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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

SENATE BILL NO. 427

(By Senator CRAIGO)



PASSED MARCH 9, 1996

In Effect NINETY DAYS FROM Passage

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Senate Bill No. 427

(BY SENATOR CRAIGO)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-seven-b, relating to prohibiting change orders in excess of ten percent of the original successful contract bid for certain state contracts.

Be it enacted by the Legislature of West Virginia:

That article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-seven-b, to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-37b. Change orders in excess of ten percent of original contract prohibited.

- 1 (a) Notwithstanding any provision of this chapter to
- 2 the contrary, and subject to the exceptions set forth in

3 subsections (b) and (c) of this section, no change order
4 executed or approved by the purchasing division for
5 commodities, business service contracts or professional
6 services may be made in excess of ten percent of the
7 original successful contract bid involving such contracts
8 with the state: *Provided*, That the provisions of this
9 article do not apply to alternate bids or to changes that
10 were unforeseen that may legitimately arise after perfor-
11 mance under a contract has begun, particularly in the
12 case of certain construction projects, contracts for
13 professional services and contracts regarding technology.
14 For the purposes of this section and article, "change
15 order" means a written command or directive to change,
16 alter, vary or modify a contract for commodities, busi-
17 ness services or professional services that results in
18 making an essential difference that may amount to a loss
19 of or change of original identity or a substitution of one
20 thing or another under the terms of the original success-
21 ful contract, including, but not limited to, services,
22 materials and labor that affects the original successful
23 contract bid price and usually results in an increase in
24 cost under that contract.

25 (b) In the event a change order in excess of the original
26 contract is made, the appropriate state agency is re-
27 quired to obtain approval from the joint committee on
28 government and finance prior to effectuating such
29 change order. Upon obtaining consent from the joint
30 committee on government and finance, the appropriate
31 state agency is authorized to effectuate the change order.

32 (c) In the event there is a need for a change order in
33 excess of ten percent of the original contract, such
34 change order shall be negotiated between the two lowest
35 competitive bidders on a competitive basis.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schriver
.....
Chairman Senate Committee

Rudy Deacut
.....
Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Darrell K. Ross
.....
Clerk of the Senate

Gregory M. Bay
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Will Cohen
.....
Speaker House of Delegates

The within *is disapproved* this the *1st*
day of *April* 199*5*.

Gaston Caputo
.....
Governor

PRESENTED TO THE

GOVERNOR/

Date 3/28/46

Time 9:48 am