

H. B. 2978

(By Delegates Armstead, McCuskey, Walters and Lane)
[Introduced March 19, 2013; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §21-5A-1 of the Code of West Virginia, 1931, as amended, relating to wages for construction of public improvements; and exempting Volunteer Fire Departments from the definition of "public authority" if it is constructing a facility to replace one that has been destroyed.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.

§21-5A-1. Definitions.

(1) The term "public authority," as used in this article, ~~shall mean~~ means any officer, board or commission or other agency of the State of West Virginia, or any political subdivision 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: However, "public authority"
6 does not include any volunteer fire department when contracting to
7 construct a volunteer fire department facility that replaces a
8 facility that has been destroyed.

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

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

1 which the construction or public improvement is to be performed and
2 from which skilled laborers, workmen and mechanics may be
3 accessible for work on such construction on public improvements.

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

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

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

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