

Senate Bill No. 321

(By Senator Blair)

[Introduced January 27, 2015; referred to the Committee on Labor; and then to the Committee on
the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4 and §21-1E-5, all relating to creating the Paycheck Protection Act; providing short title; protecting rights of employers and employees under federal labor law; prohibiting employers from deducting fees from wages of an employee which would be paid to a labor organization except upon request of employee; prohibiting employers from contracting with labor organizations to deduct fees from wages of an employee which would be paid to a labor organization except upon the request of employee; providing certain agreements are not impaired; and defining terms.

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 §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4 and §21-1E-5, all to read as follows:

ARTICLE 1E. PAYCHECK PROTECTION ACT.

§21-1E-1. Short title.

1 This article may be cited as the "Paycheck Protection Act."

2 **§21-1E-2. Definitions.**

3 As used in this article, the term:

4 "Employee" includes any employee and is not be limited to the employees of a particular
5 employer.

6 "Employer" includes any person acting in the interest of an employer, directly or indirectly,
7 but does not include the United States, a state or any political subdivision thereof, any person subject
8 to the Railway Labor Act, as amended, any person employed by a transit authority subject to the
9 provisions and requirements of Section 13(c) of the Federal Transit Act, 49 U.S.C. Section 5333(b),
10 any labor organization (other than when acting as an employer), or anyone acting in the capacity of
11 an officer or agent of that labor organization.

12 "Employment" means employment by an employer.

13 "Federal labor laws" means the National Labor Relations Act and the Labor Management
14 Relations Act, as amended by federal administrative regulations relating to labor and management
15 or employee and employer issues, and the United States Constitution as amended and as construed
16 by the federal courts.

17 "Governmental body" means the State of West Virginia or any political subdivisions,
18 including, but not limited to, cities, municipalities, counties, and any public body, agency, board,
19 commission or other governmental, quasi-governmental, or quasi-public body or its subdivision.

20 "Labor organization" means any organization of any kind or any agency or employee
21 representation committee or plan in which employees participate and which exists for the purpose,
22 in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates

1 of pay, hours of employment, or conditions of work.

2 **§21-1E-3. Rights under federal labor law protected.**

3 The rights protected under federal labor laws include, but are not limited to:

4 (1) An employer's or employee's right to express views in favor of or contrary to unionization
5 and any other labor relations issues to the full extent allowed by the First Amendment of the United
6 States Constitution and Section 8 (c) of the National Labor Relations Act;

7 (2) An employee's right to participate in, and an employer's right to demand, a secret ballot
8 election under federal law, including, without limitation, the full procedural protections afforded
9 by those laws for defining the unit, conducting the election campaign and election, and making any
10 challenges or objections thereto; and

11 (3) An employer's right to:

12 (A) Oppose the recognition of a labor organization based solely on reviewing authorization
13 cards absent a secret ballot election conducted in accordance with federal labor laws;

14 (B) Refuse to release sensitive and private employee information beyond the requirements
15 of federal labor laws;

16 (C) Maintain the confidentiality of employee information to the maximum extent allowed
17 by federal labor laws; and

18 (D) Restrict access to its property or business to the maximum extent allowed by federal
19 labor laws.

20 **§21-1E-4. Deductions from employees' earnings of fees of labor organizations.**

21 (1) No employer may deduct from the wages or other earnings of any employee any fee,
22 assessment, or other sum of money whatsoever to be held for or to be paid over to a labor

1 organization except on the written authorization of the employee. That authorization may be revoked
2 at any time at the request of the employee.

3 (2) Nothing in this section may be construed to impair any contract, agreement, or collective
4 bargaining agreement in existence prior to the effective date of this article.

5 (3) This section does not apply to any collective bargaining agreement entered into pursuant
6 to the Railway Labor Act, as amended, or to any professional association whose membership is
7 exclusively composed of educators, law-enforcement officers, or firefighters not engaged or
8 engaging in contracting or collective bargaining.

9 **§21-1E-5. Contracts allowing deductions from employees' earnings of fees of labor**
10 **organizations.**

11 (1) It is unlawful for any employer to contract with any labor organization and for any labor
12 organization to contract with any employer for the deduction of any fee, assessment, or other sum
13 of money whatsoever from the wages or other earnings of an employee to be held for or to be paid
14 over to a labor organization except upon the condition to be embodied in the contract that the
15 deduction will be made only on the written authorization of the employee. That authorization may
16 be revoked at any time at the request of the employee.

17 (2) Nothing in this section may be construed to impair any contract, agreement, or collective
18 bargaining agreement in existence prior to the effective date of this article.

NOTE: The purpose of this bill is to create the Paycheck Protection Act. The bill provides a short title. The bill protects rights of employers and employees under federal labor law. The bill

prohibits employers from deducting fees from the wages of an employee which would be paid to a labor organization except on the request of the employee. The bill prohibits employers from contracting with labor organizations from deducting fees from the wages of an employee which would be paid to a labor organization except on the request of the employee. The bill provides that certain agreements are not impaired. The bill defines terms.

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