

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 565**

4 (By Senator Snyder (By Request))

5 _____
6 [Originating in the Committee on Government Organization;
7 reported March 21, 2013.]

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9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §5A-3-10d, relating
12 to the Purchasing Division; authorizing director to initiate
13 a reverse auction pilot program for purchasing supplies,
14 materials or equipment; outlining criteria for the director to
15 consider in determining whether use of the reverse auction
16 pilot program is appropriate; defining "reverse auction";
17 permitting third-party vendors to administer reverse auctions;
18 rule-making authority to implement the reverse auction pilot
19 program; and the reverse auction pilot program terminates on
20 July 1, 2017.

21 *Be it enacted by the Legislature of West Virginia:*

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new section, designated §5A-3-10d, to read as
24 follows:

25 **ARTICLE 3. PURCHASING DIVISION.**

1 **§5A-3-10d. Reverse auction pilot program.**

2 (a) Notwithstanding any other provision of this code, the
3 director is hereby authorized to initiate a reverse auction pilot
4 program to procure supplies, materials or equipment. The director
5 may not use the pilot program for the procurement of services under
6 any circumstances.

7 (b) The reverse auction pilot program may be utilized if the
8 director determines the use of a reverse auction would be fair,
9 economical and in the best interests of the state, and the
10 supplies, materials or equipment to be procured:

11 (1) Are subject to low price volatility;

12 (2) Have specifications that are common and not complex;

13 (3) Vary little between suppliers;

14 (4) Are sourced primarily on price, with limited ancillary
15 considerations;

16 (5) Require little collaboration from suppliers; and

17 (6) Are sold by a large, competitive supply base.

18 (c) For purposes of this section, "reverse auction" means a
19 process by which bidders compete to provide supplies, materials or
20 equipment in an open and interactive market, including but not
21 limited to, the Internet. Reverse auction bids are opened and made
22 public upon receipt by the director, and then bidders are given the
23 opportunity to submit revised bids until the bidding process is
24 complete. The contract is awarded to the lowest responsible
25 bidder.

26 (d) The director may contract with qualified, industry-

1 recognized third-party vendors to conduct reverse auctions on
2 behalf of the director.

3 (e) The director shall propose rules for legislative approval
4 in accordance with the provisions of article three, chapter twenty-
5 nine-a of this code, to establish the procedures for conducting
6 reverse auctions under the pilot program authorized by this
7 section. The rules shall include procedures for contracting with
8 qualified, industry-recognized third-party vendors.

9 (f) The reverse auction pilot program terminates on July 1,
10 2017.