

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 611**

BY SENATOR CLEMENTS

[Originating in the Committee on Transportation and  
Infrastructure; reported on February 16, 2022]



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2 to removing the cap on contract bidder's surety or collateral bond; and updating outdated  
3 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~~ the 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 in and about~~ the contractor in the performance of such contract,  
11 or which reasonably appeared, at the time of delivery or performance, would be substantially  
12 consumed in and about the performance of ~~such~~ the contract. ~~An action either at law or in equity,~~  
13 A legal action may be maintained upon ~~such~~ the bond for breach thereof by any person for whose  
14 benefit the ~~same~~ 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 the Division of Highways, in ~~loose-leaf form~~ electronic or paper form as may be required, to the  
25 ~~clerk of the county court~~ county clerk of the county in which such contract is to be performed. ~~and~~  
26 ~~it shall be~~ It is the duty of the county clerk to bind and preserve the same in his or her office and  
27 index the same in the name of the commissioner and of the contractor.