

1 5-4 of said code be amended and reenacted, all to read as follows:

2 **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

3 **ARTICLE 3. PURCHASING DIVISION.**

4 **§5A-3-5a. Uniforms to be made in the United States.**

5 The director shall promulgate and adopt standards that require
6 all uniforms worn or used by employees of the state, including but
7 not limited to the employees of the boards and agencies identified
8 in section one, article two, chapter five-f of this code, be
9 manufactured in the United States. Notwithstanding any provision
10 of this code to the contrary, these standards apply to every future
11 purchase of uniforms after June 30, 2013. No purchase by any
12 spending unit is exempt from compliance with these standards.

13 **CHAPTER 15. PUBLIC SAFETY.**

14 **ARTICLE 2. WEST VIRGINIA STATE POLICE.**

15 **§15-2-10. Uniforms; authorized equipment, weapons and supplies;**
16 **local headquarters; quarters for members; life**
17 **insurance; medical and hospital fees for injuries and**
18 **illnesses of members incurred in line of duty.**

19 (a) The standard uniform to be used by the West Virginia State
20 Police after the effective date of this article shall be as
21 follows: Forestry green blouse with West Virginia State Police
22 emblem on sleeve; black shoulder strap one-inch black stripe around
23 sleeve, four inches from end of sleeve; forestry green breeches

1 with one-inch black stripe down the side; trousers (slacks) with
2 one-inch black stripe down the side for officers and clerks
3 regularly enlisted in the State Police; forestry green shirts with
4 West Virginia State Police emblem on sleeve; black shoulder straps;
5 forestry green mackinaw with West Virginia State Police emblem on
6 sleeve; black shoulder straps; one-inch black stripe around sleeve
7 four inches from end of sleeve; campaign hat of olive drab color;
8 black Sam Browne belt with holster; black leggings and shoes; the
9 officer's uniform will have one and one-quarter inch black stripe
10 around the sleeve of blouse and mackinaw four inches from end of
11 sleeve circumposed with one-half inch gold braid, also black
12 collars on blouse, with two silver shoulder bars for captains, one
13 silver shoulder bar for first lieutenant, one gold shoulder bar for
14 second lieutenant. For noncommissioned officers the uniform blouse
15 and shirt will have thereon black chevrons of the appropriate rank.

16 (b) The standard uniform used by the West Virginia State
17 Police identified in subsection (a) of this section purchased after
18 June 30, 2013 shall be manufactured in the United States.

19 ~~(b)~~ (c) The superintendent shall establish the weapons and
20 enforcement equipment which are authorized for use by members of
21 the State Police and shall provide for periodic inspection of the
22 weapons and equipment. He or she shall provide for the discipline
23 of members using other than authorized weapons and enforcement
24 equipment.

1 ~~(c)~~ (d) The superintendent shall provide the members of the
2 State Police with suitable arms and weapons and, when he or she
3 considers it necessary, with suitably equipped automobiles,
4 motorcycles, watercraft, airplanes and other means of conveyance to
5 be used by the West Virginia State Police, the Governor and other
6 officers and executives in the discretion of the Governor, in times
7 of flood, disaster and other emergencies, for traffic study and
8 control, criminal and safety work and in other matters of official
9 business. He or she shall also provide the standard uniforms for
10 all members of the State Police, for officers, noncommissioned
11 officers and troopers provided for in this section. All uniforms
12 and all arms, weapons and other property furnished the members of
13 the State Police by the State of West Virginia are and remain the
14 property of the state.

15 ~~(d)~~ (e) The superintendent may purchase and maintain on behalf
16 of members group life insurance not to exceed the amount of \$5,000
17 on behalf of each member.

18 ~~(e)~~ (f) The superintendent may contract and furnish at state
19 police expense medical and hospital services for treatment of
20 illness or injury of a member which shall be determined by the
21 superintendent to have been incurred by the member while engaged in
22 the performance of duty and from causes beyond control of the
23 members. Notwithstanding any other provision of this code, the
24 superintendent has the right of subrogation in any civil action or

1 settlement brought by or on behalf of a member in relation to any
2 act by another which results in the illness, injury or death of a
3 member. To this end, the superintendent may initiate an action on
4 behalf of the State Police in order to recover the costs incurred
5 in providing medical and hospital services for the treatment of a
6 member resulting from injury or illness originating in the
7 performance of official duties. This subsection shall not affect
8 the power of a court to apply ordinary equitable defenses to the
9 right of subrogation.

10 The superintendent may also consult with the executive
11 director of the Workers' Compensation Commission in an effort to
12 defray the cost of medical and hospital services. In no case will
13 the compensation rendered to health care providers for medical and
14 hospital services exceed the then current rate schedule in use by
15 the Workers' Compensation Commission.

16 Third-party reimbursements received by the superintendent
17 after the expiration of the fiscal year in which the injury,
18 illness or death occurred will be deposited to a nonexpiring
19 special revenue account. Funds deposited to this account may be
20 used solely for defraying the costs of medical or hospital services
21 rendered to any sworn members as a direct result of an illness,
22 injury or death resulting from the performance of official duties.

23 ~~(f)~~ (g) The superintendent shall establish and maintain local
24 headquarters at those places in West Virginia that are in his or

1 her judgment suitable and proper to render the West Virginia State
2 Police most efficient for the purpose of preserving the peace,
3 protecting property, preventing crime, apprehending criminals and
4 carrying into effect all other provisions of this article. The
5 superintendent shall provide, by acquisition, lease or otherwise,
6 for local headquarters, for housing and quarters for the
7 accommodation of the members of the West Virginia State Police, and
8 for any other facilities necessary or useful for the effective
9 operation of the West Virginia State Police and shall provide all
10 equipment and supplies necessary for the members of the West
11 Virginia State Police to perform their duties.

12

CHAPTER 18. EDUCATION.

13 **ARTICLE 2. STATE BOARD OF EDUCATION.**

14 **§18-2-23b. Purchase of uniforms; made in the United States.**

15 The West Virginia Board of Education, through the State
16 Superintendent of Schools, shall promulgate and establish standards
17 requiring all uniforms worn or used by employees of the State Board
18 of Education purchased after June 30, 2013 to be manufactured in
19 the United States.

20 **CHAPTER 18B. HIGHER EDUCATION.**

21 **ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.**

22 **§18B-5-4. Purchase or acquisition of materials, supplies,**
23 **equipment, services and printing.**

1 (a) The council, commission and each governing board shall
2 purchase or acquire all materials, supplies, equipment, services
3 and printing required for that governing board or the council or
4 commission, as appropriate, and the state institutions of higher
5 education under their jurisdiction, except the governing boards of
6 Marshall University and West Virginia University, respectively, are
7 subject to subsection (d) of this section.

8 (b) The commission and council jointly shall adopt rules
9 governing and controlling acquisitions and purchases in accordance
10 with this section. The rules shall ensure that the following
11 procedures are followed:

12 (1) No person is precluded from participating and making sales
13 thereof to the council, commission or governing board except as
14 otherwise provided in section five of this article. Providing
15 consulting services such as strategic planning services does not
16 preclude or inhibit the governing boards, council or commission
17 from considering a qualified bid or response for delivery of a
18 product or a commodity from the individual providing the services;

19 (2) Specifications are established and prescribed for
20 materials, supplies, equipment, services and printing to be
21 purchased;

22 (3) Purchase order, requisition or other forms as may be
23 required are adopted and prescribed;

24 (4) Purchases and acquisitions in such quantities, at such

1 times and under contract, are negotiated for and made in the open
2 market or through other accepted methods of governmental purchasing
3 as may be practicable in accordance with general law;

4 (5) Bids are advertised on all purchases exceeding \$25,000,
5 and made by means of sealed or electronically-submitted bids and
6 competitive bidding or advantageous purchases effected through
7 other accepted governmental methods and practices. Competitive
8 bids are not required for purchases of \$25,000 or less.

9 (6) Notices for acquisitions and purchases for which
10 competitive bids are being solicited are posted in the purchasing
11 office of the specified institution involved in the purchase, at
12 least two weeks prior to making the purchases. The rules shall
13 ensure that the notice is available to the public during business
14 hours;

15 (7) Purchases are made in the open market;

16 (8) Vendors are notified of bid solicitation and emergency
17 purchasing; and

18 (9) Purchases after June 30, 2013 of uniforms to be used or
19 worn by employees of a state institution of higher learning shall
20 be manufactured in the United States; and

21 ~~(9)~~ (10) No fewer than three bids are obtained when bidding is
22 required, except if fewer than three bids are submitted, an award
23 may be made from among those received.

24 (c) When a state institution of higher education submits a

1 contract, agreement or other document to the Attorney General for
2 approval as to form as required by this chapter the following
3 conditions apply:

4 (1) "Form" means compliance with the Constitution and statutes
5 of the State of West Virginia;

6 (2) The Attorney General does not have the authority to reject
7 a contract, agreement or other document based on the substantive
8 provisions in the contract, agreement or document or any extrinsic
9 matter as long as it complies with the Constitution and statutes of
10 this state;

11 (3) Within fifteen days of receipt, the Attorney General shall
12 notify the appropriate state institution of higher education in
13 writing that the contract, agreement or other document is approved
14 or disapproved as to form. If the contract, agreement or other
15 document is disapproved as to form, the notice of disapproval shall
16 identify each defect that supports the disapproval; and

17 (4) If the state institution elects to challenge the
18 disapproval by filing a writ of mandamus or other action and
19 prevails, then the Attorney General shall pay reasonable attorney
20 fees and costs incurred.

21 (d) Pursuant to this subsection, the governing boards of
22 Marshall University and West Virginia University, respectively, may
23 carry out the following actions:

24 (1) Purchase or acquire all materials, supplies, equipment,

1 services and printing required for the governing board without
2 approval from the commission or the Vice Chancellor for
3 Administration and may issue checks in advance to cover postage as
4 provided in subsection (f) of this section;

5 (2) Make purchases from cooperative buying groups, consortia,
6 the federal government or from federal government contracts if the
7 materials, supplies, services, equipment or printing to be
8 purchased is available from these groups and if this would be the
9 most financially advantageous manner of making the purchase;

10 (3) Select and acquire by contract or lease all grounds,
11 buildings, office space or other space, and capital improvements,
12 including equipment, if the rental is necessarily required by the
13 governing board; and

14 (4) Use purchase cards under terms approved for the
15 commission, the council and governing boards of state institutions
16 of higher education and participate in any expanded program of use
17 as provided in subsection (u) of this section.

18 (e) The governing boards shall adopt sufficient accounting and
19 auditing procedures and promulgate and adopt appropriate rules
20 subject to section six, article one of this chapter to govern and
21 control acquisitions, purchases, leases and other instruments for
22 grounds, buildings, office or other space, and capital
23 improvements, including equipment, or lease-purchase agreements.

24 (f) The council, commission or each governing board may issue

1 a check in advance to a company supplying postage meters for
2 postage used by that board, the council or commission and by the
3 state institutions of higher education under their jurisdiction.

4 (g) When a purchase is to be made by bid, any or all bids may
5 be rejected. However, all purchases based on advertised bid
6 requests shall be awarded to the lowest responsible bidder taking
7 into consideration the qualities of the articles to be supplied,
8 their conformity with specifications, their suitability to the
9 requirements of the governing boards, council or commission and
10 delivery terms. The preference for resident vendors as provided in
11 section thirty-seven, article three, chapter five-a of this code
12 applies to the competitive bids made pursuant to this section.

13 (h) The governing boards, council and commission shall
14 maintain a purchase file, which shall be a public record and open
15 for public inspection.

16 (1) After the award of the order or contract, the governing
17 boards, council and commission shall indicate upon the successful
18 bid the following information:

19 (A) Designation as the successful bid;

20 (B) The reason any bids were rejected; and

21 (C) The reason for rejection, if the mathematical low vendor
22 was not awarded the order or contract.

23 (2) A record in the purchase file may not be destroyed without
24 the written consent of the Legislative Auditor. Those files in

1 which the original documentation has been held for at least one
2 year and in which the original documents have been reproduced and
3 archived on microfilm or other equivalent method of duplication may
4 be destroyed without the written consent of the Legislative
5 Auditor.

6 (3) All files, no matter the storage method, shall be open for
7 inspection by the Legislative Auditor upon request.

8 (i) The commission and council, also jointly, shall promulgate
9 rules to prescribe qualifications to be met by any person who is to
10 be employed as a buyer pursuant to this section. These rules shall
11 require that a person may not be employed as a buyer unless that
12 person, at the time of employment has one of the following
13 qualifications:

14 (1) Is a graduate of an accredited college or university; or

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

18 (j) Any person making purchases and acquisitions pursuant to
19 this section shall execute a bond in the penalty of \$50,000,
20 payable to the State of West Virginia, with a corporate bonding or
21 surety company authorized to do business in this state as surety
22 thereon, in form prescribed by the Attorney General and conditioned
23 upon the faithful performance of all duties in accordance with this
24 section and sections five through eight, inclusive, of this article

1 and the rules of the governing board and the council and
2 commission. In lieu of separate bonds for these buyers, a blanket
3 surety bond may be obtained. The bond shall be filed with the
4 Secretary of State and the cost of the bond shall be paid from
5 funds appropriated to the applicable governing board or the council
6 or commission.

7 (k) All purchases and acquisitions shall be made in
8 consideration and within limits of available appropriations and
9 funds and in accordance with applicable provisions of article two,
10 chapter five-a of this code relating to expenditure schedules and
11 quarterly allotments of funds. Notwithstanding any other provision
12 of this code to the contrary, only those purchases exceeding the
13 dollar amount for competitive sealed bids in this section are
14 required to be encumbered and they may be entered into the state's
15 centralized accounting system by the staff of the commission,
16 council or governing boards to satisfy the requirements of article
17 two, chapter five-a of this code to determine whether the amount of
18 the purchase is within the quarterly allotment of the commission,
19 council or governing board, is in accordance with the approved
20 expenditure schedule and otherwise conforms to the article.

21 (l) The governing boards, council and commission may make
22 requisitions upon the State Auditor for a sum to be known as an
23 advance allowance account, not to exceed five percent of the total
24 of the appropriations for the governing board, council or

1 commission, and the State Auditor shall draw a warrant upon the
2 Treasurer for those accounts. All advance allowance accounts shall
3 be accounted for by the applicable governing board or the council
4 or commission once every thirty days or more often if required by
5 the State Auditor.

6 (m) Contracts entered into pursuant to this section shall be
7 signed by the applicable governing board or the council or
8 commission in the name of the state and shall be approved as to
9 form by the Attorney General. A contract which requires approval
10 as to form by the Attorney General is considered approved if the
11 Attorney General has not responded within fifteen days of
12 presentation of the contract. A contract or a change order for
13 that contract and notwithstanding any other provision of this code
14 to the contrary, associated documents such as performance and
15 labor/material payments, bonds and certificates of insurance which
16 use terms and conditions or standardized forms previously approved
17 by the Attorney General and do not make substantive changes in the
18 terms and conditions of the contract do not require approval as to
19 form by the Attorney General. The Attorney General shall make a
20 list of those changes which he or she considers to be substantive
21 and the list, and any changes to the list, shall be published in
22 the State Register. A contract that exceeds the dollar amount
23 requiring competitive sealed bids in this section shall be filed
24 with the State Auditor. If requested to do so, the governing

1 boards, council or commission shall make all contracts available
2 for inspection by the State Auditor. The governing board, council
3 or commission, as appropriate, shall prescribe the amount of
4 deposit or bond to be submitted with a bid or contract, if any, and
5 the amount of deposit or bond to be given for the faithful
6 performance of a contract.

7 (n) If the governing board, council or commission purchases or
8 contracts for materials, supplies, equipment, services and printing
9 contrary to sections four through seven of this article or the
10 rules pursuant to this article, the purchase or contract is void
11 and of no effect.

12 (o) A governing board or the council or commission, as
13 appropriate, may request the director of purchasing to make
14 available the facilities and services of that department to the
15 governing boards, council or commission in the purchase and
16 acquisition of materials, supplies, equipment, services and
17 printing. The director of purchasing shall cooperate with that
18 governing board, council or commission, as appropriate, in all such
19 purchases and acquisitions upon that request.

20 (p) Each governing board or the council or commission, as
21 appropriate, may permit private institutions of higher education to
22 join as purchasers on purchase contracts for materials, supplies,
23 services and equipment entered into by that governing board or the
24 council or commission. A private institution desiring to join as

1 purchaser on purchase contracts shall file with that governing
2 board or the council or commission, as appropriate, an affidavit
3 signed by the president or designee of the private institution
4 requesting that it be authorized to join as purchaser on purchase
5 contracts of that governing board or the council or commission, as
6 appropriate. The private institution shall agree that it is bound
7 by such terms and conditions as that governing board or the council
8 or commission may prescribe and that it will be responsible for
9 payment directly to the vendor under each purchase contract.

10 (q) Notwithstanding any other provision of this code to the
11 contrary, the governing boards, council and commission, as
12 appropriate, may make purchases from cooperative buying groups,
13 consortia, the federal government or from federal government
14 contracts if the materials, supplies, services, equipment or
15 printing to be purchased is available from that source, and
16 purchasing from that source would be the most financially
17 advantageous manner of making the purchase.

18 (r) An independent performance audit of all purchasing
19 functions and duties which are performed at any state institution
20 of higher education, except Marshall University and West Virginia
21 University, shall be performed each fiscal year. The Joint
22 Committee on Government and Finance shall conduct the performance
23 audit and the governing boards, council and commission, as
24 appropriate, are responsible for paying the cost of the audit from

1 funds appropriated to the governing boards, council or commission.

2 (1) The governing boards of Marshall University and West
3 Virginia University, respectively, shall provide for independent
4 performance audits of all purchasing functions and duties on their
5 campuses at least once in each three-year period.

6 (2) Each audit shall be inclusive of the entire time period
7 that has elapsed since the date of the preceding audit.

8 (3) Copies of all appropriate documents relating to any audit
9 performed by the governing boards of Marshall University and West
10 Virginia University shall be furnished to the Joint Committee on
11 Government and Finance and the Legislative Oversight Commission on
12 Education Accountability within thirty days of the date the audit
13 report is completed.

14 (s) The governing boards shall require each institution under
15 their respective jurisdictions to notify and inform every vendor
16 doing business with that institution of section fifty-four, article
17 three, chapter five-a of this code, also known as the Prompt Pay
18 Act of 1990.

19 (t) Consultant services, such as strategic planning services,
20 do not preclude or inhibit the governing boards, council or
21 commission from considering any qualified bid or response for
22 delivery of a product or a commodity because of the rendering of
23 those consultant services.

24 (u) Purchasing card use may be expanded by the council,

1 commission and state institutions of higher education pursuant to
2 this subsection.

3 (1) The council and commission jointly shall establish
4 procedures to be implemented by the council, commission and any
5 institution under their respective jurisdictions using purchasing
6 cards. The procedures shall ensure that each meets the following
7 conditions:

8 (A) Appropriate use of the purchasing card system;

9 (B) Full compliance with article three, chapter twelve of this
10 code relating to the purchasing card program; and

11 (C) Sufficient accounting and auditing procedures for all
12 purchasing card transactions.

13 (2) Notwithstanding any other provision of this code to the
14 contrary, the council, commission and any institution authorized
15 pursuant to subdivision (3) of this subsection may use purchasing
16 cards for the following purposes:

17 (A) Payment of travel expenses directly related to the job
18 duties of the traveling employee, including, but not limited to,
19 fuel and food; and

20 (B) Payment of any routine, regularly scheduled payment,
21 including, but not limited to, utility payments and real property
22 rental fees.

23 (3) The commission and council each shall evaluate the
24 capacity of each institution under its jurisdiction for complying

1 with the procedures established pursuant to subdivision (2) of this
2 subsection. The commission and council each shall authorize
3 expanded use of purchasing cards pursuant to that subdivision for
4 any institution it determines has the capacity to comply.

NOTE: The purpose of this bill is to require all uniforms purchased by the state to be used or worn by employees of the state and its agencies to be manufactured in the United States. The bill requires employee uniforms purchased by the State Board of Education and state institutions of higher education to be made in the United States. The bill provides an effective date of July 1, 2013.

§5A-3-5a and §18-2-23b are new; therefore, strike-throughs and underscoring have been omitted.

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