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(By Delegates Barker, Williams, Longstreth, Swartzmiller,  
Walker and Talbott)

[Introduced January 25, 2012; referred to the

Committee on Energy, Industry and Labor, Economic Development and  
Small Business then Finance .]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new chapter, designated §5I-1-1, §5I-1-2 and  
§5I-1-3, all relating to creating the "Keep Jobs in West  
Virginia Act;" prohibiting public agencies from awarding  
contracts to vendors who perform that work outside the United  
States; requiring vendors to certify that no work will be  
performed outside of the United States; defining terms; making  
findings; and providing remedies.

*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 chapter, designated §5I-1-1, §5I-1-2 and  
§5I-1-3, all to read as follows:

**CHAPTER 5I. KEEP JOBS IN WEST VIRGINIA ACT.**

**ARTICLE 1. KEEP JOBS IN WEST VIRGINIA.**

**§5I-1-1. Findings.**

1       The Legislature finds that:

2       (1) Public agencies procure services in part through contracts  
3 with private vendors;

4       (2) Increasing, private vendors carry out these services, or  
5 subcontract or otherwise procure these services, from a location  
6 outside the United States;

7       (3) Such international outsourcing exacerbates unemployment  
8 and workforce dislocation and deprives West Virginia residents of  
9 job opportunities, including industries and jobs this state has  
10 expended development assistance resources to attract;

11       (4) International outsourcing erodes state and local revenues  
12 by drawing jobs and income away from the state; and

13       (5) International outsourcing additionally may provide less  
14 privacy protections for state residents whose personal information  
15 may, in the course of service delivery, be transmitted to locations  
16 outside the United States.

17 **§5I-1-2. Definitions.**

18       As used in this chapter, the following terms have the meanings  
19 ascribed to them in this section, unless the context in which the  
20 term is used clearly requires another meaning:

21       "Developmental assistance" means any form of public  
22 assistance, including tax expenditures, made for the purpose of  
23 stimulating economic development of a corporation, industry,  
24 geographic jurisdiction or any other sector of the state's economy,

1 including, but not limited to, industrial development bonds,  
2 training grants, loans, loan guarantees, enterprise zones,  
3 empowerment zones, tax increment financing, fee waivers, land price  
4 subsidies, infrastructure whose principal beneficiary is a single  
5 business or defined group of businesses at the time it is built or  
6 improved, matching funds, tax abatements, tax credits and tax  
7 discounts of every kind, including corporate franchise, personal  
8 income, sales and compensating use, raw materials, real property,  
9 job creation, individual investment, excise, utility, inventory,  
10 accelerated depreciation and research and development tax credits  
11 and discounts.

12 (2) "Public agency" or "agency" means the State of West  
13 Virginia, its departments, agencies, boards, commissions, and  
14 institutions, and all units and political subdivisions thereof,  
15 including local school districts.

16 **§5I-1-3. General provisions.**

17 The following provisions apply to all public agency contracts,  
18 all local contracts funded with state dollars, except where it  
19 would be inconsistent with current state law, and state-funded  
20 development assistance:

21 (1) Public agencies may not award a contract or development  
22 assistance to a vendor, bidder, contractor, subcontractor or  
23 applicant for development assistant that performs the work at a  
24 site outside the United States. Nothing in this bill may be

1 construed to supersede or replace existing requirements in place  
2 for development assistant programs.

3 (2) Each vendor submitting a bid or contract to provide  
4 services and all development assistance applicants shall certify  
5 that the services covered by the bid, contract or development  
6 assistance will be performed in the United States.

7 (3) If, during the life of the contract, the vendor,  
8 contractor, subcontractor or development assistance recipient  
9 shifts overseas work that is funded under the contract, the public  
10 agency shall terminate the contract for noncompliance. In  
11 addition, the vendor, contractor, subcontractor or development  
12 assistance recipient shall forfeit penalties to the public agency  
13 or local government in an amount equal to the amount paid by the  
14 public agency or local government for the percentage of work that  
15 was performed with workers outside the United States. Any  
16 contractor, subcontractor, vendor, bidder or development assistance  
17 recipient that violates the above sections may not receive any  
18 public agency contracts or development assistant development  
19 assistance for a period of five years from the date of  
20 determinations thereof.

21 (4) The public agency is entitled to bring a civil action in  
22 state or federal court to compel enforcement under this chapter.  
23 The court shall award reasonable attorney's fees and costs to the  
24 public agency.

NOTE: The purpose of this bill is to create "Keep Jobs in West Virginia Act." The bill prohibits public agencies from awarding contracts to vendors who perform that work outside the United States. The bill requires vendors to certify that no work will be performed outside of the United States. The bill also makes findings, defines terms and provides remedies.

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