WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2673

By Delegate Criss

[By Request of the Division of Highways]

[Introduced February 23, 2021; Referred to the Committee on Government Organization]
A BILL to amend and reenact §17-2A-13 of the West Virginia Code, 1931, as amended, relating
to authorizing the Division of Highways to utilize its own purchasing and contracting
system; mandating compliance with Federal Highway Administration and other
requirements; and requiring a procedural rule.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

§17-2A-13. Purchase or acquisition of materials, supplies and equipment.

(a) All Notwithstanding the provisions of §5A-1-1 et seq. of this code, all materials,
supplies and equipment required for the state road program and system shall be purchased and
acquired by the commissioner through the department of purchases the Division of Highways'competitive bid process, except as otherwise provided by law. The director of purchases
commissioner shall adopt rules, and regulations in accordance with §29-3A-1 et seq., of this code
governing and controlling acquisitions and purchases in accordance with accepted business
practices so that no persons shall be precluded from participating and making sales thereof to the
commission commissioner. The commissioner shall:

(1) Establish and prescribe specifications, in all proper cases, for materials,
supplies and equipment to be purchased; shall adopt and prescribe such

(2) Prescribe purchase order, requisition or other forms as may be required; shall
negotiate

(3) Negotiate for and make purchases and acquisitions in such quantities, at such times
and under contract, in the open market or through other accepted business methods and
practices, as may be practicable in accordance with general law; shall determine

(4) Determine whether to advertise for bids, to purchase by means of sealed bids and
competitive bidding or to effect advantageous purchases through other accepted methods and
practices; and shall post

(5) Post in a public place in the offices of the commission and the department of
purchases, available commissioner, on the division’s website, and through the internet bidding
site used by the division, in a manner accessible to the public during all business hours notices
of all acquisitions and purchases to be made, at least two weeks prior to making such purchases.

(b) All purchases and acquisitions shall be made in consideration and within limits of
available appropriations and funds and in accordance with applicable provisions of article two,
chapter five-a of this code, relating to expenditure schedules and quarterly allotments of funds.

The director of purchases shall make available the facilities and services of his department
to the commissioner in the purchase and acquisition of materials, supplies and equipment and
shall cooperate with the commissioner in all such purchases and acquisitions upon request of the
commissioner. The actual expenses incurred by the director of purchases in all such cases shall
be paid by the commissioner

(c) The commissioner shall propose a procedural rule setting forth the requirements of its
purchasing system. The system must meet or exceed the Federal Highway Administration’s
requirements, award contracts to lowest bidders unless circumstances justify another bidder, and
require fair and equitable administration.

NOTE: The purpose of this bill is to authorize an exemption from the Division of Purchasing
for the Division of Highways. Currently, the Highways has contract bidding procedures in
place for construction materials and labor but utilizes the Division of Purchasing for
everything else. Federal law requires Highways, if federal funds are used, to have a
competitive bid process for construction contracts. It is anticipated that a similar electronic
bid process would be used for other types of contracts. This will reduce the time it takes
to prepare bid specifications and let the bids thereby providing systemic efficiencies and
cost reductions.

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