

1 **H. B. 2483**

2
3 (By Delegates Campbell and Paxton)
4 [Introduced January 14, 2011; referred to the
5 Committee on Education then Finance.]
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7 **FISCAL**
8 **NOTE**

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10 A BILL to amend and reenact §5A-3-4 of the Code of West Virginia,
11 1931, as amended, relating to the authorization of the
12 purchase of personal computers and related devices from the
13 state contract by public school teachers; conditions; and
14 limitations.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §5A-3-4 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-4. Rules of director.

(a) The director shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to:

(1) Authorize a spending unit to purchase specified commodities directly and prescribe the manner in which such

purchases shall be made;

(2) Authorize, in writing, a spending unit to purchase commodities in the open market for immediate delivery in emergencies, defines emergencies and prescribe the manner in which such purchases shall be made and reported to the director;

(3) Prescribe the manner in which commodities shall be purchased, delivered, stored and distributed;

(4) Prescribe the time for making requisitions and estimates of commodities, the future period which they are to cover, the form in which they shall be submitted and the manner of their authentication;

(5) Prescribe the manner of inspecting all deliveries of commodities, and making chemical and physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications;

(6) Prescribe the amount and type of deposit or bond to be submitted with a bid or contract and the amount of deposit or bond to be given for the faithful performance of a contract;

(7) Prescribe a system whereby the director shall be required, upon the payment by a vendor of an annual fee established by the director, to give notice to such vendor of all bid solicitations for commodities of the type with respect to which such vendor specified notice was to be given, but no such fee shall exceed the cost of giving the notice to such vendor, nor shall such fee exceed

the sum of \$125 per fiscal year nor shall such fee be charged to persons seeking only reimbursement from a spending unit;

(8) Prescribe that each state contract entered into by the Purchasing Division shall contain provisions for liquidated damages, remedies or provisions for the determination of the amount or amounts which the vendor shall owe as damages, in the event of default under such contract by such vendor, as determined by the director;

(9) Prescribe contract management procedures for all state contracts except government construction contracts including, but not limited to, those set forth in article twenty-two, chapter five of this code;

(10) Prescribe procedures by which oversight is provided to actively monitor spending unit purchases, including, but not limited to, all technology and software commodities and contractual services exceeding \$1 million, approval of change orders and final acceptance by the spending units;

(11) Prescribe that each state contract entered into by the Purchasing Division contain provisions for the cancellation of the contract upon thirty days' notice to the vendor;

(12) Prescribe procedures for selling surplus commodities to the highest bidder by means of an Internet auction site;

(13) Provide such other matters as may be necessary to give effect to the foregoing rules and the provisions of this article;

and

(14) Authorize the purchase of personal computers and related devices from the state contract by public school teachers for use outside of the classroom. The computers and related devices may not be purchased with public funds, but may be paid for and owned by teachers individually. No more than one computer and related device per year may be purchased by each teacher; and

(14) Prescribe procedures for encumbering purchase orders to ensure that the proper account may be encumbered before sending purchase orders to vendors.

(b) The director shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to prescribe qualifications to be met by any person who is to be employed in the Purchasing Division as a state buyer. The rules must provide that a person may not be employed as a state buyer unless he or she at the time of employment either is:

(1) A graduate of an accredited college or university; or

(2) Has at least four years' experience in purchasing for any unit of government or for any business, commercial or industrial enterprise.

Persons serving as state buyers are subject to the provisions of article six, chapter twenty-nine of this code.

NOTE: The purpose of this bill is to require the director of

purchasing to promulgate a rule authorizing public school teachers to purchase one personal computer and related devices per year from the state contract for use outside the classroom.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.