

Senate Bill No. 659

(By Senator Unger)

[Introduced February 20, 2012; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to powers and duties of the Director of Purchasing; removing outdated language; and requiring the director to require vendors, contractors, subcontractors and their employees conducting business with the state to submit to a criminal background check under certain circumstances.

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, ~~shall be~~ is the executive officer of the Purchasing

1 Division and ~~shall have~~ has the power and duty to:

2 (1) Direct the activities and employees of the Purchasing
3 Division;

4 (2) Ensure that the purchase of or contract for commodities
5 ~~shall be~~ are based, whenever possible, on competitive bid;

6 (3) ~~Purchasing~~ Purchase or contract for, in the name of the
7 state, the commodities and printing required by the spending units
8 of the state government;

9 (4) Apply and enforce standard specifications established in
10 accordance with section five of this article as hereinafter
11 provided;

12 (5) Transfer to or between spending units or sell commodities
13 that are surplus, obsolete or unused as hereinafter provided;

14 (6) Have charge of central storerooms for the supply of
15 spending units, as the director ~~deems~~ considers advisable;

16 (7) Establish and maintain a laboratory for the testing of
17 commodities and make use of existing facilities in state
18 institutions for that purpose as hereinafter provided, as the
19 director ~~deems~~ considers advisable;

20 (8) Suspend the right and privilege of a vendor to bid on
21 state purchases when the director has evidence that ~~such~~ the vendor
22 has violated any of the provisions of the purchasing law or the
23 rules ~~and regulations~~ of the director;

24 (9) Examine the provisions and terms of every contract entered

1 into for and on behalf of the State of West Virginia that impose
2 any obligation upon the state to pay any sums of money for
3 commodities or services and approve each ~~such~~ contract as to ~~such~~
4 those provisions and terms; and ~~the~~ this duty of examination and
5 approval ~~herein set forth~~ does not supersede the responsibility and
6 duty of the Attorney General to approve ~~such~~ those contracts as to
7 form: *Provided*, That the provisions of this subdivision do not
8 apply in any respect whatever to construction or repair contracts
9 entered into by the Division of Highways of the Department of
10 Transportation; ~~*Provided, however,* That the provisions of this~~
11 ~~subdivision do not apply in any respect whatever to contracts~~
12 ~~entered into by the University of West Virginia Board of Trustees~~
13 ~~or by the board of Directors of the state College System, except to~~
14 ~~the extent that such boards request the facilities and services of~~
15 ~~the director under the provisions of this subdivision; and~~

16 (10) Assure that the specifications and commodity descriptions
17 in all "requests for quotations" are prepared so as to permit all
18 potential suppliers-vendors who can meet the requirements of the
19 state an opportunity to bid and to assure that the specifications
20 and descriptions do not favor a particular brand or vendor. If the
21 director determines that ~~any—such~~ the specifications or
22 descriptions as written favor a particular brand or vendor or if it
23 is decided, either before or after the bids are opened, that a
24 commodity having different specifications or quality or in

1 different quantity can be bought, the director may rewrite the
2 "requests for quotations" and the matter shall be rebid; and
3 (11) Require any vender, contractor, subcontractor and their
4 respective employees who will be conducting business with the State
5 of West Virginia and will be physically present at any state
6 facility or grounds or who have access to sensitive or critical
7 information submit to a fingerprint-based state and federal
8 background inquiry through the state repository. The person
9 submitting to the background inquiry shall pay any fee or cost
10 associated with the inquiry.

NOTE: The purpose of this bill is to require vendors, contractors, subcontractors and their employees to submit to a criminal background check if they will be at a state facility or have access to sensitive or critical information.

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