

1 **H. B. 4585**

2
3 (By Delegate Armstead)

4 [Introduced February 17, 2012; referred to the
5 Committee on the Judiciary.]
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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; and exempting Volunteer Fire Departments from
13 the definition of "public authority" if they are constructing
14 a facility to replace another one that has been destroyed.

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~~ means any officer, board or commission or other agency
22 of the State of West Virginia, or any political subdivision
23 thereof, authorized by law to enter into a contract for the

1 construction of a public improvement, including any institution
2 supported ,in whole or in part, by public funds of the State of
3 West Virginia or its political subdivisions, and this article ~~shall~~
4 ~~apply~~ applies to expenditures of such institutions made , in whole
5 or in part, from such public funds: Provided, That the term
6 "public authority" does not include any volunteer fire department
7 that contracts to construct a volunteer fire department facility:
8 Provided, however, That the volunteer fire department facility
9 contracted to be constructed is replacing a facility that has been
10 destroyed.

11 (2) The term "construction," as used in this article, ~~shall~~
12 ~~mean~~ means any construction, reconstruction, improvement,
13 enlargement, painting, decorating, or repair of any public
14 improvement let to contract. The term "construction" ~~shall~~ does
15 ~~not be construed to~~ include temporary or emergency repairs.

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

1 with the State Road Commission, "locality" may be construed to
2 include one or more counties in this state adjacent to the one in
3 which the construction or public improvement is to be performed and
4 from which skilled laborers, workmen and mechanics may be
5 accessible for work on such construction on public improvements.

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

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

19 (6) The term "board" ~~shall mean~~ means the minimum wage board
20 as constituted in this article.

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

NOTE: The purpose of this bill is to exempt volunteer fire departments from the definition of "public authority" if they are constructing a facility to replace one that has been destroyed.

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