

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2897**

BY DELEGATES CRISS AND LANE

[Originating in the Committee on Government

Organization; Reported March 22, 2017]



1 A BILL to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, to amend  
2 and reenact §8-16-5 of said code; to amend and reenact §16-12-11 of said code; to amend  
3 and reenact §16-13-3 of said code; to amend and reenact §16-13A-7 of said code; to  
4 amend and reenact §21-1D-5; and to amend and reenact §21-11-11 of said code, all  
5 relating to competitive bidding in construction contracts.

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

1 That §5-22-1 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; that §8-16-5 of said code be amended and reenacted; that §16-12-11 of said code be  
3 amended and reenacted; that §16-13-3 of said code be amended and reenacted; that §16-13A-7  
4 of said code be amended and reenacted; that §21-1D-5 of said code be amended and reenacted;  
5 and that §21-11-11 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.**

**§5-22-1. Bidding required; government construction contracts to go to lowest qualified  
responsible bidder; procedures to be followed in awarding government  
construction projects; penalties for violation of procedures and requirements  
debarment; exceptions.**

1 (a) This section and the requirements in this section may be referred to as the West  
2 Virginia Fairness In Competitive Bidding Act.

3 (b) As used in this section:

4 (1) "Lowest qualified responsible bidder" means the bidder that bids the lowest price and  
5 that meets, as a minimum, all the following requirements in connection with the bidder's response  
6 to the bid solicitation. The bidder ~~must~~ shall certify that it:

7 (A) Is ready, able and willing to timely furnish the labor and materials required to complete  
8 the contract;

9 (B) Is in compliance with all applicable laws of the State of West Virginia; and

10 (C) Has supplied a valid bid bond or other surety authorized or approved by the contracting  
11 public entity.

12 (2) "The state and its subdivisions" means the State of West Virginia, every political  
13 subdivision thereof, every administrative entity that includes such a subdivision, all municipalities  
14 and all county boards of education.

15 (3) "State spending unit" means a department, agency or institution of the state  
16 government for which an appropriation is requested, or to which an appropriation is made by the  
17 Legislature.

18 (4) "Alternates" means any additive options or alternative designs included in a solicitation  
19 for competitive bids that are different from and priced separately from what is included in a base  
20 bid.

21 (c) The state and its subdivisions shall, except as provided in this section, solicit  
22 competitive bids for every construction project exceeding \$25,000 in total cost. A vendor who has  
23 been debarred pursuant to ~~the provisions of~~ sections thirty-three-b through thirty-three-f, inclusive,  
24 article three, chapter five-a of this code may not bid on or be awarded a contract under this  
25 section. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety  
26 as approved by the State of West Virginia or its subdivisions.

27 (d) Following the solicitation of bids, the construction contract shall be awarded to the  
28 lowest qualified responsible bidder who shall furnish a sufficient performance and payment bond.  
29 The state and its subdivisions may reject all bids and solicit new bids on the project.

30 (e) Any solicitation of bids shall include no more than seven alternates. Alternates, if  
31 accepted, shall be accepted in the order in which they are listed on the bid form: *Provided*, That  
32 a public entity may accept an alternate out of the listed order if acceptance would not affect  
33 determination of the lowest qualified responsible bidder. Any unaccepted alternate contained  
34 within a bid shall expire one hundred fifty days after the date of the opening of bids for review.

35 Determination of the lowest qualified responsible bidder shall be based on the sum of the  
36 base bid and any alternates accepted.

37 ~~(e)~~ (f) The apparent low bidder on a contract valued at more than \$250,000 for the  
38 construction, alteration, decoration, painting or improvement of a new or existing building or  
39 structure with a state spending unit shall submit a list of all subcontractors who will perform more  
40 than \$25,000 of work on the project including labor and materials. This section does not apply to  
41 other construction projects such as highway, mine reclamation, water or sewer projects. The list  
42 shall include the names of the bidders and the license numbers as required by article eleven,  
43 chapter twenty-one of this code. This information shall be provided to the state spending unit  
44 within one business day of the opening of bids for review prior to the awarding of a construction  
45 contract. ~~If no subcontractors who will perform more than \$25,000 of work are to be used to~~  
46 ~~complete the project it will be noted on the subcontractor list. Failure to submit the subcontractor~~  
47 ~~list within one business day after the deadline for submitting bids shall result in disqualification of~~  
48 ~~the bid. If the apparent low bidder fails to submit the subcontractor list, the spending unit shall~~  
49 ~~promptly request by telephone and electronic mail that the low bidder and second low bidder~~  
50 ~~provide the subcontractor list within one business day of the request. Failure to submit the~~  
51 ~~subcontractor list within one business day of receiving the request shall result in disqualification~~  
52 ~~of the bid. A subcontractor list may not be required if the bidder provides notice in the bid~~  
53 ~~submission or in response to a request for a subcontractor list that no subcontractors who will~~  
54 ~~perform more than \$25,000 of work will be used to complete the project.~~

55           ~~(f)~~ (g) Written approval must be obtained from the state spending unit before any  
56 subcontractor substitution is permitted. Substitutions are not permitted unless:

57           (1) The subcontractor listed in the original bid has filed for bankruptcy;

58           (2) The state spending unit refuses to approve a subcontractor in the original bid because  
59 the subcontractor is under a debarment pursuant to section thirty-three-d, article three, chapter  
60 five-a of this code or a suspension under section thirty-two, article three, chapter five-a of this  
61 code; or

62           (3) The contractor certifies in writing that the subcontractor listed in the original bill fails, is  
63 unable or refuses to perform the subcontract.

64           ~~(g)~~ (h) The contracting public entity may not award the contract to a bidder which fails to  
65 meet the minimum requirements set out in this section. As to a prospective low bidder which the  
66 contracting public entity determines not to have met one or more of the requirements of this  
67 section or other requirements as determined by the public entity in the written bid solicitation, prior  
68 to the time a contract award is made, the contracting public entity shall document in writing and  
69 in reasonable detail the basis for the determination and shall place the writing in the bid file. After  
70 the award of a bid under this section, the bid file of the contracting public agency and all bids  
71 submitted in response to the bid solicitation shall be open and available for public inspection.

72           ~~(h)~~ (i) A public official or other person who individually or together with others knowingly  
73 makes an award of a contract under this section in violation of the procedures and requirements  
74 of this section is subject to the penalties set forth in section twenty-nine, article three, chapter five-  
75 a of the Code of West Virginia.

76           ~~(i)~~ (j) No officer or employee of this state or of a public agency, public authority, public  
77 corporation or other public entity and no person acting or purporting to act on behalf of an officer  
78 or employee or public entity ~~shall~~ may require that a performance bond, payment bond or surety  
79 bond required or permitted by this section be obtained from a particular surety company, agent,  
80 broker or producer.

81           ~~(j)~~ (k) All bids shall be open in accordance with the provisions of section two of this article,  
82 except design-build projects which are governed by article twenty-two-a of this chapter and are  
83 exempt from these provisions.

84           ~~(k)~~ (l) Nothing in this section applies to:

85           (1) Work performed on construction or repair projects by regular full-time employees of  
86 the state or its subdivisions;

87           (2) Prevent students enrolled in vocational educational schools from being utilized in  
88 construction or repair projects when the use is a part of the student's training program;

89           (3) Emergency repairs to building components, ~~and systems,~~ and public infrastructure.  
90 For the purpose of this subdivision, the term emergency repairs means repairs that if not made  
91 immediately will seriously impair the use of building components, ~~and systems,~~ and public  
92 infrastructure or cause danger to persons using the building components, ~~and systems,~~ and public  
93 infrastructure; and

94           (4) A situation where the state or subdivision thereof reaches an agreement with  
95 volunteers, or a volunteer group, in which the governmental body will provide construction or  
96 repair materials, architectural, engineering, technical or other professional services and the  
97 volunteers will provide the necessary labor without charge to, or liability upon, the governmental  
98 body.

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.**

#### **PART III. GENERAL POWERS AND AUTHORITY.**

##### **§8-16-5. Powers of board.**

1           (a) The board shall have plenary power and authority to take all steps and proceedings,  
2 and to make and enter into all contracts or agreements necessary, appropriate, useful, convenient  
3 or incidental to the performance of its duties and the execution of its powers and authority under

4 this article: *Provided*, That any contract or agreement relating to the financing, or the construction,  
5 reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement,  
6 increase, equipment, operation or maintenance of any such works, and any trust indenture with  
7 respect thereto as hereafter provided for, shall be approved by the governing body or bodies.

8 (b) The board may employ engineers, architects, inspectors, superintendents, managers,  
9 collectors, attorneys and such other employees as in its judgment may be necessary in the  
10 execution of its powers and duties, and may fix their compensation, all of whom shall do such  
11 work as the board may direct. All compensation and expenses incurred in carrying out the  
12 provisions of this article shall be paid solely from funds provided under the authority of this article,  
13 and the board shall not exercise or carry out any power or authority herein given it so as to bind  
14 said board or any municipality beyond the extent to which money shall have been, or may be  
15 provided under the authority of this article.

16 (c) No contract or agreement with any contractor or contractors for labor or materials, or  
17 both, exceeding in amount the sum of \$25,000 shall be made without advertising for bids, which  
18 bids shall be publicly opened and an award made to the lowest responsible bidder, with power  
19 and authority in the board to reject any and all bids.

20 (d) After the construction, reconstruction, establishment, acquisition, renovation or  
21 equipment of any such works, the board shall maintain, operate, manage and control the same,  
22 and may order and complete any improvements, extensions, enlargements, increase or repair  
23 (including replacements) of and to the works that the board may consider expedient, if funds  
24 therefor be available, or are made available, as provided in this article, and shall establish rules  
25 for the use, maintenance and operation of the works, and do all things necessary or expedient for  
26 the successful operation thereof, and for stormwater systems and associated stormwater  
27 management programs, those activities which include, but are not limited to, stormwater and  
28 surface runoff water quality improvement activities necessary to comply with all federal and state  
29 requirements. All public ways or public works damaged or destroyed by the board in carrying out

30 its authority under this article shall be restored or repaired by the board and placed in their original  
31 condition, as nearly as practicable, if requested so to do by proper authority, out of the funds  
32 provided under the authority of this article.

33 (e) Emergency repairs shall be exempt from the bidding requirements of subsection (c) of  
34 this section. For the purpose of this subdivision, the term emergency repairs means repairs that  
35 if not made immediately will seriously impair the use of building components, systems, and public  
36 infrastructure or cause danger to persons using the building components, systems, and public  
37 infrastructure.

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 12. SANITARY DISTRICTS FOR SEWAGE DISPOSAL.

#### **§16-12-11. Letting contracts; manner and cost of building additions or extensions; contracts to respond to emergency situations.**

1 All contracts for work to be done by such sanitary district, the expense of which will exceed  
2 ~~\$500~~ \$25,000, shall be let to the lowest responsible bidder therefor. The board of trustees shall  
3 cause to be published a notice informing the public and contractors of the general nature of the  
4 work and of the fact that detailed plans, drawings and specifications are on file in the office of  
5 such board of trustees and calling for sealed proposals for the construction of the work to be done  
6 at a date not earlier than ten days after the last of such publications, such notice to be published  
7 as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-  
8 nine of this code, and the publication area for such publication shall be the sanitary district. Said  
9 board of trustees shall require each bidder to deposit with his or her respective bid a certified  
10 check for an amount not less than two and one-half percent of the engineer's estimate of such  
11 work to insure the execution of the contract for which such bid is made. The board of trustees  
12 may impose such conditions as it may deem necessary upon the bidders with regard to bond and  
13 surety, guaranteeing the good faith and responsibility of such bidders, and the faithful

14 performance of such work according to contract, or for any other purpose. The board of trustees  
15 shall have the right to reject any and all bids, but if it does reject all bids, before other bids may  
16 be received notices shall be published as originally required. The board of trustees shall have  
17 power to let portions of said proposed work under different contracts.

18 Any additions or extensions to any sewage disposal plant, or sewers or drains or any other  
19 work constructed under the provisions of this article, shall be built under contract entered into  
20 under the provisions of this section in the same manner as the contract for the original plant or  
21 work. The cost of such additions or extensions, and of any additional lands or rights-of-ways  
22 acquired by said board, may be met by the sale of additional bonds to be issued and sold by the  
23 trustees, and the levy of taxes and/or the collection of service charges to retire such bonds, all as  
24 provided in this article.

25 Emergency repairs shall be exempt from the bidding requirements of this section. For the  
26 purpose of this section, the term emergency repairs means repairs that if not made immediately  
27 will seriously impair the use of building components, systems, and public infrastructure or cause  
28 danger to persons using the building components, systems, and public infrastructure.

### **ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.**

#### **§16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.**

1 The board shall have power to take all steps and proceedings and to make and enter into  
2 all contracts or agreements necessary or incidental to the performance of its duties and the  
3 execution of its powers under this article: *Provided*, That any contract relating to the financing of  
4 the acquisition or construction of any works, or any trust indenture as provided for, shall be  
5 approved by the governing body of the municipality before the same shall be effective.

6 The board may employ engineers, architects, inspectors, superintendents, managers,  
7 collectors, attorneys, and other employees as in its judgment may be necessary in the execution  
8 of its powers and duties, and may fix their compensation, all of whom shall do the work as the

9 board shall direct. All compensation and all expenses incurred in carrying out the provisions of  
10 this article shall be paid solely from funds provided under the authority of this article, and the  
11 board shall not exercise or carry out any authority or power herein given it so as to bind said board  
12 of said municipality beyond the extent to which money shall have been or may be provided under  
13 the authority of this article.

14 No contract or agreement with any contractor or contractors for labor and/or material,  
15 exceeding in amount the sum of ~~\$40,000~~ \$25,000, shall be made without advertising for bids,  
16 which bids shall be publicly opened and award made to the best bidder, with power in the board  
17 to reject any or all bids.

18 After the construction, installation, and completion of the works, or the acquisition thereof,  
19 the board shall operate, manage and control the same and may order and complete any  
20 extensions, betterments and improvements of and to the works that the board may consider  
21 expedient, if funds therefor be available or are made available as provided in this article, and shall  
22 establish rules and regulations for the use and operation of the works, and of other sewers,  
23 stormwater conduits, and drains connected therewith so far as they may affect the operation of  
24 such works, and do all things necessary or expedient for the successful operation thereof,  
25 including, but not limited to, those activities necessary to comply with all federal and state  
26 requirements, including stormwater and surface runoff water quality improvement activities.

27 The sanitary board may declare an emergency situation in the event of collector line  
28 breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding  
29 requirements and enter into direct purchase agreements or contracts for the expenses. All public  
30 ways or public works damaged or destroyed by the board in carrying out its authority under this  
31 article shall be restored or repaired by the board and placed in their original condition, as nearly  
32 as practicable, if requested so to do by proper authority, out of the funds provided by this article.

**ARTICLE 13A. PUBLIC SERVICE DISTRICTS.**

**§16-13A-7. Acquisition and operation of district properties; contracts to respond to emergency situations.**

1           The board of these districts shall have the supervision and control of all public service  
2 properties acquired or constructed by the district, and shall have the power, and it shall be its  
3 duty, to maintain, operate, extend and improve the same, including, but not limited to, those  
4 activities necessary to comply with all federal and state requirements, including water quality  
5 improvement activities. All contracts involving the expenditure by the district of more than \$25,000  
6 for construction work or for the purchase of equipment and improvements, extensions or  
7 replacements, shall be entered into only after notice inviting bids shall have been published as a  
8 Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of  
9 this code, and the publication area for such publication shall be as specified in section two of this  
10 article in the county or counties in which the district is located. The publication shall not be less  
11 than ten days prior to the making of any such contract. To the extent allowed by law, in-state  
12 contractors shall be given first priority in awarding public service district contracts. It shall be the  
13 duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible  
14 when hiring laborers for public service district construction or maintenance repair jobs. It shall  
15 further be the duty of the board to encourage contractors to use American made products in their  
16 construction to the extent possible. Any obligations incurred of any kind or character shall not in  
17 any event constitute or be deemed an indebtedness within the meaning of any of the provisions  
18 or limitations of the Constitution, but all such obligations shall be payable solely and only out of  
19 revenues derived from the operation of the public service properties of the district or from  
20 proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of  
21 materials or supplies or for furnishing the district with electrical energy or power shall be entered  
22 into for a longer period than fifteen years.

23           Emergency repairs shall be exempt from the bidding requirements of this section. For the  
24 purpose of this section, the term emergency repairs means repairs that if not made immediately

25 will seriously impair the use of building components, systems, and public infrastructure or cause  
26 danger to persons using the building components, systems, and public infrastructure.

## CHAPTER 21. LABOR

### ARTICLE 1D. WEST VIRGINIA ALCOHOL AND DRUG-FREE WORKPLACE ACT

#### §21-1D-5. Employee drug-free workplace policy required to bid for a public improvement contract.

1 After July 1, 2008, any solicitation for a public improvement contract shall require each  
2 contractor that submits a bid for the work to submit ~~at the same time~~ an affidavit that the contractor  
3 has a written plan for a drug-free workplace policy prior to being awarded a contract. If the affidavit  
4 is not submitted with the bid submission, the public authority shall promptly request by telephone  
5 and electronic mail that the low bidder and second low bidder provide the affidavit within one  
6 business day of the request. Failure to submit the affidavit within one business day of receiving  
7 the request shall result in disqualification of the bid. A public improvement contract may not be  
8 awarded to a contractor who does not have a written plan for a drug-free workplace policy and  
9 who has not submitted that plan to the appropriate contracting authority in timely fashion.

10 For subcontractors, compliance with this section may take place before their work on the  
11 public improvement is begun.

12 A drug-free workplace policy shall include the following:

13 (1) Establish drug testing and alcohol testing protocols that at a minimum require a  
14 contractor to:

15 (A) Conduct preemployment drug tests of all employees;

16 (B) Conduct random drug testing that annually tests at least ten percent of the contractor's  
17 employees who perform safety-sensitive duties;

18 (C) Conduct a drug test or alcohol test of any employee who may have caused or  
19 contributed to an accident while conducting job duties where reasonable cause exists to suspect  
20 that the employee may be intoxicated or under the influence of a controlled substance not

21 prescribed by the employee's physician when, but not limited to, the employer has evidence that  
22 an employee is or was using alcohol or a controlled substance drawn from specific documented,  
23 objective facts and reasonable inferences drawn from these facts in light of experience and  
24 training.

25 The drug or alcohol test shall be conducted as soon as possible after the accident occurred  
26 and after any necessary medical attention has been administered to the employee.

27 (D) Conduct a drug test or alcohol test of any employee when a trained supervisor has  
28 reasonable cause to believe that the employee has reported to work or is working under the  
29 influence of a drug of abuse or alcohol. Written documentation as to the nature of a supervisor's  
30 reasonable cause shall be created.

31 In order to ascertain and justify implementation of a reasonable cause test, all supervisors  
32 will be trained to recognize drug- and alcohol-related signs and symptoms.

33 (2) Require that all drug tests performed pursuant to this section be conducted by a  
34 laboratory certified by the United States Department of Health and Human Services or its  
35 successor;

36 (3) Establish standards governing the performance of drug tests by such a laboratory that  
37 include, but are not limited to, the following:

38 (A) The collection of urine specimens of individuals in a scientifically or medically approved  
39 manner and under reasonable and sanitary conditions;

40 (B) The collection and testing of urine specimens with due regard for the privacy of the  
41 individual being tested and in a manner reasonably calculated to prevent substitutions or  
42 interference with the collection and testing of specimens;

43 (C) The documentation of urine specimens through procedures that reasonably preclude  
44 the possibility of erroneous identification of test results and that provide the individual being tested  
45 a reasonable opportunity to furnish information identifying any prescription or nonprescription  
46 drugs used by the individual in connection with a medical condition to the medical review officer;

47 (D) The collection, maintenance, storage and transportation of urine specimens in a  
48 manner that reasonably precludes the possibility of contamination or adulteration of the  
49 specimens;

50 (E) The testing of a urine specimen of an individual to determine if the individual ingested,  
51 was injected or otherwise introduced with a drug of abuse in a manner that conforms to  
52 scientifically accepted analytical methods and procedures that include verification and  
53 confirmation of any positive test result by gas chromatography or mass spectrometry.

54 (4) Establish standards and procedures governing the performance of alcohol tests;

55 (5) Require that a medical review officer review all drug tests that yield a positive result;

56 (6) Establish procedures by which an individual who undergoes a drug test or alcohol test  
57 may contest a positive test result;

58 (7) Require that when an employee of a contractor tests positive for a drug of abuse or  
59 alcohol, or if an employee is caught adulterating a drug or alcohol test, as defined in section four  
60 hundred twelve, article four, chapter sixty-a of this code, the employee ~~shall be~~ is subject to  
61 appropriate disciplinary measures up to and including termination from employment, in  
62 accordance with the contractor's written drug-free workplace policy. If not terminated, the  
63 employee ~~shall be~~ is subject to random drug or alcohol tests at any time for one year after the  
64 positive test;

65 (8) Require that when a supervisor has reasonable cause to believe an employee is under  
66 the influence of a drug of abuse or alcohol at work and requires the employee to take a drug or  
67 alcohol test, the employee shall immediately be suspended from performing safety-sensitive tasks  
68 by the contractor until such time as a drug or alcohol test is performed and results of that test are  
69 available;

70 (9) Require a contractor to provide to any employee testing positive for a drug of abuse or  
71 alcohol the list of community resources where employees may seek assistance for themselves or  
72 their families as identified in paragraph (D), subdivision (12) of this section;

73           (10) Require that a contractor assist an employee who voluntarily acknowledges that the  
74 employee may have a substance abuse problem by providing the list of community resources  
75 where employees may seek assistance for themselves or their families as identified in paragraph  
76 (D), subdivision (12) of this section;

77           (11) Require that a contractor establish a written drug-free workplace policy regarding  
78 substance abuse and provide a copy of the written policy to each of its employees and to each  
79 applicant for employment. The written policy shall contain, at a minimum, all of the following:

80           (A) A summary of all the elements of the drug-free workplace policy established in  
81 accordance with this article;

82           (B) A statement that it is the contractor's intention to create a drug-free workplace  
83 environment;

84           (C) Identification of an employee who has been designated the contractor's drug-free  
85 workplace representative;

86           (D) Shall list the types of tests an employee may be subject to, which may include, but are  
87 not limited to, the following:

88           (i) Preemployment;

89           (ii) Post-accident;

90           (iii) Random; and

91           (iv) Reasonable cause.

92           (12) Require that a contractor provide within six weeks of new employment at least two  
93 hours of drug-free workplace employee education for all employees unless that employee has  
94 already received such training anytime within a prior two-year period. The employee shall  
95 participate in drug-free workplace employee education at least biannually thereafter. The  
96 employee education shall include all of the following:

97           (A) Detailed information about the content of the contractor's specific drug-free workplace  
98 policy and an opportunity for employees to ask questions regarding the policy;

99 (B) The distribution of a hard copy of the written drug-free workplace policy, including  
100 collecting an employee-signed acknowledgment receipt from each employee;

101 (C) Specific explanation of the basics of drugs and alcohol abuse, including, but not limited  
102 to, the disease model, signs and symptoms associated with substance abuse, and the effects and  
103 dangers of drugs or alcohol in the workplace; and

104 (D) A list of community resources where employees may seek assistance for themselves  
105 or their families.

106 (13) Require that a contractor provide at least two hours of drug-free workplace supervisor  
107 training for all supervisory employees and annually thereafter. The supervisor training shall  
108 include all of the following:

109 (A) How to recognize a possible drug or alcohol problem;

110 (B) How to document behaviors that demonstrate a drug or alcohol problem;

111 (C) How to confront employees with the problem from observed behaviors;

112 (D) How to initiate reasonable suspicion and post-accident testing;

113 (E) How to handle the procedures associated with random testing;

114 (F) How to make an appropriate referral for assessment and assistance;

115 (G) How to follow up with employees returning to work after a positive test; and

116 (H) How to handle drug-free workplace responsibilities in a manner that is consistent with  
117 the applicable sections of any pertinent collective bargaining agreements.

**§21-11-11. Notice included with invitations to bid and specifications.**

1 Any architect or engineer preparing any plan and specification for contracting work to be  
2 performed in this state shall include in ~~such~~ the plan, specification and invitation to bid a reference  
3 to this article informing any prospective bidder that ~~such~~ the person's contractor's license number  
4 ~~must~~ shall be included on any bid submission. A subcontractor shall furnish ~~such person's~~ his or  
5 her contractor's license number to the contractor prior to the award of the contract. If an apparent  
6 low bidder for a public improvement project, as defined in article one-d, chapter twenty-one of this

7 code, fails to submit a license number in accordance with this section, the public authority, as  
8 defined in article one-d, chapter twenty-one of this code, shall promptly request by telephone and  
9 electronic mail that the low bidder and the second low bidder provide the license number within  
10 one business day of the request. Failure of the bidder to provide the license number within one  
11 business day of receiving the request shall result in disqualification of the bid.