

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4647**

BY DELEGATES SHOTT, ESPINOSA, QUEEN, WESTFALL,  
HAMRICK, HOWELL, HOUSEHOLDER, BARRETT, BATES  
AND MILLER

[Introduced February 3, 2020; Referred to the  
Committee on the Judiciary.]



1 A BILL to amend and reenact §29-22B-1107 of the Code of West Virginia, 1931, as amended,  
2 relating to limited video lottery permit holders; and giving current permit holders a priority  
3 preference to reacquire permits they have, at the minimum stated bid price, before those  
4 permits are made available to other applicants.

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

**ARTICLE 22B. LIMITED VIDEO LOTTERY.**

**§29-22B-1107. Bidding process.**

1 (a) Bids for issuance of permits shall be obtained by public notice published as a Class II-  
2 0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

3 (b) The second publication of the notice shall appear more than 60 days next preceding  
4 the final day for submitting bids.

5 (c) Each bid shall indicate the number of video lottery terminals for which the permit is  
6 sought. The bid shall state the amount bid for each video lottery terminal for which the permit is  
7 sought.

8 (d) No bid may be altered or withdrawn after the appointed hour for the opening of the  
9 bids.

10 (e) Subject to the provisions of subsection (f) of this section, permits shall be awarded to  
11 the persons submitting the highest per terminal bids, except that no person may be authorized to  
12 directly or indirectly own or lease more than seven and one-half percent of the total number of  
13 video lottery terminals authorized in §29-22B-1101 of this code. If a high bidder already holds a  
14 permit issued under this section, the bid shall be awarded to that bidder, but only to the extent the  
15 total number of video lottery terminals the operator or limited video lottery retailer is authorized to  
16 directly or indirectly own or lease does not exceed seven and one-half percent of the number of  
17 video lottery terminals authorized for the entire state specified in §29-22B-1101 of this code.

18 (f) No bid ~~shall~~ may be considered unless the bond required by §29-22B-1109 of this code  
19 accompanies the bid or was submitted to the State Treasurer before the time designated for  
20 opening of the bid.

21 (g) No bid ~~shall~~ may be considered unless the amount of the bid equals or exceeds the  
22 minimum bid amount for a video lottery terminal specified by the commission.

23 (h) All bids for a permit may be rejected by the commission if the commission determines  
24 that the bids are inadequate. In this event, the director shall begin anew the bidding process for  
25 the permits.

26 (i) Whenever there are two or more bids of the same dollar amount and the number of  
27 authorizations for which the bids were submitted exceeds the number of authorizations still  
28 available to fill the bids, the director shall award the permit based upon the drawing of lots among  
29 the bidders.

30 (j) A person submitting a bid under this article shall deliver one copy to the Director of  
31 Purchasing of the Purchasing Division within the Department of Administration. The bid must be  
32 received at the designated office location prior to the specified date and time of the bid opening.

33 (k) The failure to deliver or the nonreceipt of the bid forms at the designated office location  
34 prior to the appointed date and hour are grounds for rejection of the bid.

35 (l) After the award of a permit, the Director of the Lottery shall indicate upon the successful  
36 bid that it was the successful bid and the number of video lottery terminals for which a permit is  
37 awarded to the bidder. This shall be the number of video lottery terminals for which the bid was  
38 submitted, or the remaining number of video lottery terminals to be awarded when the number of  
39 video lottery terminals remaining is less than the number of terminals for which the bid was  
40 submitted. Thereafter, a copy of the bid and the bidder's application for an operator's license or a  
41 limited video lottery retailer license shall be maintained as a public record at the commissions'  
42 offices and shall be open to public inspection during its normal business hours. These documents  
43 may not be destroyed without the prior written consent of the Legislative Auditor.

44 (m) Prior to issuing a permit to a successful bidder, the bid price for the number of video  
45 lottery terminals authorized in the permit plus the amount of the operator's annual license fee or  
46 the limited video lottery retailer's annual license fee for the first license year, as specified in §29-  
47 22B-518 of this code shall be paid to the commission by money order, certified check or cashier's  
48 check. If the operator's annual license fee or the limited video lottery retailer's license fee was  
49 paid for the current license year before the due date of the bid amount, the license fee ~~shall~~ may  
50 not be collected a second time for the same license year. The amount paid shall be deposited  
51 into the fund established in §29-22-18a of this code.

52 (n) All permits shall be signed by the Director of the Lottery in the name of the state.

53 (o) If the successful bidder fails to pay to the commission the bid price and the operator's  
54 annual license fee or the limited video lottery retailer's license fee for the first license year, at the  
55 time specified by the commission, the bond provided for in §29-22B-1109 of this code shall be  
56 forfeited and the bidder ~~shall~~ may not be issued the permit.

57 (p) In the event of a default, as provided in subsection (h) of this section, the commission  
58 shall then issue the permit to the next highest bidder for video lottery terminals, or reject all  
59 remaining bids and start anew the bidding procedure for the remaining number of video lottery  
60 terminals.

61 (q) If after a permit is awarded, an operator or limited video lottery retailer surrenders the  
62 permit, in whole or in part, or the permit is revoked or canceled by operation of law, the  
63 commission may seek bids for video lottery terminals for which authorization was surrendered or  
64 revoked, subject to the limitations and requirements of this article.

65 (r) During the fiscal year of the state ending June 30, 2011, the commission shall seek  
66 bids for the 10-year period beginning July 1, 2011, and ending June 30, 2021.

67 (s) For all bids conducted subsequent to June 30, 2011, the commission shall give a  
68 priority preference, to allow current permit holders to acquire permits which are held by those

- 69 permit holders at the minimum stated bid price before those permits are made available for bid to  
70 other applicants.

NOTE: The purpose of this bill is to give current video lottery permit holders a priority preference to reacquire permits they have, at the minimum stated bid price, before those permits are made available to other applicants.

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