

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Introduced**

### **House Bill 5594**

By Delegates Hanshaw (Mr. Speaker), Chiarelli,  
Warner, Statler, and Williams

[Introduced February 12, 2024; Referred to the  
Committee on Finance]



1 A BILL to amend and reenact §5A-3-1 of the Code of West Virginia, 1931, as amended, relating to  
2 exempting West Virginia University and Marshall University from contracts, agreements, or  
3 memorandums of understanding with spending units in state government with exceptions.

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

**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 do not apply to any contract, agreement, or memorandum  
31 of understanding between a spending unit of state government and West Virginia University or  
32 Marshall university for services, except that any contract entered into under §9-2-6(5) of this code  
33 for the provision of Medicaid services by a risk-bearing entity is not exempt from the provisions of  
34 this article.

35           ~~(d)~~(e) Notwithstanding any other provisions of this article, commodities and services may  
36 be purchased by a spending unit in the open market for immediate delivery in emergencies:  
37 *Provided*, That the purchase and a description of the circumstances warranting such emergency  
38 purchase are timely reported by the agency head or other authorized agent of the spending unit  
39 under the provisions of § 5A-3-4(a)(2) of this code.

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

NOTE: The purpose of this bill is to exempt West Virginia University and Marshall University from contracts, agreements, or memorandums of understanding with spending units in state government with exceptions.

This section is new; therefore, strike-throughs and underscoring have been omitted.