

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2116**

BY DELEGATE BOGGS

[Introduced February 10, 2021; Referred to the  
Committee on Technology and Infrastructure then the  
Judiciary]

1 A BILL to amend and reenact §17-4-19 of the Code of West Virginia, 1931, as amended, relating  
 2 to requiring the Commissioner of Highways to verify legal employment status of  
 3 contractors and vendor’s employees for certain road and bridge contracts.

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

**ARTICLE 4. STATE ROAD SYSTEM.**

**§17-4-19. Contracts for construction, materials, etc.; work by prison labor, etc.; bidding procedure.**

1 (a) All work of construction and reconstruction of state roads and bridges, and the  
 2 furnishing of all materials and supplies therefor, and for the repair thereof shall be done and  
 3 furnished pursuant to contract, except that the commissioner may not be required to award any  
 4 contract for work which can be done advantageously, economically and practicably by  
 5 commission forces or prison labor and by use of state road equipment, or for materials and  
 6 supplies, which are manufactured, processed or assembled by the commissioner: *Provided*, That  
 7 the commissioner may not be required to award any contract for work, materials or supplies for  
 8 an amount less than \$3,000. In all the work, the commissioner shall utilize state road forces or  
 9 prison labor and state road equipment and shall manufacture, process and assemble all the  
 10 materials and supplies for the work whenever and wherever the commissioner, in his or her  
 11 discretion, finds work and services advantageous, economical and practicable in the state road  
 12 program.

13 (b) If the work is to be done, or the materials therefor are to be furnished by contract, the  
 14 commissioner shall thereupon publish the following described advertisement as a Class II legal  
 15 advertisement, in compliance with the provisions of article three, chapter fifty-nine of this code,  
 16 and the publication area for the publication shall be the county or municipality in which the road  
 17 lies.

18 (c) The advertisement shall also be published at least once in at least one daily newspaper  
 19 published in the city of Charleston and in other journals or magazines as may to the commissioner

20 seem advisable. The advertisement shall solicit sealed proposals for the construction or other  
21 improvement of the road, and for the furnishing of materials therefor, accurately describing the  
22 same, and stating the time and place for opening the proposals and reserving the right to reject  
23 any and all proposals: *Provided*, That whenever the estimated amount of any contract for work or  
24 for materials or supplies is less than \$3,000, the commissioner may not be required to advertise  
25 the letting of the contract in newspapers as above required, but may award the contract to the  
26 lowest responsible bidder, when two or more sealed proposals or bids have been received by him  
27 or her without the advertisement, but the contract may not be so awarded unless the bid of the  
28 successful bidder is \$3,000 or less.

29 (d) The commissioner shall have the power to prescribe proper prequalifications of  
30 contractors bidding on state road construction work: *Provided*, That a vendor who has been  
31 debarred pursuant to the provisions of sections thirty-three-a through thirty-three-f, article three,  
32 chapter five-a of this code, may not bid on or be awarded a contract under this section.

33 (e) To all sealed proposals there shall be attached the certified check of the bidder or  
34 bidder's bond acceptable to the commissioner, in the amount as the commissioner shall specify  
35 in the advertisement, but not to exceed five percent of the aggregate amount of the bid; but the  
36 amount shall never be less than \$5,00. The proposals shall be publicly opened and read at the  
37 time and place specified in the advertisement, and the contract for the work, or for the supplies or  
38 materials required therefor shall, if let, be awarded by the commissioner to the lowest responsible  
39 bidder for the type of construction selected.

40 (f) In case all bids be rejected, the commissioner may thereafter do the work with  
41 commission forces or with prison labor, or may readvertise in the same manner as before and let  
42 a contract for the work pursuant thereto.

43 (g) For contracts in excess of \$500,000 or greater in value, the commissioner may only  
44 contract with a contractor who provides verification that employees and any subcontractor  
45 employees are citizens of the United States, authorized workers or legal aliens eligible for

46 employment in the United States. Every contractor shall register with and utilize the federal status  
47 verification system to verify the federal employment authorization status and require of all newly  
48 hired and current employees and require the same of any subcontractors and his or her  
49 employees utilized in the contract. For purposes of this section, a legal alien is an individual who  
50 was lawfully present in the United States at the time of employment and for the duration of  
51 employment, or was permanently residing in the United States under color of law at the time of  
52 employment and for the duration of employment. For purposes of this section, an authorized  
53 worker is an individual who was lawfully present in the United States and permitted to work at the  
54 time of employment and for the duration of employment, or was permanently residing in the United  
55 States under color of law and permitted to work at the time of employment and for the duration of  
56 employment.

NOTE: The purpose of this bill is to require that Division of Highways contracts in excess of \$500,000 be entered into with contractors who verify that its employees and those employees of any subcontractors only utilize workers lawfully working in the United States.

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