WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED

SENATE BILL NO. 634

(By Senator Kessler, et al)

PASSED March 8, 2003

In Effect from Passage
ENROLLED

Senate Bill No. 636

(BY SENATORS KESSLER, SNYDER, ROWE, ROSS, DEEM, OLIVERIO, MCKENZIE, SMITH, WHITE, HARRISON, MINARD, WEEKS, HUNTER AND JENKINS)

[Passed March 8, 2003; in effect from passage.]

AN ACT to amend and reenact section ten, 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 six, article three-a of said chapter, all relating to exemption of commodities and services offered or produced by nonprofit workshops from competitive bidding requirement.

Be it enacted by the Legislature of West Virginia:

That section ten, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section six, article three-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 3. PURCHASING DIVISION.
§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops.

A purchase of and contract for commodities, printing and services shall be based, whenever possible, on competitive bids.

The director shall solicit sealed bids for the purchase of commodities and printing which is estimated to exceed ten thousand dollars. No spending unit shall issue a series of requisitions which would circumvent this ten thousand-dollar maximum. The director may permit bids by facsimile transmission machine to be accepted in lieu of sealed bids: Provided, That an original bid is received within two working days following the date specified for bid opening. Bids shall be obtained by public notice. The notice may be published by any advertising medium the director deems advisable. The director may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in his office: Provided, however, That the director shall, without competitive bidding, purchase commodities and services 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 further, That such commodities and services shall be of a fair market price and of like quality comparable to other commodities and services otherwise available as determined by the director with the advice of the committee on the purchase of commodities and services from the handicapped.

Toward the end of effecting the making of contracts for commodities and services of nonprofit workshops, the director shall employ a person whose responsibilities in addition to other duties shall be to identify all commodities and services available for purchase from such nonprofit workshops, to evaluate the need of the state for such commodities and services to coordinate the various
nonprofit workshops in their production efforts and to make available to such workshops information about available opportunities within state government for purchase of commodities or services which might be produced and sold by such workshops. Funds to employ such a person shall be included annually in the budget.

ARTICLE 3A. CENTRAL NONPROFIT COORDINATING AGENCY AND COMMITTEE FOR THE PURCHASE OF COMMODITIES AND SERVICES FROM THE HANDICAPPED.


1 The purchasing unit is exempt from the operation of the mandatory provisions of section ten, article three of this chapter when:

4 (1) The director of purchasing determines that the commodity or service so produced or provided does not meet the reasonable requirements of the purchasing unit;

7 (2) The committee or central nonprofit agency determines that a nonprofit workshop cannot reasonably provide the commodity or service;

10 (3) The purchasing director determines, after considering any recommendation of the committee or bids which may have been offered, that the commodity or service is not of a fair market price; or

14 (4) The purchasing director determines, after consulting with the committee, that the commodity or service is not of like quality to other commodities or services available.

No purchasing unit may evade the intent of this section when required goods or services are reasonably available from nonprofit workshops: Provided, That if a purchasing unit is required or may be required by federal statute or regulations to purchase commodities or services with competitive bidding, or may otherwise be disqualified from federal funding or assistance if it fails to purchase commodities or services with competitive bidding, the
purchasing unit shall not be required to purchase commodities or services from nonprofit workshops. Such purchasing units not required to purchase commodities or services from nonprofit workshops include military installations of the national guard.
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.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st Day of , 2003.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/17/03
Time 9:45 AM