WEST virginia legislature

2024 regular session

Engrossed

Committee Substitute

for

Senate Bill 544

By Senators Jeffries, Grady, Hamilton, Nelson, Phillips, Smith, Swope, Takubo, Weld, Woelfel, Plymale, Roberts, Queen, and Barrett

[Originating in the Committee on Economic Development; reported February 8, 2024]

A BILL to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-16-1 and §8-16-5 of said code; all relating to raising the threshold from $25,000 to $50,000 for requirement of bids for government construction projects; clarifying definition of “Municipal public works” or “works”; and raising the threshold from $25,000 to $50,000 for requirement of bids for municipal public works projects.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

§8-16-1. Definitions.

As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(a) "Municipal public works", or "works", or "projects" means the construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, increase, equipment, maintenance, repair (including replacements) and operation of jails, jail facilities, municipal buildings, police stations, fire stations, libraries, museums, other public buildings, incinerator plants, land fill or other garbage disposal systems, hospitals, piers, docks, terminals, airports, drainage systems, flood control systems, stormwater systems and associated stormwater management program, public and municipal water and wastewater utilities, public service districts and utility boards, flood walls, culverts, bridges (including approaches, causeways, viaducts, underpasses and connecting roadways), public markets, cemeteries, motor vehicle parking facilities (including parking lots, buildings, ramps, curb-line parking, meters and other facilities considered necessary, appropriate, useful, convenient or incidental to the regulation, control and parking of motor vehicles), farms, dormitories, apartments and other housing facilities for the students and faculties of institutions of higher education; facilities providing housing for the elderly, including, but not limited to, life care facilities, congregate living facilities and adult residential facilities, stadiums, gymnasiums, sports arenas, auditoriums, public recreation centers, public recreation parks, swimming pools, roller skating rinks, ice skating rinks, tennis courts, golf courses, polo grounds, or the grading, regrading, paving, repaving, surfacing, resurfacing, curbing, recurbing, widening or otherwise improving of any street, avenue, road, alley or way, or the building or renewing of sidewalks, where works or projects will be made self-supporting, and the cost thereof, together with the interest thereon, will be returned within a reasonable period, not exceeding forty years, by means of tolls, fees, rents, special assessments or charges other than taxation; and the terms shall also mean any works or project as a whole, and all integral parts thereof, including all necessary, appropriate, useful, convenient, or incidental appurtenances and equipment in connection with any one or more of the above.

(b) Stormwater systems means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures, and natural water courses used for collecting and conducting stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies, and pumping stations. The term stormwater systems shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(c) Stormwater management program means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and shall include, but not be limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement, and any other activities required by state and federal law. The term stormwater management program shall not include those activities associated with the management, operation, maintenance, and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the Commissioner of the Division of Highways.

§8-16-5. Powers of board.

(a) The board ~~shall have plenary power and authority to~~ may take all steps and proceedings to make and enter into all contracts or agreements necessary, appropriate, useful, convenient, or incidental to the performance of its duties and the execution of its powers and authority under this article: *Provided,* That any contract or agreement relating to the financing, or the construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, increase, equipment, operation or maintenance of any such works, and any trust indenture with respect thereto as hereafter provided for, shall be approved by the governing body or bodies.

(b) The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board may direct. All compensation and expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any power or authority herein given it so as to bind said board or any municipality beyond the extent to which money shall have been, or may be, provided under the authority of this article.

(c) No contract or agreement with any contractor or contractors for labor or materials, or both, exceeding in amount the sum of ~~$25,000~~ $50,000 ~~shall~~ may be made without advertising for bids, which bids shall be publicly opened and an award made to the lowest responsible bidder, with power and authority in the board to reject any and all bids.

(d) After the construction, reconstruction, establishment, acquisition, renovation or equipment of any such works, the board shall maintain, operate, manage, and control the same, and may order and complete any improvements, extensions, enlargements, increase or repair (including replacements) of and to the works that the board may consider expedient, if funds therefor be available, or are made available, as provided in this article, and shall establish rules for the use, maintenance, and operation of the works, and do all things necessary or expedient for the successful operation thereof, and for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, stormwater and surface runoff water quality improvement activities necessary to comply with all federal and state requirements. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested to do so by proper authority, out of the funds provided under the authority of this article.

(e) Emergency repairs shall be exempt from the bidding requirements of subsection (c) of this section. For the purpose of this subdivision, the term emergency repairs means repairs that if not made immediately will seriously impair the use of building components, systems, and public infrastructure or cause danger to persons using the building components, systems, and public infrastructure.