

H. B. 3138

(By Delegates Caputo, Barker, Brown, Manypenny, Poore, Wells, Moore, Frazier, Longstreth, Hamilton and Ellem)

[Introduced February 15, 2011; referred to the Committee on Government Organization then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §5A-3C-1, §5A-3C-2, §5A-3C-3 and §5A-3C-4, all relating to the Department of Administration; and providing for the disclosure of employment practices of companies who employ overseas workers.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §5A-3C-1, §5A-3C-2, §5A-3C-3 and §5A-3C-4, all to read as follows:

Article 3C . Disclosure of employment practices of companies who employ overseas workers.

§5A-3C-1. Definitions.

(a) "Corporate parent" means any person, association, corporation, joint venture, partnership or other entity that owns or controls fifty percent or more of a recipient corporation.

1 (b) "Developmental assistance" means any form of public
2 assistance, including tax expenditures, made for the purpose of
3 stimulating economic development of a corporation, industry,
4 geographic jurisdiction or any other sector of the state's economy,
5 including, but not limited to, industrial development bonds,
6 training grants, loans, loan guarantees, enterprise zones,
7 empowerment zones, tax increment financing, fee waivers, land price
8 subsidies, infrastructure whose principal beneficiary is a single
9 business or defined group of businesses at the time it is built or
10 improved, matching funds, tax abatements, tax credits and tax
11 discounts of every kind, including corporate franchise, personal
12 income, sales and compensating use, raw materials, real property,
13 job creation, individual investment, excise, utility, inventory,
14 accelerated depreciation and research and development tax credits
15 and discounts.

16 **§5A-3C-2. Disclosure.**

17 (a) The state shall require each vendor submitting a bid or
18 contract to provide services and all development assistance
19 applicants to certify where the services covered by the bid,
20 contract or development assistance will be performed.

21 (b) The state shall require each vendor with a current
22 contract, each subcontractor and each recipient of development
23 assistance to:

24 (1) Certify where the services covered by the bid, contract or

1 development assistance are being performed; and

2 (2) Disclose the name and headquarters location of its parent
3 company.

4 (c) The state shall create and maintain a comprehensive
5 database of contract awards and development assistance provided by
6 all state agencies that includes, but is not limited to, the
7 information included in this section.

8 **§5A-3C-3. Study; creation of joint task force and advisory**
9 **committee.**

10 (a) There is hereby created a joint task force that shall
11 conduct a study that includes, but is not limited to, an evaluation
12 of the following:

13 (1) The extent to which current state contracts, and any
14 subcontracts under these contracts, are being performed outside of
15 the United States;

16 (2) The extent to which the performance of state agency
17 contracts, in whole or in part, in other countries results in the
18 creation or loss of family-wage or other jobs in West Virginia;

19 (3) The extent to which state agency contracts being
20 performed, in whole or in part, in other countries creates a need
21 for adjustment assistance and retraining programs to ensure West
22 Virginia's business climate, its employers and its workers remain
23 competitive globally;

24 (4) The extent to which state contracts performed at locations

1 outside the United States involve a risk of unauthorized use or
2 disclosure of personal information as well as a review of
3 applicable state and federal laws regarding the privacy of personal
4 information;

5 (5) The economic costs and benefits of awarding state
6 contracts, and any subcontracts under such contracts, to West
7 Virginia companies;

8 (6) The applicability of international trade agreements and
9 federal law to state procurement policies;

10 (7) The extent to which legislative authority over state
11 procurement is adequately protected, including the ability of state
12 agencies to adequately supervise the performance of contracts when
13 all or a portion of the work is performed in a country other than
14 the United States; and

15 (8) The reason West Virginia businesses choose to locate
16 operations outside of the United States.

17 (b) The joint task force shall be composed of the following:
18 Two delegates to be appointed by the Speaker of the House of
19 Delegates; two delegates to be appointed by the minority leader of
20 the House of Delegates; two senators to be appointed by the
21 President of the Senate; and two senators to be appointed by the
22 Minority Leader in the Senate.

23 (c) The joint task force shall consult with and be advised and
24 monitored by an advisory committee consisting of seven members:

1 Three members representing labor, appointed jointly by the
2 President of the Senate and the Speaker of the House of Delegates,
3 from a list of names recommended by a statewide organization
4 representing a cross-section of organized labor in the state; three
5 members representing business, one of whom shall represent small
6 business, appointed jointly by the President of the Senate and the
7 Speaker of the House of Delegates, from a list of names recommended
8 by a statewide organization of employers representing a cross-
9 section of employers of the state; and one member representing the
10 public.

11 **§5A-3C-4. Public right to information.**

12 (a) The information maintained in the comprehensive database
13 outlined in section two of this article shall be made available
14 online to the Legislature and the public.

15 (b) The findings and recommendations of the joint task force
16 on state contracts shall be reported annually to the Legislature
17 beginning January 1, 2012. In addition to filing the report with
18 the Legislature, the study shall be made available to the public.
19 Any member of the public has a right to request and receive a copy
20 of the study published pursuant to section three of this article.

NOTE: The purpose of this bill is to provide for companies with state-funded contracts to disclose any employment practices regarding the employment of workers overseas. It would also provide for an annual study of contract employment trends and the creation

of a joint task force.

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