Enrolled
Committee Substitute
for

Senate Bill 474

BY SENATORS BOSO, ASHLEY, FACEMIRE, MILLER,
SNYDER, TAKUBO, TRUMP AND PLYMALE,
original sponsors

[Passed March 8, 2016; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

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BY SENATORS BOSO, ASHLEY, FACEMIRE, MILLER,
Snyder, Takubo, Trump and Plymale,

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[Passed March 8, 2016; in effect 90 days from passage]
AN ACT to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting Department of Environmental Protection's construction or reclamation contracts from review and approval requirements of the Division of Purchasing.

Be it enacted by the Legislature of West Virginia:

That §5A-3-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-3. Powers and duties of Director of Purchasing.

The director, under the direction and supervision of the secretary, is the executive officer of the Purchasing Division and has the power and duty to:

(1) Direct the activities and employees of the Purchasing Division;
(2) Ensure that the purchase of or contract for commodities and services are based, whenever possible, on competitive bid;
(3) Purchase or contract for, in the name of the state, the commodities, services and printing required by the spending units of the state government;
(4) Apply and enforce standard specifications established in accordance with section five of this article as hereinafter provided;
(5) Transfer to or between spending units or sell commodities that are surplus, obsolete or unused as hereinafter provided;
(6) Have charge of central storerooms for the supply of spending units as the director considers advisable;
(7) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose as hereinafter provided as the director considers advisable;
(8) Suspend the right and privilege of a vendor to bid on state purchases when the director has evidence that the vendor has violated any of the provisions of the purchasing law or the rules and regulations of the director;
(9) Examine the provisions and terms of every contract entered into for and on behalf of the State of West Virginia that impose any obligation upon the state to pay any sums of money for commodities or services and approve the contract as to such provisions and terms; and the duty of examination and approval herein set forth does not supersede the responsibility and duty of the Attorney General to approve the contracts as to form: Provided, That the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the Division of Highways of the Department of Transportation or to construction or reclamation contracts entered into by the Department of Environmental Protection: Provided, however, That the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into by the University of West Virginia Board of Trustees or by the Board of Directors of the State College System, except to the extent that such boards request the facilities and services of the director under the provisions of this subdivision: Provided further, That the provisions of this subdivision do not apply to the West Virginia State Police Forensic Laboratory and the West Virginia Office of Laboratory Services;

(10) Assure that the specifications and descriptions in all solicitations are prepared so as to provide all potential suppliers-vendors who can meet the requirements of the state an opportunity to bid and to assure that the specifications and descriptions do not favor a particular brand or vendor. If the director determines that any such specifications or descriptions as written favor a particular brand or vendor or if it is decided, either before or after the bids are opened, that a commodity or service having different specifications or quality or in different quantity can be bought, the director may rewrite the solicitation and the matter shall be rebid; and

(11) Issue a notice to cease and desist to a spending unit when the director has credible evidence that a spending unit has violated competitive bidding or other requirements established by this article and the rules promulgated hereunder. Failure to abide by the notice may result in penalties set forth in section seventeen of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

The within .............................................. was approved this the .....................

Day of .................................................., 2016.

[Signature]

Governor