

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 2643**

**2015 Carryover**

(BY DELEGATES OVERINGTON, WALTERS, HOUSEHOLDER,  
FAIRCLOTH, ESPINOSA, UPSON, CADLE, FOSTER, FAST,  
WESTFALL AND BLAIR)

**ECONOMIC IMPACT STATEMENT**

[Introduced January 13, 2016; referred to the  
Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6, §21-5G-7  
 3 and §21-5G-8, all relating to establishing the West Virginia Right to Work Law; prohibiting  
 4 any requirement that a person become or remain a member of a labor organization as a  
 5 condition of employment; prohibiting any requirement that a person must pay dues or other  
 6 fees to a labor organization; prohibiting any requirement that a person contribute to a  
 7 charity in lieu of paying dues or other fees to a labor organization; providing that certain  
 8 agreements or practices between labor organizations and employers are null and void;  
 9 providing for monetary penalties; providing for injunctive relief; providing for a private  
 10 cause of action for damages and attorney=s fees; providing exceptions; requiring  
 11 prosecuting attorneys and the Attorney General to investigate complaints; and defining a  
 12 term.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 article, designated §21-5G-1, §21-5G-2, §21-5G-3, §21-5G-4, §21-5G-5, §21-5G-6, §21-5G-7 and  
 3 §21-5G-8, all to read as follows:

**ARTICLE 5G. WEST VIRGINIA RIGHT TO WORK LAW.**

**§21-5G-1. Definition.**

1 The term Labor organization@ means any organization of any kind, or agency or  
 2 employee representation committee or union, which exists for the purpose, in whole or in part, of  
 3 collective bargaining or of dealing with any employer, or with any public body, concerning wages,  
 4 rates of pay, salaries, hours of work, other forms of compensation, or other terms or conditions of  
 5 employment or grievances, or for any other mutual aid or protection in relation to employment.

**§21-5G-2. Right to refrain.**

1 A person may not be required, as a condition or continuation of employment, to:

2 (1) Become or remain a member of a labor organization;

3 (2) Pay any dues, fees, assessments or other similar charges however denominated, of  
4 any kind or amount to a labor organization; or

5 (3) Pay any charity or third party in lieu of those payments, any amount or pro rata portion  
6 of dues, fees, assessments or other charges required of members of a labor organization.

**§21-5G-3. Agreements in violation.**

1 Any agreement, understanding or practice, written or oral, implied or expressed, between  
2 any labor organization and employer or public body which violates the rights of employees as set  
3 out in this article is hereby declared to be unlawful, null and void, and of no legal effect.

**§21-5G-4. Penalty.**

1 A labor organization, employer, public body or other person directly or indirectly violating  
2 this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than  
3 \$500 nor more than \$5,000.

**§21-5G-5. Injunctive relief.**

1 Any person injured as a result of any violation or threatened violation of this article is  
2 entitled to injunctive relief against any and all violators or persons threatening violations.

**§21-5G-6. Damages.**

1 Any person injured as a result of any violation or threatened violation of this article may  
2 recover damages, including costs and reasonable attorney fees, resulting from the violation or  
3 threatened violation. These remedies are independent of and in addition to the penalties and  
4 remedies set out in other provisions of this article.

**§21-5G-7. Duty to investigate.**

1 It is the duty of the prosecuting attorney of each county, and of the Attorney General of

2 this state, to investigate complaints of violations or threatened violations of this article, to  
 3 prosecute all persons violating any of its provisions, and to take all means necessary to ensure  
 4 its enforcement.

**§21-5G-8. Exceptions.**

1 This article does not apply:

2 (1) To employers and employees covered by the Federal Railway Labor Act;

3 (2) To federal employers and employees;

4 (3) To employers and employees on exclusive federal enclaves; or

5 (4) Where they would otherwise conflict with, or be preempted by, federal law.

NOTE: The purpose of this bill is to prohibit employers and labor unions from requiring employees to become or remain members of labor unions as a condition of employment. The bill prohibits any requirement that a person must pay dues or other fees to a labor organization. The bill prohibits any requirement that a person contribute to a charity in lieu of paying dues or other fees to a labor organization. The bill provides that certain agreements or practices between labor organizations and employers are null and void. The bill provides for monetary penalties. The bill provides for injunctive relief. The bill provides for a private cause of action for damages and attorney=s fees. The bill provides exceptions. The bill requires prosecuting attorneys and the Attorney General to investigate complaints. The bill defines the term Alabor organization.@

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