

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 4028

By Delegates Riley, Heckert, Ellington, Statler, Toney,

Fehrenbacher and Hott

[Originating in the Committee on Finance, January

22, 2026]

1 A BILL to amend and reenact §11-15-8d the Code of West Virginia, 1931, as amended, relating to
2 sales tax exemption for certain materials used in construction of public school facilities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-8d. Limitations on right to assert exemptions.

1 (a) Persons who perform "contracting" as defined in ~~section two of this article §11-15-2 of~~
2 ~~this code~~ or persons acting in an agency capacity may not assert any exemption to which the
3 purchaser of such contracting services or the principal is entitled. Any statutory exemption to
4 which a taxpayer may be entitled is invalid unless the tangible personal property or taxable service
5 is actually purchased by such taxpayer and is directly invoiced to and paid by such taxpayer. This
6 section does not apply to purchases by an employee for his or her employer, purchases by a
7 partner for his or her partnership or purchases by a duly authorized officer of a corporation, or
8 unincorporated organization, for his or her corporation or unincorporated organization so long as
9 the purchase is invoiced to and paid by the employer, partnership, corporation or unincorporated
10 organization.

11 (b) *Transition rule.* -- This section does not apply to purchases of tangible personal
12 property or taxable services in fulfillment of a purchasing agent or procurement agent contract
13 executed and legally binding on the parties thereto prior to September 15, 1999. This transition
14 rule does not apply to any purchases of tangible personal property or taxable services made under
15 such a contract after August 31, 1991, and this transition rule does not apply if the primary purpose
16 of the purchasing agent or procurement agent contract was to avoid payment of consumers sales
17 and use taxes. Effective July 1, 2007, this section does not apply to purchases of services,
18 machinery, supplies or materials, except gasoline and special fuel, to be directly used or
19 consumed in the construction, alteration, repair or improvement of a new or existing building or
20 structure by a person performing "contracting", as defined in ~~section two of this article §11-15-2 of~~
21 ~~this code~~, if the purchaser of the contracting services would be entitled to claim the refundable

22 exemption under subdivision (2), subsection (b), section nine of this article §11-15-9(b)(2) of this
23 code had it purchased the services, machinery, supplies or materials. Effective July 1, 2009, this
24 section does not apply to purchases of services, computers, servers, building materials and
25 tangible personal property, except purchases of gasoline and special fuel, to be installed into a
26 building or facility or directly used or consumed in the construction, alteration, repair or
27 improvement of a new or existing building or structure by a person performing "contracting", as
28 defined in section two of this article §11-15-2 of this code, if the purchaser of the contracting
29 services would be entitled to claim the exemption under subdivision (7), subsection (a), section
30 nine-h of this article §11-15-9h(a)(7) of this code. This section shall not apply to qualified
31 purchases of computers and computer software, primary material handling equipment, racking
32 and racking systems, and their components, or to qualified purchases of building materials and
33 certain tangible personal property, as those terms are defined in section nine-n of this article §11-
34 15-9n of this code, by a person performing "contracting", as defined in section two of this article
35 §11-15-2 of this code, if the purchaser of the contracting services would be entitled to claim the
36 refundable exemption under section nine-n of this article §11-15-9n of this code. Purchases of
37 gasoline and special fuel shall not be treated as exempt pursuant to this section.

38 (c) Effective July 1, 2011, notwithstanding any other provision of this code to the contrary,
39 this section shall apply as to purchases of services, machinery, supplies or materials, except
40 gasoline and special fuel, to be directly used or consumed in the construction, alteration, repair or
41 improvement of a new or existing natural gas compressor station or gas transmission line having a
42 diameter of twenty inches or more by a person performing "contracting", as defined in section two
43 of this article §11-15-2 of this code, even though the purchaser of the contracting services would
44 be entitled to claim the refundable exemption under subdivision (2), subsection (b), section nine of
45 this article §11-15-9(b)(2) of this code had it purchased the services, machinery, supplies or
46 materials, unless the person or entity performing contracting under this subsection, as the term
47 "contracting" is defined in section two of this article §11-15-2 of this code, complies with

48 ~~subsection (e), section four, article thirteen-s of this chapter §11-13S-4(e) of this code.~~

49 (d) (1) Effective July 1, 2012, this section does not apply to purchases of services, building
50 materials and tangible personal property, except purchases of gasoline and special fuel, to be
51 installed into a building or facility or directly used or consumed in the construction, alteration, repair
52 or improvement of a new or existing building or structure by a person performing contracting, as
53 defined in ~~section two of this article §11-15-2 of this code~~, if the purchaser of the contracting
54 services is a nonprofit youth organization that would be entitled to claim the exemption under
55 paragraph (E), subdivision (6), subsection (a), section nine of this article §11-15-9(a)(6)(E) of this
56 code had it purchased the services, machinery, supplies or materials.

57 (2) For purposes of this subsection, the term "nonprofit youth organization" means any
58 nonprofit organization, including any subsidiary, affiliated or other related entity within its corporate
59 or business structure, that has been chartered by the United States Congress to help train young
60 people to do things for themselves and others, and that has established an area of at least six
61 thousand contiguous acres within West Virginia in which to provide adventure or recreational
62 activities for these young people and others.

63 (3) The exception provided in this subsection shall terminate June 30, 2022.

64 (e) (1) Effective July 1, 2026, this section does not apply to purchases of services, and
65 building materials, except purchases of gasoline and special fuel, to be installed into a public
66 school facility or directly used or consumed in the construction, alteration, repair or improvement of
67 a new or existing public school facility by a person performing contracting, as defined in §11-15-2
68 of this code, if the purchaser of the contracting services is an entity that would be entitled to claim
69 the exemption under §11-15-9(a)(6)(B) of this code had it purchased the services, building
70 materials or tangible personal property.

71 (2) For purposes of this subsection, the terms:

72 "Building materials" means all tangible personal property, including any device or
73 appliance used by builders, contractors or landowners in making improvements, additions, or

74 alterations to a building or other structure or to real property in such a way that such tangible
75 personal property becomes a part of the building or other structure or the realty, which is installed
76 into or directly used or consumed in the construction, addition, alteration, repair or improvement of
77 a qualified, new or expanded public school facility. "Building materials" does not include tools,
78 construction equipment or any property or device which does not become a permanent part of the
79 realty when construction is completed. A device or appliance becomes a fixture and a part of the
80 building or other structure or the real property to which it is connected when it is built into or is
81 attached to the property in such a way that its removal would substantially damage or deface such
82 property.

83 "School facility" means real property used primarily for instructional, administrative, or
84 extracurricular functions by a public elementary or secondary school, or vocational school.