

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

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]

1 AN ACT to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating
2 to exempting Department of Environmental Protection's construction or reclamation
3 contracts from review and approval requirements of the Division of Purchasing.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. PURCHASING DIVISION.

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

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

- 8 (1) Direct the activities and employees of the Purchasing Division;
- 9 (2) Ensure that the purchase of or contract for commodities and services are based,
10 whenever possible, on competitive bid;
- 11 (3) Purchase or contract for, in the name of the state, the commodities, services and
12 printing required by the spending units of the state government;
- 13 (4) Apply and enforce standard specifications established in accordance with section five
14 of this article as hereinafter provided;
- 15 (5) Transfer to or between spending units or sell commodities that are surplus, obsolete
16 or unused as hereinafter provided;
- 17 (6) Have charge of central storerooms for the supply of spending units as the director
18 considers advisable;
- 19 (7) Establish and maintain a laboratory for the testing of commodities and make use of
20 existing facilities in state institutions for that purpose as hereinafter provided as the director
21 considers advisable;
- 22 (8) Suspend the right and privilege of a vendor to bid on state purchases when the director
23 has evidence that the vendor has violated any of the provisions of the purchasing law or the rules

24 and regulations of the director;

25 (9) Examine the provisions and terms of every contract entered into for and on behalf of
26 the State of West Virginia that impose any obligation upon the state to pay any sums of money
27 for commodities or services and approve the contract as to such provisions and terms; and the
28 duty of examination and approval herein set forth does not supersede the responsibility and duty
29 of the Attorney General to approve the contracts as to form: *Provided*, That the provisions of this
30 subdivision do not apply in any respect whatever to construction or repair contracts entered into
31 by the Division of Highways of the Department of Transportation or to construction or reclamation
32 contracts entered into by the Department of Environmental Protection: *Provided, however*, That
33 the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into
34 by the University of West Virginia Board of Trustees or by the Board of Directors of the State
35 College System, except to the extent that such boards request the facilities and services of the
36 director under the provisions of this subdivision: *Provided further*, That the provisions of this
37 subdivision do not apply to the West Virginia State Police Forensic Laboratory and the West
38 Virginia Office of Laboratory Services;

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

46 (11) Issue a notice to cease and desist to a spending unit when the director has credible
47 evidence that a spending unit has violated competitive bidding or other requirements established
48 by this article and the rules promulgated hereunder. Failure to abide by the notice may result in
49 penalties set forth in section seventeen of this article.