

1 **H. B. 2050**

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3 (By Delegates Overington, Cowles, J. Miller and Andes)
4 [Introduced January 12, 2011; referred to the
5 Committee on Energy, Industry and Labor, Economic
6 Development and Small Business then the Judiciary.]
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §21-11B-1, §21-11B-2,
12 §21-11B-3, §21-11B-4, §21-11B-5, §21-11B-6, §21-11B-7 and
13 §21-11B-8, all relating to the right to work and making it a
14 criminal offense and actionable in court to impose an
15 obligation on a person, as a condition of employment, to
16 affiliate with a labor organization and pay dues and other
17 fees; providing penalties; and providing relief.

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

19 That the Code of West Virginia, 1931, as amended, be amended
20 by adding thereto a new article, designated §21-11B-1, §21-11B-2,
21 §21-11B-3, §21-11B-4, §21-11B-5, §21-11B-6, §21-11B-7 and
22 §21-11B-8, all to read as follows:

23 **ARTICLE 11B. WEST VIRGINIA RIGHT TO WORK LAW.**

24 **§21-11B-1. Definition.**

1 The term "labor organization" means any organization of any
2 kind, or agency or employee representation committee or union,
3 which exists for the purpose, in whole or in part, of collective
4 bargaining or of dealing with any employer, or with any public
5 body, concerning wages, rates of pay, salaries, hours of work,
6 other forms of compensation, or other terms or conditions of
7 employment or grievances, or for any other mutual aid or protection
8 in relation to employment.

9 **§21-11B-2. Right to refrain.**

10 A person may not be required, as a condition or continuation
11 of employment, to:

12 (1) Become or remain a member of a labor organization;

13 (2) Pay any dues, fees, assessments or other similar charges
14 however denominated, of any kind or amount to a labor organization;
15 or

16 (3) Pay any charity or third party in lieu of those payments,
17 any amount or pro rata portion of dues, fees, assessments or other
18 charges required of members of a labor organization.

19 **§21-11B-3. Agreements in violation.**

20 Any agreement, understanding or practice, written or oral,
21 implied or expressed, between any labor organization and employer
22 or public body which violates the rights of employees as set out in
23 the provisions of this article is hereby declared to be unlawful,
24 null and void, and of no legal effect.

1 **§21-11B-4. Penalty.**

2 A labor organization, employer, public body or other person
3 directly or indirectly violating any provision of this article is
4 guilty of a misdemeanor and, upon conviction thereof, shall be
5 fined not less than \$500 nor more than \$5,000.

6 **§21-11B-5. Injunctive relief.**

7 Any person injured as a result of any violation or threatened
8 violation of the provisions of this article is entitled to
9 injunctive relief against any and all violators or persons
10 threatening violations.

11 **§21-11B-6. Damages.**

12 Any person injured as a result of any violation or threatened
13 violation of the provisions of this article may recover damages,
14 including costs and reasonable attorney fees, resulting from the
15 violation or threatened violation. These remedies are independent
16 of and in addition to the penalties and remedies set out in other
17 provisions of this article.

18 **§21-11B-7. Duty to investigate.**

19 It is the duty of the prosecuting attorney of each county, and
20 of the Attorney General of this state, to investigate complaints of
21 violations or threatened violations of this article, to prosecute
22 all persons violating any of its provisions, and to take all means
23 necessary to ensure its enforcement.

24 **§21-11B-8. Exceptions.**

1 The provisions of this article do not apply:
2 (1) To employers and employees covered by the federal Railway
3 Labor Act;
4 (2) To federal employers and employees;
5 (3) To employers and employees on exclusive federal enclaves;
6 or
7 (4) Where they would otherwise conflict with, or be preempted
8 by, federal law.

NOTE: The purpose of this bill is to prohibit employers and labor unions from requiring employees to become or remain members of labor unions as a condition of employment.

This article is new; therefore, it has been completely underscored.