

Senate Bill No. 335

(By Senators Fitzsimmons, Yost, Blair, D. Hall Kessler (Mr. President), Unger and Miller)

[Introduced January 10, 2014; referred to the Committee on Government Organization.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-60, relating to requiring materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States; providing exceptions; and defining terms.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-3-60, to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-60. Purchase of goods and equipment manufactured in the United States; definitions; exceptions.

(a) In any instance that a contract for construction or a

1 purchase of supplies, material, equipment and any other articles or
2 things by the director or by a state department is required under
3 the provisions of this article to be made upon competitive bids,
4 all bids shall specify and require that goods and equipment
5 comprising a substantial portion of the total bid amount shall be
6 American made and no bid shall be approved that does not comply
7 with this section.

8 (b) As used in this section:

9 (1) "Goods and equipment" means supplies, material, equipment
10 and any other articles or things used by or furnished to a
11 department, agency or institution of state government pursuant to
12 a contract or purchase agreement under this article, but does not
13 mean a vendor's equipment that does not remain with or otherwise
14 become the property of the state.

15 (2) "Substantial portion of the total bid amount" means an
16 item of goods or equipment of which the cost is equivalent to or
17 greater than \$25,000 or five percent, whichever is less, of the
18 total price of the bid.

19 (3) "American-made" means that the item is manufactured in the
20 United States or assembled in the United States from component
21 parts or materials, regardless of origin.

22 (4) "United States" and "United States of America" includes
23 all territory, continental or insular, subject to the jurisdiction
24 of the United States.

1 (c) Notwithstanding any provision of subsection (a) of this
2 section to the contrary, the director of the Purchasing Division
3 may, in writing, authorize the use of foreign goods and equipment
4 if:

5 (1) The specified goods or equipment are necessary for the
6 protection and safety of the public or property, and no comparable
7 American-made products are available;

8 (2) The director of the Purchasing Division determines that
9 specified goods and equipment are not produced in the United States
10 in sufficient quantity or otherwise are not reasonably available to
11 meet contract requirements; or

12 (3) The director of the Purchasing Division determines that an
13 item of American-made goods or equipment specified by the state
14 agency exceed the cost of comparable foreign-made goods or
15 equipment by more than ten percent of the cost of that item.

NOTE: The purpose of this bill is to require materials, supplies, equipment and other items purchased by the state and its agencies to be made in the United States. The bill provides exceptions. The bill also defines terms.

This section is new; therefore, strike-throughs and underscoring have been omitted.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Committee on Labor and Worker Safety Issues.