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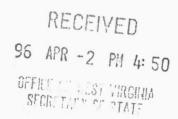
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

ENROLLED

SENATE BILL NO. 42	7
(By Senator <u>Craiço</u>)
PASSED MARCH 9, In Effect NINER, DAGE FR	1996 Passage



ENROLLED

Senate Bill No. 427

(By SENATOR CRAIGO)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-seven-b, relating to prohibiting change orders in excess of ten percent of the original successful contract bid for certain state contracts.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. PURCHASING DIVISION.

§5A-3-37b. Change orders in excess of ten percent of original contract prohibited.

- 1 (a) Notwithstanding any provision of this chapter to
- 2 the contrary, and subject to the exceptions set forth in

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subsections (b) and (c) of this section, no change order executed or approved by the purchasing division for commodities, business service contracts or professional 5 6 services may be made in excess of ten percent of the original successful contract bid involving such contracts 7 with the state: Provided, That the provisions of this 9 article do not apply to alternate bids or to changes that were unforeseen that may legitimately arise after perfor-10 mance under a contract has begun, particularly in the 11 12 case of certain construction projects, contracts for 13 professional services and contracts regarding technology. For the purposes of this section and article, "change 14 order" means a written command or directive to change, 15 alter, vary or modify a contract for commodities. busi-16 17 ness services or professional services that results in making an essential difference that may amount to a loss 18 of or change of original identity or a substitution of one 19 20 thing or another under the terms of the original successful contract, including, but not limited to, services, 21 22 materials and labor that affects the original successful contract bid price and usually results in an increase in 23 cost under that contract. 24

- (b) In the event a change order in excess of the original contract is made, the appropriate state agency is required to obtain approval from the joint committee on government and finance prior to effectuating such change order. Upon obtaining consent from the joint committee on government and finance, the appropriate state agency is authorized to effectuate the change order.
- 32 (c) In the event there is a need for a change order in 33 excess of ten percent of the original contract, such 34 change order shall be negotiated between the two lowest 35 competitive bidders on a competitive basis.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.
Chairman Senate Committee
Rudy Seaut
Chairman House Committee
Originated in the Senate. In effect ninety days from passage. Clerk of the Senate
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