

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4161

BY DELEGATES HANSHAW, AMBLER, KESSINGER, LYNCH,

PETHTEL AND MR. SPEAKER (MR. ARMSTEAD)

[Introduced January 17, 2018; Referred
to the Committee on Government Organization then
the Judiciary.]

1 A BILL to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating
2 to exempting the State Conservation Committee and the Conservation Agency from the
3 requirements of the Purchasing Division for contracts related to flood recovery or stream
4 restoration, and all contracts with the United States Geological Survey.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-3. Powers and duties of Director of Purchasing.

1 The director, under the direction and supervision of the secretary, is the executive officer
2 of the Purchasing Division and has the power and duty to:

- 3 (1) Direct the activities and employees of the Purchasing Division;
- 4 (2) Ensure that the purchase of or contract for commodities and services are based,
5 whenever possible, on competitive bid;
- 6 (3) Purchase or contract for, in the name of the state, the commodities, services and
7 printing required by the spending units of the state government;
- 8 (4) Apply and enforce standard specifications established in accordance with section five
9 of this article as hereinafter provided;
- 10 (5) Transfer to or between spending units or sell commodities that are surplus, obsolete
11 or unused as hereinafter provided;
- 12 (6) Have charge of central storerooms for the supply of spending units as the director
13 considers advisable;
- 14 (7) Establish and maintain a laboratory for the testing of commodities and make use of
15 existing facilities in state institutions for that purpose as hereinafter provided as the director
16 considers advisable;
- 17 (8) Suspend the right and privilege of a vendor to bid on state purchases when the director
18 has evidence that the vendor has violated any of the provisions of the purchasing law or the rules
19 and regulations of the director;

20 (9) Examine the provisions and terms of every contract entered into for and on behalf of
21 the State of West Virginia that impose any obligation upon the state to pay any sums of money
22 for commodities or services and approve the contract as to such provisions and terms; and the
23 duty of examination and approval herein set forth does not supersede the responsibility and duty
24 of the Attorney General to approve the contracts as to form: *Provided*, That the provisions of this
25 subdivision do not apply in any respect whatever to construction or repair contracts entered into
26 by the Division of Highways of the Department of Transportation or to construction or reclamation
27 contracts entered into by the Department of Environmental Protection: *Provided, however*, That
28 the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into
29 by the University of West Virginia Board of Trustees or by the board of directors of the state
30 College System, except to the extent that such boards request the facilities and services of the
31 director under the provisions of this subdivision: *Provided further*, That the provisions of this
32 subdivision do not apply to the West Virginia State Police and the West Virginia Office of
33 Laboratory Services: *And provided further, That the provisions of this subdivision shall not apply*
34 *to contracts for any natural disaster recovery or stream restoration activities entered into by the*
35 *West Virginia State Conservation Committee or the West Virginia Conservation Agency: And*
36 *provided further, That the provisions of this subdivision do not apply to joint funding agreements*
37 *with the United States Geological Survey;*

38 (10) Assure that the specifications and descriptions in all solicitations are prepared so as
39 to provide all potential suppliers-vendors who can meet the requirements of the state an
40 opportunity to bid and to assure that the specifications and descriptions do not favor a particular
41 brand or vendor. If the director determines that any such specifications or descriptions as written
42 favor a particular brand or vendor or if it is decided, either before or after the bids are opened,
43 that a commodity or service having different specifications or quality or in different quantity can
44 be bought, the director may rewrite the solicitation and the matter shall be rebid; and

45 (11) Issue a notice to cease and desist to a spending unit when the director has credible

46 evidence that a spending unit has violated competitive bidding or other requirements established
47 by this article and the rules promulgated hereunder. Failure to abide by the notice may result in
48 penalties set forth in section seventeen of this article.

NOTE: The purpose of this bill is to remove the State Conservation Committee and the Conservation Agency from the oversight of the Purchasing Division for all contracts related to flood response and recovery contracts and to exempt all contracts with the United States Geological Survey.

This bill is recommended by the Joint Committee on Flooding for introduction and passage during the 2018 Regular Session.

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