

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2535

BY DELEGATES FAST, HARSHBARGER, AND HOLLEN

[Introduced January 21, 2019; Referred
to the Committee on Veterans' Affairs and Homeland
Security then Government Organization.]

1 A BILL to amend and reenact §15A-3-14 of the Code of West Virginia, 1931, as amended, relating
2 to purchasing exemptions and procedures; application of certain code provisions for
3 purchases made under emergency conditions; providing for resolution of purchase claims
4 related to and incurred in the business of the division pursuant to this article; requiring
5 auditing of purchase claims; establishing circumstances for issuing the division's
6 requisition upon the Auditor to discharge correct purchase claims; directing the Auditor to
7 issue his or her warrant upon the Treasurer to claimants for payment of purchase claims
8 in certain circumstances; in certain circumstances establishing review by the division to
9 assess conditions comprising substantial compliance with the requirement of an audit; and
10 making technical changes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.

§15A-3-14. Exempt from Purchasing Division; purchasing procedures.

1 (a) The provisions established in §5A-3-1 *et seq.* of this code do not apply to the division
2 or any institution under the control of the division.

3 (b) When the cost under any contract or agreement entered into by the division, other than
4 compensation for personal services, involves an expenditure of more than \$2,500 and less than
5 \$25,000, the division shall solicit at least three bids, if possible, from vendors and make a written
6 contract with the lowest responsible bidder. When the cost under any contract or agreement
7 entered into by the division, other than compensation for personal services, involves an
8 expenditure of \$25,000 or more, the division shall make a written contract with the lowest
9 responsible bidder after public notice published as a Class II legal advertisement in compliance
10 with the provisions of §59-3-1 *et seq.* of this code, the publication area for the publication to be
11 the county or counties wherein the work is to be performed or which is affected by the contract,
12 which notice shall state the general character of the work and general character of the materials
13 to be furnished, the place where plans and specifications therefor may be examined and the time

14 and place of receiving bids. But a contract for lease of a correctional facility is not subject to the
15 foregoing requirements and the division may enter into the contract for lease pursuant to
16 negotiation upon the terms and conditions and for the period as it finds to be reasonable and
17 proper under the circumstances and in the best interests of proper operation or efficient
18 acquisition or construction of the projects. The division may reject any and all bids. A bond with
19 good and sufficient surety, approved by the division, shall be required of all contractors in an
20 amount equal to at least 50 percent of the contract price, conditioned upon faithful performance
21 of the contract.

22 (c) If the division ~~has to~~ must make a purchase under emergency conditions, or an
23 emergency situation, which jeopardizes the safe, secure, and orderly operations of the division,
24 as deemed by the commissioner, and approved by the secretary, ~~§15A-3-14(a) and §15A-3-14(b)~~
25 of this code ~~shall~~ does not apply.

26 (d) The commissioner may enter into agreements with medical schools and institutions of
27 higher education in this state to develop standards for appropriate and innovative medical
28 programming and care for inmates: *Provided*, That the division will follow the procedures set forth
29 in §15A-3-14(b) of this code for delivery of regular and normal medical care within the facilities.

30 (e) Any claim of a contractor, person, individual, partnership, firm, business, corporation
31 or others, not otherwise provided for, incurred while carrying on the division's business,
32 including, but not limited to, contracts with any other governmental agency of this state or of the
33 federal government including, labor done or for materials, services, commodities, or supplies
34 furnished to the division, pursuant to the provisions of any article to this chapter, shall be audited
35 by the division, and, if found correct, the division shall issue the division's requisition upon the
36 Auditor of the state therefor, showing the nature of such claim and whether it is for labor done or
37 materials, services, commodities, or supplies furnished for any purpose authorized by this chapter
38 or other purposes, and the Auditor shall issue his or her warrant upon the State Treasurer therefor,
39 and the Treasurer shall pay the same to the person, individual, partnership, firm, business,

40 corporation, or others or corporation entitled thereto, out of the funds in the division funds. If an
41 audit has not been conducted, but designated division representatives have reviewed the claim
42 and determined the claim is fair, equitable, and manifestly to the advantage of the division, and
43 all parties have agreed to a settlement of the claim, in accordance with the terms of the contract,
44 the settlement shall be considered substantial compliance with the provisions of this section.

NOTE: The purpose of this bill is to clarify the handling of purchases by the Division of Corrections and Rehabilitation.

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