

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4410

BY DELEGATES MOORE, WESTFALL, LANE AND WHITE

[Introduced February 2, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §29-22B-1107 of the Code of West Virginia, 1931, as amended,
2 relating to removing the requirement that the State Auditor receive copies of the Limited
3 Video Lottery bids.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-1107. Bidding process.

1 (a) Bids for issuance of permits shall be obtained by public notice published as a Class II-
2 0 legal advertisement in compliance with the provisions of ~~article~~ §59-3-1 *et seq.* of this code.

3 (b) The second publication of the notice shall appear more than 60 days next preceding
4 the final day for submitting bids.

5 (c) Each bid shall indicate the number of video lottery terminals for which the permit is
6 sought. The bid shall state the amount bid for each video lottery terminal for which the permit is
7 sought.

8 (d) No bid may be altered or withdrawn after the appointed hour for the opening of the
9 bids.

10 (e) Subject to the provisions of subsection (f) of this section, permits shall be awarded to
11 the persons submitting the highest per terminal bids, except that no person may be authorized to
12 directly or indirectly own or lease more than seven and one half percent of the total number of
13 video lottery terminals authorized in ~~section~~ §29-22B-1101 of this code. If a high bidder already
14 holds a permit issued under this section, the bid shall be awarded to that bidder, but only to the
15 extent the total number of video lottery terminals the operator or limited video lottery retailer is
16 authorized to directly or indirectly own or lease does not exceed seven and one half percent of
17 the number of video lottery terminals authorized for the entire state specified in ~~section~~ §29-22B-
18 1101 of this code.

19 (f) No bid shall be considered unless the bond required by ~~section~~ §29-22B-1109 of this
20 code accompanies the bid or was submitted to the State Treasurer before the time designated for
21 opening of the bid.

22 (g) No bid shall be considered unless the amount of the bid equals or exceeds the
23 minimum bid amount for a video lottery terminal specified by the commission.

24 (h) All bids for a permit may be rejected by the commission if the commission determines
25 that the bids are inadequate. In this event, the director shall begin anew the bidding process for
26 the permits.

27 (i) Whenever there are two or more bids of the same dollar amount and the number of
28 authorizations for which the bids were submitted exceeds the number of authorizations still
29 available to fill the bids, the director shall award the permit based upon the drawing of lots among
30 the bidders.

31 (j) A person submitting a bid under this article shall deliver one copy to the director of
32 purchasing, West Virginia Department of Administration. ~~and deliver a second or duplicate copy~~
33 ~~to the State Auditor. Both copies~~ The bid must be received at the ~~respective offices~~ designated
34 office location prior to the specified date and time of the bid opening.

35 (k) The failure to deliver or the nonreceipt of ~~these~~ the bid forms at ~~either of these offices~~
36 the designated office location prior to the appointed date and hour are grounds for rejection of the
37 bids bid. ~~In the event of any deviation between the copies submitted to the Purchasing Division~~
38 ~~and the State Auditor, the bids as to which there is a deviation shall be rejected~~

39 (l) After the award of a permit, the director of the lottery shall indicate upon the successful
40 bid that it was the successful bid and the number of video lottery terminals for which a permit is
41 awarded to the bidder. This shall be the number of video lottery terminals for which the bid was
42 submitted, or the remaining number of video lottery terminals to be awarded when the number of
43 video lottery terminals remaining is less than the number of terminals for which the bid was
44 submitted. Thereafter, a copy of the bid and the bidder's application for an operator's license or a
45 limited video lottery retailer license shall be maintained as a public record at the commissions'
46 offices and shall be open to public inspection during its normal business hours. These documents
47 may not be destroyed without the prior written consent of the Legislative Auditor.

48 (m) Prior to issuing a permit to a successful bidder, the bid price for the number of video
49 lottery terminals authorized in the permit plus the amount of the operator's annual license fee or
50 the limited video lottery retailer's annual license fee for the first license year, as specified in ~~section~~
51 §29-22B-518 of this code shall be paid to the commission by money order, certified check or
52 cashier's check. If the operator's annual license fee or the limited video lottery retailer's license
53 fee was paid for the current license year before the due date of the bid amount, the license fee
54 shall not be collected a second time for the same license year. The amount paid shall be deposited
55 into the fund established in §29-22-18a of this code.

56 (n) All permits shall be signed by the director of the lottery in the name of the state.

57 (o) If the successful bidder fails to pay to the commission the bid price and the operator's
58 annual license fee or the limited video lottery retailer's license fee for the first license year, at the
59 time specified by the commission, the bond provided for in ~~section~~ §29-22B-1109 of this code
60 shall be forfeited and the bidder shall not be issued the permit.

61 (p) In the event of a default, as provided in subsection (h) of this section, the commission
62 shall then issue the permit to the next highest bidder for video lottery terminals, or reject all
63 remaining bids and start anew the bidding procedure for the remaining number of video lottery
64 terminals.

65 (q) If after a permit is awarded, an operator or limited video lottery retailer surrenders the
66 permit, in whole or in part, or the permit is revoked or canceled by operation of law, the
67 commission may seek bids for video lottery terminals for which authorization was surrendered or
68 revoked, subject to the limitations and requirements of this article. ~~and~~

69 (r) During the fiscal year of the state ending June 30, 2011, the commission shall seek
70 bids for the 10-year period beginning July 1, 2011, and ending June 30, 2021.

NOTE: The purpose of this bill is to remove the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

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