

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 67

**FISCAL
NOTE**

BY SENATOR YOST

[Introduced January 13, 2016;

Referred to the Committee on Government

Organization; and then to the Committee on Finance.]

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

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 section, 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 Act.”

§5B-2I-2. Legislative findings.

1 The Legislature finds that:

2 (1) State departments and agencies procure services through contracts with private
 3 vendors.

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

9 (3) International outsourcing erodes state and local revenues by drawing jobs and income
 10 away from state residents and businesses. International outsourcing additionally may provide
 11 fewer privacy protections for state residents whose personal information may, in the course of
 12 service delivery, be transmitted to locations outside the United States.

§5B-2I-3. State contracts.

1 Except as provided in section four of this article, the following requirements apply to all

2 state contracts:

3 (1) State departments and agencies may not award a contract to a contractor or
4 subcontractor who performs the work at a site outside the United States;

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

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

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

§5B-2I-4. Exceptions.

1 Section three of this article does not apply to a contract if refusing to award that contract
2 would violate specific terms of:

- 3 (1) The Agreement on Government Procurement of the World Trade Organization; or
- 4 (2) 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.

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

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