering services for projects estimated to cost less than two hundred fifty thousand dollars, competition shall be sought by the agency. The agency shall conduct discussions with three or more professional firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract: Provided, That if a judgment is made that
9 special circumstances exist and that seeking competition is not practical, the agency may, with the prior
10 approval of the director of purchasing, select a firm on
11 the basis of previous satisfactory performance and
12 knowledge of the agency's facilities and needs. After
13 selection, the agency and firm shall develop the scope
14 of services required and negotiate a contract.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1990.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

Governor