

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 611

BY SENATOR CLEMENTS

[Introduced February 10, 2022; referred
to the Committee on Transportation and
Infrastructure]

1 A BILL to amend and reenact §17-4-20 of the Code of West Virginia, 1931, as amended, relating
2 to removing the cap on a bidder's contract bond; and updating outdated language.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. STATE ROAD SYSTEM.

§17-4-20. Bidder's bond required; return or forfeiture of bond.

1 (a) In any case where a contract for work and materials shall be let as a result of
2 competitive bidding, the successful bidder shall, ~~promptly and~~ within 20 days after notice of award,
3 execute a formal contract to be approved as to its form, terms and conditions by the
4 commissioner, and shall also execute and deliver to the commissioner a good and sufficient
5 surety or collateral bond, payable to the State of West Virginia, to be approved by the
6 commissioner, in such amount as the commissioner may require, ~~but not to exceed the contract~~
7 ~~price~~, conditioned that ~~such~~ the contractor shall well and truly perform his or her contract. ~~and~~

8 (b) The contractor shall pay in full to the persons entitled thereto for all material, gas, oil,
9 repairs, supplies, tires, equipment, rental charges for equipment and charges for the use of
10 equipment, and labor used by him or her in ~~and about~~ the performance of such contract, or which
11 reasonably appeared, at the time of delivery or performance, would be substantially consumed in
12 and about the performance of ~~such~~ the contract. An action either at law or in equity, may be
13 maintained upon ~~such~~ the bond for breach thereof by any person for whose benefit the ~~same~~
14 bond was executed or by his or her assignee.

15 (c) The bidder who has the contract awarded to him or her and who fails within 20 days
16 after notice of the award to execute the required contract and bond shall forfeit such check or
17 bond, ~~and the check or bond which~~ shall be taken and considered as liquidated damages and not
18 as a penalty for failure of such bidder to execute ~~such~~ the contract and bond.

19 (d) Upon the execution of ~~such~~ the contract and bond by the successful bidder his or her
20 check or bond shall be ~~returned~~ released to him or her. The checks or bonds of the unsuccessful
21 bidders shall be ~~returned~~ released to them promptly after the bids are opened and the contract

22 awarded to the successful bidder.

23 (e) A duplicate copy of such contract and bond shall be furnished by the commissioner of
24 highways, in ~~loose-leaf form~~ electronic or paper form as may be required, to the clerk of the county
25 court of the county in which such contract is to be performed. ~~and it shall be~~ It is the duty of the
26 clerk to bind and preserve the same in his or her office, and index the same in the name of the
27 commissioner and of the contractor.

NOTE: The purpose of this bill is to allow more flexibility when setting the bidder bond on projects.

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