

SB 767

FILED

2009 MAY -6 PM 1:29

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

OFFICE OF THE
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 767

(BY SENATORS SNYDER, BROWNING, FOSTER, MINARD,
PALUMBO, SYPOLT, WHITE AND WILLIAMS)

[Passed April 11, 2009; in effect from passage.]

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(BY SENATORS SNYDER, BROWNING, FOSTER, MINARD, PALUMBO,
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[Passed April 11, 2009; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-2-9b; and to amend and reenact §9-4-3 of said code, all relating to State Medicaid Agency; exempting certain contracts for the Medicaid program from the competitive bid process of the Division of Purchasing; establishing procedures and requirements for competitive bidding and the awarding of such contracts by the Secretary of the Department of Health and Human Resources; and adding two members to the advisory council of the State Medicaid Agency.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §9-2-9b; and that §9-4-3 of said code be amended and reenacted, all to read as follows:

**ARTICLE 2. DEPARTMENT OF HEALTH AND HUMAN RESOURCES, AND
OFFICE OF COMMISSIONER OF HUMAN SERVICES;
POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.**

§9-2-9b. Contract procedure for the Medicaid program.

1 (a) The secretary is authorized to execute a contract to
2 implement professional health care, managed care,
3 actuarial and health care-related monitoring, quality
4 review/utilization, claims processing and independent
5 professional consultant contracts for the Medicaid pro-
6 gram.

7 (b) The provisions of article three, chapter five-a of this
8 code do not apply to contracts set out in subsection (a) of
9 this section: *Provided*, That the secretary shall comply
10 with the requirements set forth in this section.

11 (c) The secretary shall develop procedures and require-
12 ments for competitive bidding and the awarding of
13 contracts set out in subsection (a) of this section, which
14 procedures and requirements shall include, but are not
15 limited to, the following:

16 (1) Submitting public notice bids;

17 (2) The general terms and conditions for the contract;

18 (3) Awarding contracts;

19 (4) The description of the commodities and services
20 required for the contract, stated with sufficient clarity to
21 assure that there is a comprehensive understanding of the
22 ~~contract's~~ scope and requirements; and

Contract's
DEN

23 (5) Contract management procedures which will ensure
24 the assessment of contractor performance and compliance
25 with contract requirements on a regular basis as appropri-
26 ate for the specific contract and no less frequently than on
27 an annual basis for any contract awarded pursuant to the
28 provisions of this section.

29 (d) The awarding of the contract may be based on:

30 (1) Best value;

31 (2) Low bid;

32 (3) Sole source; or

33 (4) Any other basis the secretary chooses to award or
34 reject the bid: *Provided*, That the secretary shall document
35 the basis of any decision made pursuant to the provisions
36 of this subsection.

37 (e) The secretary may employ the services of independent
38 professional consultants to assist in preparing solicitations
39 or for the evaluation of any responses to such solicitations:
40 *Provided*, That the independent professional consultant,
41 or member of his or her immediate family, or business
42 with which he or she is associated may not have any
43 interest in the profits or benefits of the contract for which
44 he or she may participate in the preparation of the solici-
45 tation or in the evaluation of the response.

46 (f) The secretary may terminate any contract with thirty
47 days' prior written notice.

**ARTICLE 4. STATE ADVISORY BOARD; MEDICAL SERVICES FUND;
ADVISORY COUNCIL; GENERAL RELIEF FUND.**

§9-4-3. Advisory council.

1 (a) The advisory council, created by chapter one hundred
2 forty-three, Acts of the Legislature, regular session, 1953,
3 as an advisory body to the State Medicaid Agency with
4 respect to the medical services fund and disbursements
5 therefrom and to advise about health and medical services,
6 is continued so long as the medical services fund remains
7 in existence, and thereafter so long as the State Medicaid
8 Agency considers the advisory council to be necessary or
9 desirable, and it is organized as provided by this section
10 and applicable federal law and has those advisory powers

11 and duties as are granted and imposed by this section and
12 elsewhere by law.

13 (b) The advisory council shall consist of not less than
14 nine members, nor more than 15 members, all but four of
15 whom shall be appointed by the State Medicaid Agency
16 and serve until replaced or reappointed on a rotating
17 basis.

18 (c)(1) The heads of the Bureau of Public Health and
19 Bureau for Medical Services are members ex officio.

20 (2) The cochairs of the Legislative Oversight Commission
21 on Health and Human Resources Accountability, or their
22 designees, are nonvoting ex officio members.

23 (3) The remaining members comprising the council
24 consist of:

25 (A) One member of recognized ability in the field of
26 medicine and surgery with respect to whose appointment
27 the State Medical Association shall be afforded the
28 opportunity of making nomination of three qualified
29 persons;

30 (B) One member of recognized ability in the field of
31 dentistry with respect to whose appointment the State
32 Dental Association shall be afforded the opportunity of
33 nominating three qualified persons;

34 (C) One member chosen from a list of three persons
35 nominated by the West Virginia Primary Care Association;

36 (D) One member chosen from a list of three persons
37 nominated by the Behavioral Health Providers Association
38 of West Virginia; and

39 (E) The remaining members chosen from persons of
40 recognized ability in the fields of hospital administration,
41 nursing and allied professions and from consumers groups,
42 including medicaid recipients, members of the West

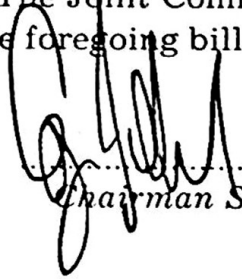
43 Virginia Directors of Senior and Community Services,
44 labor unions, cooperatives and consumer-sponsored
45 prepaid group practices plans.

46 (d) The council shall meet on call of the state Medicaid
47 Agency.

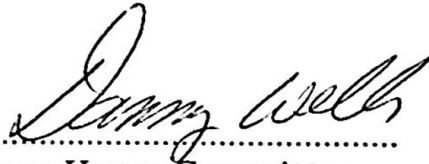
48 (e) Each member of the advisory council shall receive
49 reimbursement for reasonable and necessary travel
50 expenses for each day actually served in attendance at
51 meetings of the council in accordance with the state's
52 travel regulations. Requisitions for the expenses shall be
53 accompanied by an itemized statement, which shall be
54 filed with the Auditor and preserved as a public record.

55 (f) The advisory council shall assist the State Medicaid
56 Agency in the establishment of rules, standards and
57 bylaws necessary to carry out the provisions of this section
58 and shall serve as consultants to the State Medicaid
59 Agency in carrying out the provisions of this section.

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



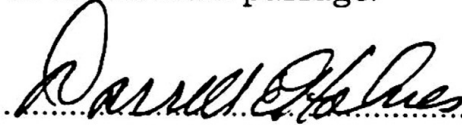
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Chairman Senate Committee




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Chairman House Committee

Originated in the Senate.

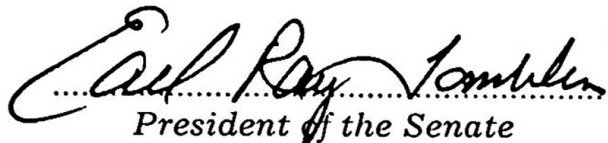
In effect from passage.



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Clerk of the Senate



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Clerk of the House of Delegates



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President of the Senate



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Speaker House of Delegates

The within *is appended* this the *6th*
Day of *May*, 2009.



.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 1 2009

Time 2:50 pm