

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 600

By Senator Martin

[Introduced February 26, 2025; referred
to the Committee on the Workforce]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding two new sections,
2 designated §5B-2-22 and §5B-2-23, relating to the creation of Securing Worker Privacy
3 and Right to Know Act; providing for definitions; providing for legislative findings and
4 purpose; providing eligibility requirements for economic development incentives; providing
5 for the recovery of benefits if employers fail to abide by the act; providing for an effective
6 date; and providing requirements for the execution of a separate agreement.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-22. Securing worker privacy and right to know act.

1 (a) As used in this section:

2 (1) "Contracts" includes:

3 (A) Agreements between an employer and the state; and

4 (B) Agreements between an employer and a labor organization;

5 (2) "Economic development incentive" means a FastTrack job training grant and economic
6 development grant authorized under this part or capital grant authorized under §5B-2-1 et seq. of
7 this code for economic development purposes provided to an employer to attract or retain the
8 employer's physical presence in this state;

9 (3) "Employee" means an individual who performs services for an employer for wages that
10 are subject to withholding requirements under 26 U.S.C. §3402;

11 (4) "Employer" means a business entity that voluntarily pursues economic development
12 incentives authorized under this title or enters into an agreement with this state for the purpose of
13 receiving those incentives;

14 (5) "Labor organization" has the same meaning as defined in 29 U.S.C. §152;

15 (6) "Personal contact information" means an employee's home address, home or personal
16 cell phone number, or personal email address, and shift schedules or work locations;

17 (7) "Secret ballot election" means a process conducted by the National Labor Relations

Board (NLRB) in which an employee casts a secret ballot for or against labor organization representation; and

(8) "Neutrality agreement" means an agreement signed with a union wherein the employer agrees to conditions including, but not limited to, waiving their right to counter misinformation and committing not to speak to employees about union issues;

(9) "Subcontractor" means an individual or entity that has contracted with the employer to perform work or provide services.

(b) Legislative purpose, findings, and intent —

(1) West Virginia, as part of its economic development policy, has the right to set terms and conditions in connection with the awarding of economic development incentives; and

(2) West Virginia, as part of its economic development policy, seeks to play an integral role in the formulation of economic opportunities, conditions of grants, and general management of compliance with such awards for monies; and

(3) West Virginia will oftentimes, as part of awarding economic development incentives, oversee compliance with land use regulations, including management of the subdivision of property; offer and provide water and wastewater services; require fire protection systems and mechanical systems for buildings and structures; approve capital grants; and ensure monies are approved by the Department of Economic Development; and

(4) West Virginia will oftentimes, as part of awarding economic development incentives, also require a private business to hire a certain number of new full-time employees, require a specific amount of company investment, and ensure workers obtain certain skills and knowledge; and

(5) West Virginia as part of its economic development policy, has a vested interest in seeking to advance and preserve its own interest in projects receiving economic development incentives as a financier of projects contributing to the State's overall economic health; and

(6) It is the intent of the Legislature, as part of its economic development policy, that

whenever State funds or benefits are sought to by a private business that such benefits are conditioned on the private business agreeing not to waive their employees' ability to vote in a secret ballot election when a labor organization seeks recognition as a bargaining agent or requiring subcontractors to waive their employees' right to vote in a secret ballot election, and will also not sign a neutrality agreement with a labor organization; and

(7) It is the intent of the Legislature, as part of its economic development policy, that whenever State funds or benefits are provided or awarded to a private business, the private business, or subcontractors working on a project receiving state funds or benefits, shall not voluntarily disclose employee personal contact information to a labor organization without an employee's prior consent.

(c) Economic development incentive eligibility —

(1) To be eligible for an economic development incentive, an employer must not:

(A) Grant recognition rights for employees solely and exclusively on the basis of signed union authorization cards if the selection of a bargaining representative may instead be conducted through a secret ballot election conducted by the National Labor Relations Board (NLRB);

(B) Voluntarily disclose an employee's personal contact information to a labor organization, or third party acting on behalf of a labor organization, without the employee's prior written consent, unless otherwise required by state or federal law;

(C) Sign a neutrality agreement with a union. This shall not include an existing neutrality agreement of any kind signed prior to the effective date of this legislation.; or

(D) Require a subcontractor performing work for or providing services to the employer to engage in activities prohibited in this subdivision (c)(1).

(2) The prohibitions set out in subdivision (c)(1) apply to any work or service for the employer on the project for which the economic incentive is provided.

(d) A person or entity may report, based upon a reasonable belief, a suspected violation of subdivision (c)(1) to the Department of Economic Development pursuant to §5B-2-23(a) of this

code. Upon receiving a report pursuant to this subsection (c), the Department of Economic Development shall determine whether a violation has occurred by obtaining in writing a statement from the employer verifying whether a secret ballot election has been held and whether a neutrality agreement has been signed. It is a breach of the contract entered into between the state and the employer pursuant to §5B-2-23(a) of this code, for the employer to refuse to provide the written statement. If the Department of Economic Development finds that an employer has violated subdivision (c)(1), then the department shall deliver written notice of the department's findings to the employer informing the employer and to the office of the attorney general and reporter to initiate proceedings to recover any funds as provided in §5B-2-23(a) of this code.

(e) (1) This section goes into effect on July 1, 2025, and excludes:

(A) An agreement between this state and an employer executed prior to July 1, 2025;

(B) An agreement between an employer and a labor organization executed prior to July 1, 2025;

(C) An economic development incentive issued for purposes of expansion of operations at an existing facility where a labor bargaining unit at such site was organized prior to July 1, 2025.

(2) As used in subdivision (e)(1)(A), "agreement" includes a memorandum of understanding mutually accepted by the Department of Economic Development and an employer prior to July 1, 2025, including a legally binding agreement subsequent and subject to the memorandum of understanding.

§5B-2-23. Execution of a separate agreement; reserve right of recovery of disbursed money, grants, funds, or other incentives.

(a) Notwithstanding another law to the contrary, prior to contracting to award an economic development incentive, as defined in §5B-2-22 of this code, the Department of Economic and Development must execute a separate agreement with the recipient of the incentive that reserves the right of the department to recover the amount of money, grants, funds, or other incentives disbursed by the department, in whole or in part, if the recipient benefitting from such money,

- 6 grants, funds, or other incentives fails to comply with §5B-2-22 of this code.
- 7 (b) The separate agreement required by subsection (b) shall have a term of not less than:
- 8 (1) Five years, for an economic development incentive of less than \$25 million; or
- 9 (2) 10 years, for an economic development incentive of \$25 million dollars or more.

NOTE: The purpose of this bill is to create the Securing Worker Privacy and Right to Know Act.

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