

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 554**

BY SENATOR WELD

[Originating in the Committee on Government  
Organization; reported on February 22, 2023]



1 A BILL to amend and reenact §5A-3-1 of the Code of West Virginia, 1931, as amended; to amend  
2 said code by adding thereto a new section, designated §12-3-21; and to amend said code  
3 by adding thereto a new section, designated §12-6D-8, all relating generally to exempting  
4 purchases made by the Auditor and West Virginia Enterprise Resource Planning Board  
5 from certain provisions of this code; requiring both the Auditor and Enterprise Resource  
6 Planning Board to maintain and adopt internal competitive procurement processes; and  
7 allowing the Auditor and the Enterprise Resource Planning Board to promulgate rules  
8 related to the exemption of purchases and the procurement process.

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

## **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

### **ARTICLE 3. PURCHASING DIVISION.**

#### **§5A-3-1. Division created; purpose; director; applicability of article; continuation.**

1 (a) The Purchasing Division within the Department of Administration is continued. The  
2 underlying purposes and policies of the Purchasing Division are:

3 (1) To serve as a source of expertise in procurement methods and practices for the various  
4 state agencies, and to assist and facilitate state agencies in procurement matters, including for  
5 travel services;

6 (2) To simplify, clarify, and modernize the law governing procurement by this state;

7 (3) To permit the continued development of procurement policies and practices;

8 (4) To make as consistent as possible the procurement rules and practices among the  
9 various spending units;

10 (5) To provide for increased public confidence in the procedures followed in public  
11 procurement;

12 (6) To ensure the fair and equitable treatment of all persons who deal with the procurement  
13 system of this state;

14 (7) To provide increased economy in procurement activities and to maximize to the fullest  
15 extent practicable the purchasing value of public funds;

16 (8) To foster effective broad-based competition within the free enterprise system;

17 (9) To provide safeguards for the maintenance of a procurement system of quality and  
18 integrity; and

19 (10) To obtain in a cost-effective and responsive manner the commodities and services  
20 required by spending units for those spending units to better serve this state's businesses and  
21 residents.

22 (b) The provisions of this article apply to all of the spending units of state government,  
23 except as otherwise provided by this article or by law.

24 (c) The provisions of this article do not apply to the judicial branch, the West Virginia State  
25 Police, the West Virginia Office of Laboratory Services, the legislative branch, to purchases of  
26 stock made by the Alcohol Beverage Control Commissioner, and to purchases of textbooks,  
27 instructional materials, digital content resources, instructional technology, hardware, software,  
28 telecommunications, and technical services by the State Board of Education for use in and in  
29 support of the public schools.

30 (d) The provisions of this article may not apply to the Auditor's Office in the purchase of  
31 commodities, computer software, computer hardware, or professional and contractual services to  
32 perform the duties of the office pursuant to §12-3-21 of this code.

33 (e) The provisions of this article may not apply to the West Virginia Enterprise Resource  
34 Planning Board in the purchase of commodities, computer software, computer hardware, or  
35 professional and contractual services to perform the duties of the board and to maintain the  
36 Enterprise Resource Planning System pursuant to §12-6D-8 of this code.

37 ~~(d)~~ (f) Notwithstanding any other provisions of this article, commodities and services may  
38 be purchased by a spending unit in the open market for immediate delivery in emergencies:  
39 ~~Provided~~ Provided, That the purchase and a description of the circumstances warranting such

40 emergency purchase are timely reported by the agency head or other authorized agent of the  
41 spending unit under the provisions of § 5A-3-4(a)(2) of this code.

42 ~~(e)~~ (g) The provisions of this article apply to every expenditure of public funds by a  
43 spending unit for commodities and services irrespective of the source of the funds, except as  
44 otherwise provided by this article or by law.

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **ARTICLE 3. APPROPRIATIONS, EXPENDITURES, AND DEDUCTIONS.**

#### **§12-3-21. Purchasing procedures of the Auditor.**

1 (a) At the discretion of the Auditor, purchases of commodities, computer software,  
2 computer hardware, or professional and contractual services to perform the duties of his or her  
3 office may be exempt from the provisions of §5A-3-1 et seq. of this code: *Provided*, That the  
4 Auditor shall maintain an internal competitive procurement process to procure or purchase items  
5 under this section, and such purchases shall be made by competitive bid or award when possible.

6 (b) The Auditor's Office has the authority to promulgate and implement or otherwise enact  
7 any legislative, interpretive, or procedural rules that the Auditor's Office deems necessary to  
8 effectuate the provisions of this section pursuant to §29A-1-1 et seq. of this code.

### **ARTICLE 6D. WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD.**

#### **§12-6D-8. Purchasing procedures of the West Virginia Enterprise Resource Planning Board.**

1 (a) At the discretion of the board, purchases of commodities, computer software, computer  
2 hardware, or professional and contractual services to perform the duties of the board and to  
3 maintain the Enterprise Resource Planning System may be exempt from the provisions of §5A-  
4 3-1 et seq. of this code: *Provided*, That the board shall adopt an internal competitive procurement  
5 process to procure or purchase items under this section, and such purchases shall be made by  
6 competitive bid or award when possible.

7           (b) The board has the authority to promulgate and implement or otherwise enact any  
8 legislative, interpretive, or procedural rules that the board deems necessary to effectuate the  
9 provisions of this section pursuant to §29A-1-1 et seq. of this code.