

1 **H. B. 2092**

2
3 (By Delegate Cowles)

4 [Introduced January 12, 2011; referred to the
5 Committee on Energy, Industry and Labor, Economic
6 Development and Small Business then Government
7 Organization.]
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10 A BILL to amend and reenact §21-5A-1 of the Code of West Virginia,
11 1931, as amended, relating to wages for construction of public
12 improvements, changing the definition of "construction" to
13 only include projects that have a total cost of more than
14 \$200,000.

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

16 That §21-5A-1 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.**

19 **§21-5A-1. Definitions.**

20 (1) The term "public authority," as used in this article,
21 shall mean any officer, board or commission or other agency of the
22 State of West Virginia, or any political subdivision thereof,
23 authorized by law to enter into a contract for the construction of

1 a public improvement, including any institution supported in whole
2 or in part by public funds of the State of West Virginia or its
3 political subdivisions, and this article shall apply to
4 expenditures of such institutions made in whole or in part from
5 such public funds.

6 (2) The term "construction," as used in this article, shall
7 mean any construction, reconstruction, improvement, enlargement,
8 painting, decorating, or repair of any public improvement let to
9 contract where the total costs are more than \$200,000. The term
10 "construction" shall not be construed to include temporary or
11 emergency repairs.

12 (3) The term "locality" means the county where the
13 construction is to be performed, except that if there is not
14 available in the county a sufficient number of competent skilled
15 laborers, workmen and mechanics to perform such construction
16 efficiently and properly, and may include one or more counties in
17 this state adjacent to the one in which the construction is to be
18 performed and from which such skilled laborers, workmen and
19 mechanics may be obtained in sufficient numbers to perform the
20 construction. With respect to construction of public improvements
21 with the ~~state road commission~~ Division of Highways, "locality" may
22 be construed to include one or more counties in this state adjacent
23 to the one in which the construction or public improvement is to be
24 performed and from which skilled laborers, workmen and mechanics

1 may be accessible for work on such construction on public
2 improvements.

3 (4) The term "public improvement," as used in this article,
4 shall include all buildings, roads, highways, bridges, streets,
5 alleys, sewers, ditches, sewage disposal plants, waterworks,
6 airports, and all other structures upon which construction may be
7 let to contract by the State of West Virginia or any political
8 subdivision thereof.

9 (5) The term "construction industry," as used in this article,
10 shall mean that industry which is composed of employees and
11 employers engaged in construction of buildings, roads, highways,
12 bridges, streets, alleys, sewers, ditches, sewage disposal plants,
13 waterworks, airports, and all other structures or works whether
14 private or public on which construction work as defined in
15 subsection (2) of this section is performed.

16 (6) The term "board" shall mean the minimum wage board as
17 constituted in this article.

18 (7) The term "employee," for the purposes of this article,
19 shall not be construed to include such persons as are employed or
20 hired by the public authority on a regular or temporary basis or
21 engaged in making temporary or emergency repairs.

NOTE: The purpose of this bill is to change the definition of
"construction" to only include projects whose total costs are more
than \$200,000 in the prevailing wage law.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.