

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 575**

BY SENATOR BLAIR

[Introduced February 10, 2016;

Referred to the Committee on Government Organization.]

1 A BILL to amend and reenact §5A-3-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to the rules of the Purchasing Division of the Department of Administration; requiring that  
 3 state leases for office space provide that the landlord or owner is responsible for cleaning  
 4 or janitorial services; and prohibiting the Purchasing Division from requiring the landlord  
 5 or owner to use any particular cleaning or janitorial services provider.

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

1 That §5A-3-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
 2 to read as follows:

**ARTICLE 3. PURCHASING DIVISION.**

**§5A-3-4. Rules of director.**

1 (a) The director shall propose rules for legislative approval in accordance with the  
 2 provisions of article three, chapter twenty-nine-a of this code to:

3 (1) Authorize a spending unit to purchase specified commodities and services directly and  
 4 prescribe the manner in which such purchases shall be made;

5 (2) Authorize, in writing, a spending unit to purchase commodities and services in the open  
 6 market for immediate delivery in emergencies, define emergencies and prescribe the manner in  
 7 which such purchases shall be made and reported to the director;

8 (3) Prescribe the manner in which commodities and services shall be purchased,  
 9 delivered, stored and distributed;

10 (4) Prescribe the time for making requisitions and estimates of commodities and services,  
 11 the future period which they are to cover, the form in which they shall be submitted and the manner  
 12 of their authentication;

13 (5) Prescribe the manner of inspecting all deliveries of commodities, and making chemical  
 14 and physical tests of samples submitted with bids and samples of deliveries to determine  
 15 compliance with specifications;

16 (6) Prescribe the amount and type of deposit or bond to be submitted with a bid or contract

17 and the amount of deposit or bond to be given for the faithful performance of a contract;

18 (7) Prescribe a system whereby the director shall be required, upon the payment by a  
19 vendor of an annual fee established by the director, to give notice to such vendor of all bid  
20 solicitations for commodities and services of the type with respect to which such vendor specified  
21 notice was to be given, but no such fee shall exceed the cost of giving the notice to such vendor,  
22 nor shall such fee exceed the sum of \$125 per fiscal year nor shall such fee be charged to persons  
23 seeking only reimbursement from a spending unit;

24 (8) Prescribe that each state contract entered into by the Purchasing Division shall contain  
25 provisions for liquidated damages, remedies or provisions for the determination of the amount or  
26 amounts which the vendor shall owe as damages, in the event of default under such contract by  
27 such vendor, as determined by the director;

28 (9) Prescribe contract management procedures for all state contracts except government  
29 construction contracts including, but not limited to, those set forth in article twenty-two, chapter  
30 five of this code;

31 (10) Prescribe procedures by which oversight is provided to actively monitor spending unit  
32 purchases, including, but not limited to, all technology and software commodities and services  
33 exceeding \$1 million, approval of change orders and final acceptance by the spending units;

34 (11) Prescribe that each state contract entered into by the Purchasing Division contain  
35 provisions for the cancellation of the contract upon thirty days' notice to the vendor;

36 (12) Prescribe that each state contract entered into by the Purchasing Division for the  
37 lease of office space contain provisions for the owner or landlord of the premises to provide  
38 cleaning or janitorial services: *Provided*, That the Purchasing Division may not require the owner  
39 or landlord of the premises to use any particular person, firm or company to provide the cleaning  
40 or janitorial services;

41 ~~(42)~~ (13) Prescribe procedures for selling surplus commodities to the highest bidder by

42 means of an Internet auction site;

43 ~~(13)~~ (14) Provide such other matters as may be necessary to give effect to the foregoing  
44 rules and the provisions of this article; and

45 ~~(14)~~ (15) Prescribe procedures for encumbering purchase orders to ensure that the proper  
46 account may be encumbered before sending purchase orders to vendors.

47 (b) The director shall propose rules for legislative approval in accordance with the  
48 provisions of article three, chapter twenty-nine-a of this code to prescribe qualifications to be met  
49 by any person who is to be employed in the Purchasing Division as a state buyer. The rules must  
50 provide that a person may not be employed as a state buyer unless he or she at the time of  
51 employment either is:

52 (1) A graduate of an accredited college or university; or

53 (2) Has at least four years' experience in purchasing for any unit of government or for any  
54 business, commercial or industrial enterprise.

55 Persons serving as state buyers are subject to the provisions of article six, chapter twenty-  
56 nine of this code.

NOTE: The purpose of this bill is to provide that state leases for office space require that the landlord is responsible for cleaning or janitorial services. The bill also prohibits the Purchasing Division from requiring the owner or landlord to use of any particular cleaning or janitorial services provider.

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