

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 544

BY SENATORS JEFFRIES, GRADY, HAMILTON, NELSON,
PHILLIPS, SMITH, SWOPE, TAKUBO, WELD, WOELFEL,
PLYMALE, ROBERTS, QUEEN, AND BARRETT

[Originating in the Committee on Economic
Development; reported February 8, 2024]

1 A BILL to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §8-16-1 and §8-16-5 of said code; all relating to raising the threshold
3 from \$25,000 to \$50,000 for requirement of bids for government construction projects;
4 clarifying definition of "Municipal public works" or "works"; and raising the threshold from
5 \$25,000 to \$50,000 for requirement of bids for municipal public works projects.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

§8-16-1. Definitions.

1 As used in this article, the following terms shall have the following meanings unless the
2 text clearly indicates otherwise.

3 (a) "Municipal public works", or "works", or "projects" means the construction,
4 reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement,
5 increase, equipment, maintenance, repair (including replacements) and operation of jails, jail
6 facilities, municipal buildings, police stations, fire stations, libraries, museums, other public
7 buildings, incinerator plants, land fill or other garbage disposal systems, hospitals, piers, docks,
8 terminals, airports, drainage systems, flood control systems, stormwater systems and associated
9 stormwater management program, public and municipal water and wastewater utilities, public
10 service districts and utility boards, flood walls, culverts, bridges (including approaches,
11 causeways, viaducts, underpasses and connecting roadways), public markets, cemeteries, motor
12 vehicle parking facilities (including parking lots, buildings, ramps, curb-line parking, meters and
13 other facilities considered necessary, appropriate, useful, convenient or incidental to the
14 regulation, control and parking of motor vehicles), farms, dormitories, apartments and other
15 housing facilities for the students and faculties of institutions of higher education; facilities
16 providing housing for the elderly, including, but not limited to, life care facilities, congregate living
17 facilities and adult residential facilities, stadiums, gymnasiums, sports arenas, auditoriums, public
18 recreation centers, public recreation parks, swimming pools, roller skating rinks, ice skating rinks,

19 tennis courts, golf courses, polo grounds, or the grading, regrading, paving, repaving, surfacing,
20 resurfacing, curbing, recurbing, widening or otherwise improving of any street, avenue, road, alley
21 or way, or the building or renewing of sidewalks, where works or projects will be made self-
22 supporting, and the cost thereof, together with the interest thereon, will be returned within a
23 reasonable period, not exceeding forty years, by means of tolls, fees, rents, special assessments
24 or charges other than taxation; and the terms shall also mean any works or project as a whole,
25 and all integral parts thereof, including all necessary, appropriate, useful, convenient, or incidental
26 appurtenances and equipment in connection with any one or more of the above.

27 (b) "Stormwater systems" means a stormwater system in its entirety or any integral part
28 thereof used to collect and dispose of stormwater and an associated stormwater management
29 program. It includes all facilities, structures, and natural water courses used for collecting and
30 conducting stormwater to, through, and from drainage areas to the points of final outlet including,
31 but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage
32 easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts,
33 siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies, and
34 pumping stations. The term "stormwater systems" shall not include highways, road and drainage
35 easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia
36 Division of Highways.

37 (c) "Stormwater management program" means those activities associated with the
38 management, operation, maintenance and control of stormwater and stormwater systems, and
39 shall include, but not be limited to, public education, stormwater and surface runoff water quality
40 improvement, mapping, planning, flood control, inspection, enforcement, and any other activities
41 required by state and federal law. The term "stormwater management program" shall not include
42 those activities associated with the management, operation, maintenance, and control of
43 highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or

44 operated by the West Virginia Division of Highways without the express agreement of the
45 Commissioner of the Division of Highways.

§8-16-5. Powers of board.

1 (a) The board ~~shall have plenary power and authority to~~ may take all steps and
2 proceedings to make and enter into all contracts or agreements necessary, appropriate, useful,
3 convenient, or incidental to the performance of its duties and the execution of its powers and
4 authority under this article: *Provided*, That any contract or agreement relating to the financing, or
5 the construction, reconstruction, establishment, acquisition, improvement, renovation, extension,
6 enlargement, increase, equipment, operation or maintenance of any such works, and any trust
7 indenture with respect thereto as hereafter provided for, shall be approved by the governing body
8 or bodies.

9 (b) The board may employ engineers, architects, inspectors, superintendents, managers,
10 collectors, attorneys, and such other employees as in its judgment may be necessary in the
11 execution of its powers and duties, and may fix their compensation, all of whom shall do such
12 work as the board may direct. All compensation and expenses incurred in carrying out the
13 provisions of this article shall be paid solely from funds provided under the authority of this article,
14 and the board shall not exercise or carry out any power or authority herein given it so as to bind
15 said board or any municipality beyond the extent to which money shall have been, or may be,
16 provided under the authority of this article.

17 (c) No contract or agreement with any contractor or contractors for labor or materials, or
18 both, exceeding in amount the sum of ~~\$25,000~~ \$50,000 ~~shall~~ may be made without advertising
19 for bids, which bids shall be publicly opened and an award made to the lowest responsible bidder,
20 with power and authority in the board to reject any and all bids.

21 (d) After the construction, reconstruction, establishment, acquisition, renovation or
22 equipment of any such works, the board shall maintain, operate, manage, and control the same,
23 and may order and complete any improvements, extensions, enlargements, increase or repair

24 (including replacements) of and to the works that the board may consider expedient, if funds
25 therefor be available, or are made available, as provided in this article, and shall establish rules
26 for the use, maintenance, and operation of the works, and do all things necessary or expedient
27 for the successful operation thereof, and for stormwater systems and associated stormwater
28 management programs, those activities which include, but are not limited to, stormwater and
29 surface runoff water quality improvement activities necessary to comply with all federal and state
30 requirements. All public ways or public works damaged or destroyed by the board in carrying out
31 its authority under this article shall be restored or repaired by the board and placed in their original
32 condition, as nearly as practicable, if requested to do so by proper authority, out of the funds
33 provided under the authority of this article.

34 (e) Emergency repairs shall be exempt from the bidding requirements of subsection (c) of
35 this section. For the purpose of this subdivision, the term emergency repairs means repairs that
36 if not made immediately will seriously impair the use of building components, systems, and public
37 infrastructure or cause danger to persons using the building components, systems, and public
38 infrastructure.