

SB 100

FILED

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CLERK OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

SENATE BILL NO. 100

(By Senators Rowe, Caldwell, White and Hunter)

PASSED March 11, 2004

In Effect ninety days from Passage

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Senate Bill No. 100

(BY SENATORS ROWE, CALDWELL, WHITE AND HUNTER)

[Passed March 11, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §5A-3-10a of the code of West Virginia, 1931, as amended, relating to prohibiting the state and its political subdivisions from contracting with vendors owing a debt to the state or its political subdivisions.

Be it enacted by the Legislature of West Virginia:

That §5A-3-10a of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-10a. Prohibition for awarding contracts to vendors which owe a debt to the state or its political subdivisions.

- 1 (a) Unless the context clearly requires a different
- 2 meaning, for the purposes of this section, the terms:
- 3 (1) "Debt" means any assessment, premium, penalty,
- 4 fine, tax or other amount of money owed to the state or

5 any of its political subdivisions because of a judgment,
6 fine, permit violation, license assessment, defaulted
7 workers' compensation premium, penalty or other assess-
8 ment presently delinquent or due and required to be paid
9 to the state or any of its political subdivisions, including
10 any interest or additional penalties accrued thereon.

11 (2) "Debtor" means any individual, corporation, partner-
12 ship, association, limited liability company or any other
13 form or business association owing a debt to the state or
14 any of its political subdivisions.

15 (3) "Political subdivision" means any county commis-
16 sion; municipality; county board of education; any instru-
17 mentality established by a county or municipality; any
18 separate corporation or instrumentality established by one
19 or more counties or municipalities, as permitted by law; or
20 any public body charged by law with the performance of
21 a government function and whose jurisdiction is coexten-
22 sive with one or more counties or municipalities.

23 (4) "Related party" means a party, whether an individ-
24 ual, corporation, partnership, association, limited liability
25 company or any other form or business association or
26 other entity whatsoever, related to any vendor by blood,
27 marriage, ownership or contract through which the party
28 has a relationship of ownership or other interest with the
29 vendor so that the party will actually or by effect receive
30 or control a portion of the benefit, profit or other consider-
31 ation from performance of a vendor contract with the
32 party receiving an amount that meets or exceeds five
33 percent of the total contract amount.

34 (b) No contract or renewal of any contract may be
35 awarded by the state or any of its political subdivisions to
36 any vendor or prospective vendor when the vendor or
37 prospective vendor or a related party to the vendor or
38 prospective vendor is a debtor and the debt owed is an
39 amount greater than one thousand dollars in the aggre-
40 gate.

41 (c) The prohibition of this section does not apply where
42 a vendor has contested any tax administered pursuant to
43 chapter eleven of this code, workers' compensation
44 premium, permit fee or environmental fee or assessment
45 and the matter has not become final or where the vendor
46 has entered into a payment plan or agreement and the
47 vendor is not in default of any of the provisions of such
48 plan or agreement.

49 (d) All bids, contract proposals or contracts with the
50 state or any of its political subdivisions submitted or
51 approved under the provisions of this code shall include an
52 affidavit that the vendor, prospective vendor or a related
53 party to the vendor or prospective vendor does not owe
54 any debt in an amount in excess of one thousand dollars
55 or, if a debt is owed, that the provisions of subsection (c)
56 of this section apply.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *23rd*
Day of *March*, 2004.

[Handwritten Signature]
.....
Governor

RESERVED TO THE
GOVERNOR

Date 3/8/04

Time 10:10am