

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 48

BY SENATORS CLEMENTS, JEFFRIES, STOLLINGS,

PHILLIPS, BALDWIN, SMITH, AND MARONEY

[Introduced January 12, 2022; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §17-2A-13 of the Code of West Virginia, 1931, as amended, relating
 2 to authorizing the Division of Highways to utilize its own purchasing and contracting
 3 system; mandating compliance with Federal Highway Administration and other
 4 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.

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

9 ~~(1) establish and prescribe~~ Prescribe specifications, in all proper cases, for materials,
 10 supplies and equipment to be purchased; ~~shall adopt and prescribe such~~

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

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

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

19 ~~(5)~~ Post in a public place in the offices of the ~~commission and the department of~~

20 ~~purchases, available~~ commissioner, on the division's website, and through the internet bidding
21 site used by the division, in a manner accessible to the public ~~during all business hours,~~ notices
22 of all acquisitions and purchases to be made, at least two weeks prior to making such purchases.

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

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

31 (c) The commissioner shall propose a procedural rule setting forth the requirements of its
32 purchasing system. The system must meet or exceed the Federal Highway Administration's
33 requirements, award contracts to lowest bidders unless circumstances justify another bidder, and
34 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.