

**Senate Bill No. 170**

(By Senators Yost and Fitzsimmons)

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[Introduced February 15, 2013; referred to the Committee on  
Government Organization; and then to the Committee on Finance.]  
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**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §5B-2I-1, §5B-2I-2,  
§5B-2I-3 and §5B-2I-4, all relating to creating the Keep Jobs  
in West Virginia Act; requiring all work performed for the  
state by contractors be performed in the United States; making  
legislative findings; permitting the state to seek damages and  
void contracts for work done outside the country; and  
providing exceptions.

*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 §5B-2I-1, §5B-2I-2,  
§5B-2I-3 and §5B-2I-4, all to read as follows:

**ARTICLE 2I. KEEP JOBS IN WEST VIRGINIA ACT.**

**§5B-2I-1. Title.**

1           This article may be known as the "Keep Jobs in West Virginia  
2 Act."

3 **§5B-2I-2. Legislative findings.**

4           The Legislature finds that:

5           (a) State departments and agencies procure services through  
6 contracts with private vendors.

7           (b) Increasingly, private vendors purchase or carry out these  
8 services, or subcontract or otherwise procure these services, from  
9 a location outside the United States. This international  
10 outsourcing substantially increases unemployment and workforce  
11 dislocation and deprives West Virginia residents of job  
12 opportunities, including industries and jobs that West Virginia has  
13 expended resources to attract.

14           (c) International outsourcing erodes state and local revenues  
15 by drawing jobs and income away from state residents and  
16 businesses. International outsourcing additionally may provide  
17 fewer privacy protections for state residents whose personal  
18 information may, in the course of service delivery, be transmitted  
19 to locations outside the United States.

20 **§5B-2I-3. State contracts.**

21           Except as provided in section four of this article, the  
22 following requirements apply to all state contracts:

23           (a) State departments and agencies may not award a contract to

1 a contractor or subcontractor who performs the work at a site  
2 outside the United States;

3 (b) Each vendor submitting a bid or contract to provide  
4 services for the state must certify the services covered by the bid  
5 or contract will be performed in the United States;

6 (c) If, during the life of the contract, the contractor or  
7 subcontractor shifts work overseas, then the department or agency  
8 shall require the contractor or subcontractor to pay damages in an  
9 amount equal to the amount paid by the department or agency for the  
10 percentage of outsourced work. The department or agency also shall  
11 terminate the contract for noncompliance; and

12 (d) The department or agency is entitled to bring a civil  
13 action in state or federal court to compel enforcement or damages  
14 under this article. The court shall award reasonable attorney's  
15 fees and costs to the department or agency.

16 **§5B-2I-4. Exceptions.**

17 Section three of this article does not apply to a contract if  
18 refusing to award that contract would violate the specific terms to  
19 which state consented under:

20 (a) The Agreement on Government Procurement of the World Trade  
21 Organization; or

22 (b) A bilateral or regional free trade agreement.

NOTE: The purpose of this bill is to create the "Keep Jobs in West Virginia Act." The bill requires all work performed for the state by contractors be performed in the United States. The bill makes legislative findings. The bill also permits the state to seek damages and void contracts for work done outside the country and provides exceptions.

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