

Senate Bill No. 459

(By Senators Yost, Klempa, Kessler (Acting President), McCabe and Foster)

[Introduced February 8, 2011; referred to the Committee on Labor; and then to the Committee on the Judiciary.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2H-1, §5B-2H-2, §5B-2H-3 and §5B-2H-4, all relating to creating the Keep Jobs in West Virginia Act; requiring all work performed for the state by contractors be performed in the United States; making legislative findings; permitting the state to seek damages and void contracts for work done outside the country; and providing exceptions.

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 §5B-2H-1, §5B-2H-2, §5B-2H-3 and §5B-2H-4, all to read as follows:

ARTICLE 5B. KEEP JOBS IN WEST VIRGINIA ACT.

§5B-2H-1. Title.

1 This article may be known as the "Keep Jobs in West Virginia
2 Act."

3 **§5B-2H-2. Legislative findings.**

4 The Legislature finds that:

5 (1) State departments and agencies procure services through
6 contracts with private vendors.

7 (2) Increasingly, private vendors purchase or carry out these
8 services, or subcontract or otherwise procure these services, from
9 a location outside the United States. This international
10 outsourcing substantially increases unemployment and workforce
11 dislocation and deprives West Virginia residents of job
12 opportunities, including industries and jobs that West Virginia has
13 expended resources to attract.

14 (3) International outsourcing erodes state and local revenues
15 by drawing jobs and income away from state residents and
16 businesses. International outsourcing additionally may provide
17 fewer privacy protections for state residents whose personal
18 information may, in the course of service delivery, be transmitted
19 to locations outside the United States.

20 **§5B-2H-3. State contracts.**

21 Except as provided in section four of this article, the
22 following requirements apply to all state contracts:

23 (1) State department and agencies may not award a contract to
24 a contractor or subcontractor who performs the work at a site
25 outside the United States;

1 (2) Each vendor submitting a bid or contract to provide
2 services for the state must certify the services covered by the bid
3 or contract will be performed in the United States;

4 (3) If, during the life of the contract, the contractor or
5 subcontractor shifts work overseas, then the department or agency
6 shall require the contractor or subcontractor to pay damages in an
7 amount equal to the amount paid by the department or agency for the
8 percentage of outsourced work. The department or agency also shall
9 terminate the contract for noncompliance; and

10 (4) The department or agency is entitled to bring a civil
11 action in state or federal court to compel enforcement or damages
12 under this article. The court shall award reasonable attorney's
13 fees and costs to the department or agency.

14 **§5B-2H-4. Exceptions.**

15 Section three of this article does not apply to a contract if
16 refusing to award that contract would violate the specific terms to
17 which state consented under:

18 (1) The Agreement on Government Procurement of the World Trade
19 Organization; or

20 (2) A bilateral or regional free trade agreement.

NOTE: The purpose of this bill is to create the "Keep Jobs in West Virginia Act." The bill requires all work performed for the state by contractors be performed in the United States. The bill makes legislative findings. The bill also permits the state to seek damages and void contracts for work done outside the country and provides exceptions.

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