

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

House Bill 5194

By Delegates Statler and Hansen

[Introduced January 25, 2024; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §5A-3-10 of the West Virginia Code, 1931, as amended, relating to
2 requiring certain purchases of commodities and services from nonprofit workshops and
3 requiring the director consult with the Committee on the Purchase of Commodities and
4 Services from the Handicapped in making purchasing decisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops; continuing procurements over \$1 million.

1 (a) A purchase of and contract for commodities, printing, and services shall be based on
2 competitive bids, except when another method of procurement is determined to be in the best
3 interest of the State.

4 (b) The director shall solicit, on behalf of spending units, sealed bids for the purchase of
5 commodities and printing which is estimated to exceed \$25,000. The director may delegate the
6 procurement of commodities, services, or printing estimated to be \$25,000 or less to the spending
7 unit. The director may set a higher or lower delegated procurement limit for a particular spending
8 unit if the director determines that such action would be in the best interest of the spending unit and
9 the State. In no event may the director authorize more than \$100,000 of delegated procurement
10 authority to a spending unit.

11 (c) Spending units shall not make an individual purchase in excess of the delegated
12 procurement limit established in subsection (b) of this section, issue a series of requisitions for the
13 same or similar commodity or service or divide or plan procurements with the intention to
14 circumvent the delegated procurement limit established in subsection (b), or otherwise avoid the
15 use of sealed bids. Any spending unit that discovers it has awarded multiple contracts for the same
16 or similar commodity or service to an individual vendor over any 12-month period shall file copies
17 of all contracts awarded or orders placed for the commodity, service, or printing in question within

18 the 12 preceding months with the director upon exceeding the delegated limit, along with a
19 statement explaining how either the multiple contract awards or orders do not circumvent the
20 delegated procurement limit, or how the contracts or orders were not intended to circumvent the
21 delegated limit. If the spending unit does not report to the director within a reasonable period, the
22 director shall contact the spending unit to request such statement and may suspend the
23 purchasing authority of the spending unit until the spending unit complies with the reporting
24 requirement of this subsection, as determined appropriate. The director may conduct a review of
25 any spending unit to ensure compliance with this subsection. Following a review, in consultation
26 with the relevant spending unit, the director shall complete a report summarizing his or her findings
27 and forward the report to the spending unit. In addition, the director shall report to the Joint
28 Committee on Government and Finance on January 1 and July 1 of each year the spending units
29 which have reported under this subsection and the findings of the director.

30 (d) The director may permit bids by electronic transmission to be accepted in lieu of sealed
31 bids.

32 (e) Bids shall be solicited by public notice. The notice may be published by any advertising
33 medium the director considers advisable. The director may also solicit sealed bids by sending
34 requests by mail or electronic transmission to prospective vendors.

35 (f) (1) The director ~~may~~ shall, without competitive bidding, purchase commodities and
36 services produced and offered for sale by nonprofit workshops, as defined in §5A-1-1 of this code,
37 which are located in this state: *Provided*, That the commodities and services shall be of a fair
38 market price and of like quality comparable to other commodities and services otherwise available
39 as determined by the director with the advice of the Committee for the Purchase of Commodities
40 and Services from the Handicapped.

41 (2) To encourage contracts for commodities and services with nonprofit workshops, the
42 director shall employ a person whose responsibilities in addition to other duties are to identify all

43 commodities and services available for purchase from nonprofit workshops, to evaluate the need
44 of the state for commodities and services to coordinate the various nonprofit workshops in their
45 production efforts, and to make available to the workshops information about available
46 opportunities within state government for purchase of commodities or services which might be
47 produced and sold by such workshops. Funds to employ such a person shall be included annually
48 in the budget.

49 (g) For all commodities and services in an amount exceeding \$1 million, if the procurement
50 of the commodity or service is continuing in nature, 12 months prior to the expiration of the contract
51 or final renewal option, whichever is later, the spending unit shall coordinate with the Purchasing
52 Division on a new procurement for such commodity or service under the requirements of this
53 article. This procurement shall be awarded or terminated no later than 180 days after the
54 procurement specifications have been finally approved by the Purchasing Division.

55 (h) The amendments to this section amended during the 2024 session shall apply to all
56 applicable purchases made on or after July 1, 2025.