

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **Senate Bill 643**

BY SENATORS ROMANO, BALDWIN, BEACH, HARDESTY,

JEFFRIES, LINDSAY, AND WOELFEL

[Introduced February 18, 2019; Referred

to the Committee on Interstate Cooperation; and then 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 §12-9-1, §12-9-2, and §12-9-3, all relating to creating the Company-Specific  
 3 Subsidy Interstate Compact.

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

**ARTICLE 9. COMPANY-SPECIFIC SUBSIDY INTERSTATE COMPACT.**

**§12-9-1. Findings.**

1 The Legislature finds that state governments are caught in a race to the bottom offering  
 2 ever-larger company-specific tax breaks or grants in an attempt to lure large companies to stay  
 3 or relocate in their state, despite overwhelming evidence that the company-specific tax breaks  
 4 are neither an efficient use of public dollars nor a determining factor in a company's eventual  
 5 decision where to locate, and

6 (1) State governments in the aggregate spend tens of billions annually on company-  
 7 specific subsidies, and

8 (2) Spending those economic development dollars on universal infrastructure such as  
 9 transportation or education that benefits all employers, not just the few large for-profit companies  
 10 that negotiate a special subsidy, is a far superior use of state budget resources, and

11 (3) The ability of the world's most profitable companies to set off a bidding war, often in  
 12 secret, between states to package the largest subsidy imaginable in order to lure the company to  
 13 that state demonstrates the inherently weak bargaining position of states in any company-specific  
 14 subsidy negotiation, driving up the prices of these policies, and

15 (4) Providing special subsidies for one company puts all the competitors to that company  
 16 at a disadvantage, as they must pay the full tax rate or operative without the benefit of the grant  
 17 which further exacerbates the largest companies getting even greater market share than they  
 18 otherwise would if all companies paid the same tax rate, and

19 (5) It would be far superior for all employers if states competed for companies based on

20 their overall economic condition that all employers enjoyed, including taxes, infrastructure,  
 21 workforce and regulations, and not on a company-specific subsidy package which only benefits  
 22 a small number of the wealthiest companies, and

23 (6) Despite widespread recognition of the wasteful nature of these company-specific  
 24 subsidies, no one state is able to unilaterally end the practice as doing so is perceived to put that  
 25 state at a competitive disadvantage to other states, and

26 (7) To set a level playing field and abolish the practice of company-specific subsidies,  
 27 states should enter into an agreement not to engage in the practice that becomes binding for any  
 28 companies located in any state that is a member of the agreement, especially among neighboring  
 29 states until all 50 states are able to join the agreement, and

30 (8) This legislation is a first version of such an interstate compact and intends to be  
 31 replaced in 2020 after input from experts and organizations from all sides of the political spectrum.

**§12-9-2. Short title.**

1 This Act may be cited as the Company-Specific Subsidy Interstate Compact Act.

**§12-9-3. Execution of compact.**

1 The Company-Specific Subsidy Interstate Compact is hereby enacted into law and  
 2 entered into with any state or the District of Columbia which legally joins in substantially the  
 3 following form:

**COMPANY-SPECIFIC SUBSIDY INTERSTATE COMPACT**

5 The contracting states agree that:

6 **ARTICLE I. MEMBERSHIP.**

7 Any State of the United States and the District of Columbia may become a member of this  
 8 agreement by enacting this agreement.

9 **ARTICLE II. DEFINITIONS.**

10 “Company-specific tax incentive” means any change in the general tax rate or valuation  
 11 offered or presented to a specific company that is not available to other similarly-situated

12 companies. Any tax incentive that is part of a special agreement negotiated with an official of the  
13 state government is hereby defined as a company-specific tax incentive and not permitted under  
14 this law.

15 “Company-specific grant” means any disbursement of funds via property, cash or deferred  
16 tax liability by the state government to a particular company and is not permitted under this law.

17 “Workforce development grants” means grants that train employees.

### 18 **ARTICLE III. COMPANY-SPECIFIC SUBSIDIES.**

19 Each member state agrees to not offer company-specific subsidies for companies  
20 currently located in or considering locating in any member state, including, but not limited to, for  
21 corporate headquarters, manufacturing facilities, office space, or other real estate developments.

### 22 **ARTICLE IV. EXCLUSIONS.**

23 Existing company-specific subsidies are not impacted by this agreement, since this  
24 agreement is not retroactive, except that any changes to the terms, including renewals or  
25 reenactments, of any existing company-specific subsidies are to be considered new company-  
26 specific subsidies and not permitted under this agreement. Workforce development grants are not  
27 subject to this agreement since the company receiving the grant may benefit, but the employees  
28 receiving the training are the largest beneficiary.

### 29 **ARTICLE V. RETROACTIVE APPLICATION EXCLUDED.**

30 Existing company-specific grants are not impacted by this agreement, as this agreement  
31 is not retroactive, except that any changes to the terms of any existing company-specific grants  
32 are to be considered new company-specific grants and thus not permitted under the terms of this  
33 agreement.

### 34 **ARTICLE VI. WITHDRAWAL.**

35 Any member state may withdraw from this agreement with six-months’ notice and shall do  
36 so in writing to the chief executive officer of every other member state to the agreement.

### 37 **ARTICLE VII. BOARD.**

38           A Board of Member States to the Agreement to Abolish Company-Specific Subsidies is  
39 established by this Agreement.

40           Each Member State shall appoint five members to the Board, one from the Chief Executive  
41 Officer, one each from the majority leader of each chamber and one each from the minority leader  
42 of each chamber.

43           The Board shall convene at least annually, elect officers from its membership and  
44 establish rules and procedures for its governance.

45           The purpose of the Board is to the collect testimony from all interested parties, including  
46 member states and organizations and associations representing state legislators, taxpayers and  
47 subject matter experts on how the Agreement can be improved and strengthened.

48           The Board may draft and disseminate suggested revisions to this agreement from time to  
49 time.

NOTE: The purpose of this bill is to create the Company-Specific Subsidy Interstate Compact; enter into the compact, which may be entered into by any state and the District of Columbia, in which each member state agrees to not offer company-specific subsidies for companies currently located in or considering locating in the member state, including, but not limited to, for corporate headquarters, manufacturing facilities, office space, or other real estate developments. It excludes existing company-specific subsidies (until terms change, are renewed, or are reenacted) and workforce from abolition under the compact. It creates the Interstate Company-Specific Subsidy Board upon the second member state entering into the compact. It provides for withdrawal of a member state with 6-months' written notice.

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