

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 193

SENATOR TARR, *original sponsor*

[Originating in the Committee on Government
Organization; reported on February 21, 2020]

1 A BILL to amend and reenact §5A-3-10 of the Code of West Virginia, 1931, as amended, relating
2 to establishing deadlines for spending units to submit procurements to the Purchasing
3 Division when a continuing procurement for goods and services exceeds \$1 million.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops; continuing procurements over \$1 million.

1 (a) A purchase of and contract for commodities, printing, and services shall be based,
2 whenever possible, on competitive bids.

3 (b) The director shall solicit sealed bids for the purchase of commodities and printing which
4 is estimated to exceed \$25,000. No spending unit shall issue a series of requisitions or divide or
5 plan procurements to circumvent this \$25,000 threshold or otherwise avoid the use of sealed bids.
6 Any spending unit which awards multiple contracts for the same or similar commodity or service
7 to an individual vendor over any 12-month period, the total value of which exceeds \$25,000, shall
8 file copies of all contracts awarded to the vendor within the 12 preceding months with the director
9 immediately upon exceeding the \$25,000 limit, along with a statement explaining how the multiple
10 contract awards do not circumvent the \$25,000 threshold. If the spending unit does not
11 immediately report to the director, the director may suspend the purchasing authority of the
12 spending unit until the spending unit complies with the reporting requirement of this subsection.
13 The director may conduct a review of any spending unit to ensure compliance with this subsection.
14 Following a review, the director shall complete a report summarizing his or her findings and
15 forward the report to the spending unit. In addition, the director shall report to the Joint Committee
16 on Government and Finance on January 1 and July 1 of each year the spending units which have
17 reported under this subsection and the findings of the director.

18 (c) The director may permit bids by electronic transmission to be accepted in lieu of sealed

19 bids.

20 (d) Bids shall be solicited by public notice. The notice may be published by any advertising
21 medium the director ~~deems~~ considers advisable. The director may also solicit sealed bids by
22 sending requests by mail or electronic transmission to prospective vendors.

23 (e) (1) The director shall, without competitive bidding, purchase commodities and services
24 produced and offered for sale by nonprofit workshops, as defined in §5A-1-1 of this code, which
25 are located in this state: *Provided, That* ~~such~~ the commodities and services shall be of a fair
26 market price and of like quality comparable to other commodities and services otherwise available
27 as determined by the director with the advice of the Committee on the Purchase of Commodities
28 and Services from the Handicapped.

29 (2) To encourage contracts for commodities and services with nonprofit workshops, the
30 director shall employ a person whose responsibilities in addition to other duties ~~shall be~~ are to
31 identify all commodities and services available for purchase from nonprofit workshops, to evaluate
32 the need of the state for commodities and services to coordinate the various nonprofit workshops
33 in their production efforts, and to make available to ~~such~~ the workshops information about
34 available opportunities within state government for purchase of commodities or services which
35 might be produced and sold by such workshops. Funds to employ such a person shall be included
36 annually in the budget.

37 (f) For all commodities and services in an amount exceeding \$1 million, if the procurement
38 of the commodity or service is continuing in nature, 12 months prior to the expiration of the
39 contract or final renewal option, whichever is later, the spending unit shall submit a new
40 procurement for approval and release to the Purchasing Division. This procurement shall be
41 awarded or terminated no later than 180 days after the procurement specifications have been
42 submitted to and approved by the Purchasing Division unless the spending unit requests or
43 agrees that additional time be added.

NOTE: The purpose of this bill is to set forth timeframes for the continuing purchase of commodities and services over \$1 million under the state's purchasing law.

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