

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4811

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[Introduced February 11, 2020; Referred to the
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
2 section, designated §5A-3-62 and §5A-3-63, all relating to requirements for state
3 contracts; providing that any state spending unit executing a contract notify the county or
4 municipality where the work will be performed; requiring surety bonds for vendors bidding
5 on state contracts; providing for an effective date; providing that contracts in excess of \$1
6 million require the vendor to obtain a surety bond for the bid to be considered complete;
7 providing that the surety bond is used to pay local taxes to the municipality where the
8 contract work will be performed; providing for deposit of the surety bond with the State
9 Treasurer; providing that the amount of the surety bond be advertised with the contract
10 specifications; providing for the vendor to obtain partial amounts of the surety bond under
11 certain conditions; providing for the entire amount of the surety bond be returned to the
12 vendor upon full payment; providing for any portion of the surety bond equal to the tax
13 liability of the vendor be remitted to the municipality for payment of taxes under certain
14 conditions; providing for 30 days from the end of the contract for the vendor to pay all
15 outstanding municipal taxes; providing for failure to pay local taxes as grounds for the
16 director to consider debarment of a vendor; and providing for rulemaking.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-62. Require notification to municipality of work performed under state contract.

1 All spending units executing a state contract shall notify in writing every municipality and
2 county in which the contractor or any of its subcontractors will be performing services pursuant to
3 the state contract. The notification shall be made within seven days of acceptance of the bid.

§5A-3-63. Require surety bonds for vendors with state contracts; bond forfeiture; rulemaking.

1 (a) Beginning on July 1, 2020, any bid for a contract exceeding \$1 million shall not be
2 considered complete if the vendor cannot furnish a surety bond, in an amount to be determined

3 by the director, for the purpose of paying taxes owed to municipalities from state contracts.

4 (b) The surety bond will be provided to the director on a form prescribed and furnished by
5 the director to any vendor seeking to submit a bid. The surety bond must be made payable to the
6 State of West Virginia and conditioned upon the vendor paying all local taxes to the municipality
7 where the work will be performed. The amount of the surety bond must be advertised with the
8 specifications of the contract pursuant to §5A-3-10 of this code.

9 (c) All surety bonds received by the director for contracts awarded to vendors shall be
10 deposited with the State Treasurer to hold the deposit in the name of the state in trust for the
11 purpose of ensuring the vendor pays local taxes where the work of the contract will be performed.
12 The vendor is entitled to receive, from time to time, a portion of the surety bond from the State
13 Treasurer that is equal to the amount of local taxes paid to the municipality where the contracted
14 work is performed upon written approval from the director. If all local taxes are paid in full when
15 the contract terminates, the entire amount of the surety retained by the State Treasurer shall be
16 returned to the vendor upon written approval from the director. If any local tax liability remains at
17 the conclusion of the contract, the director will inform the State Treasurer to retain an amount of
18 the surety bond equal to the outstanding tax liability. The director shall inform the vendor of its tax
19 liability to the municipality where the work was performed. The vendor shall have 30 days from
20 the date the contract ends to remit all taxes to the municipality. If the vendor remits all outstanding
21 tax liabilities to the municipality, the State Treasurer shall return the full amount of the surety bond
22 to the vendor upon written approval of the director. If the vendor fails to remit all outstanding tax
23 liabilities to the municipality within 30 days, the director shall inform the State Treasurer of the
24 outstanding tax liability, in writing, and cause the State Treasurer to remit an amount of the surety
25 bond equal to the vendor's tax liability, to the municipality and any remaining amount of the surety
26 shall be returned to the vendor.

27 (d) The director may consider a vendor's failure to timely or consistently pay local taxes to
28 municipalities while considering debarment for additional bids pursuant to §5A-3-33b to §5A-3-

29 33f of this code.

30 (e) The director shall promulgate rules pursuant to §29A-3-1 et seq. of this code to

31 effectuate this article. The director may enact emergency rules, as necessary, to carry out this

32 article pursuant to §29A-3-1 et seq. of this code.

NOTE: The purpose of this bill is to require state spending units to notify local government of work to be performed in their areas under a contract and to require vendors bidding on state contracts in excess of \$1 million furnish surety bonds for the purpose of paying municipal taxes where the contract work will be performed.

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