

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2003

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ENROLLED

SENATE BILL NO. 636

(By Senator Kessler, et al)

—●—
PASSED March 8, 2003

In Effect from Passage

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OFFICE WEST VIRGINIA
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Senate Bill No. 636

(BY SENATORS KESSLER, SNYDER, ROWE, ROSS, DEEM,
OLIVERIO, MCKENZIE, SMITH, WHITE, HARRISON, MINARD,
WEEKS, HUNTER AND JENKINS)

[Passed March 8, 2003; in effect from passage.]

AN ACT to amend and reenact section ten, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section six, article three-a of said chapter, all relating to exemption of commodities and services offered or produced by nonprofit workshops from competitive bidding requirement.

Be it enacted by the Legislature of West Virginia:

That section ten, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section six, article three-a of said chapter be amended and reenacted, all to read as follows:

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.

1 A purchase of and contract for commodities, printing
2 and services shall be based, whenever possible, on compet-
3 itive bids.

4 The director shall solicit sealed bids for the purchase of
5 commodities and printing which is estimated to exceed ten
6 thousand dollars. No spending unit shall issue a series of
7 requisitions which would circumvent this ten thousand-
8 dollar maximum. The director may permit bids by facsim-
9 ile transmission machine to be accepted in lieu of sealed
10 bids: *Provided*, That an original bid is received within two
11 working days following the date specified for bid opening.
12 Bids shall be obtained by public notice. The notice may be
13 published by any advertising medium the director deems
14 advisable. The director may also solicit sealed bids by
15 sending requests by mail to prospective suppliers and by
16 posting notice on a bulletin board in his office: *Provided*,
17 *however*, That the director shall, without competitive
18 bidding, purchase commodities and services produced and
19 offered for sale by nonprofit workshops, as defined in
20 section one, article one of this chapter, which are located
21 in this state: *Provided further*, That such commodities and
22 services shall be of a fair market price and of like quality
23 comparable to other commodities and services otherwise
24 available as determined by the director with the advice of
25 the committee on the purchase of commodities and
26 services from the handicapped.

27 Toward the end of effecting the making of contracts for
28 commodities and services of nonprofit workshops, the
29 director shall employ a person whose responsibilities in
30 addition to other duties shall be to identify all commodi-
31 ties and services available for purchase from such non-
32 profit workshops, to evaluate the need of the state for such
33 commodities and services to coordinate the various

34 nonprofit workshops in their production efforts and to
35 make available to such workshops information about
36 available opportunities within state government for
37 purchase of commodities or services which might be
38 produced and sold by such workshops. Funds to employ
39 such a person shall be included annually in the budget.

**ARTICLE 3A. CENTRAL NONPROFIT COORDINATING AGENCY AND
COMMITTEE FOR THE PURCHASE OF COMMODITIES
AND SERVICES FROM THE HANDICAPPED.**

§5A-3A-6. Exceptions.

1 The purchasing unit is exempt from the operation of the
2 mandatory provisions of section ten, article three of this
3 chapter when:

4 (1) The director of purchasing determines that the
5 commodity or service so produced or provided does not
6 meet the reasonable requirements of the purchasing unit;

7 (2) The committee or central nonprofit agency deter-
8 mines that a nonprofit workshop cannot reasonably
9 provide the commodity or service;

10 (3) The purchasing director determines, after considering
11 any recommendation of the committee or bids which may
12 have been offered, that the commodity or service is not of
13 a fair market price; or

14 (4) The purchasing director determines, after consulting
15 with the committee, that the commodity or service is not
16 of like quality to other commodities or services available.

17 No purchasing unit may evade the intent of this section
18 when required goods or services are reasonably available
19 from nonprofit workshops: *Provided*, That if a purchasing
20 unit is required or may be required by federal statute or
21 regulations to purchase commodities or services with
22 competitive bidding, or may otherwise be disqualified
23 from federal funding or assistance if it fails to purchase
24 commodities or services with competitive bidding, the

25 purchasing unit shall not be required to purchase com-
26 modities or services from nonprofit workshops. Such
27 purchasing units not required to purchase commodities or
28 services from nonprofit workshops include military
29 installations of the national guard.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Lucy Mox
.....
Chairman Senate Committee

Sharon Spencer
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

David E. Holmes
.....
Clerk of the Senate

Bruce M. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *21st*
Day of *March*, 2003.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/17/03

Time 9:45 AM