

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 474

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[Originating in the Committee on the Workforce;

Reported on February 8, 2018]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §5-22-4; and to amend and reenact §21-1C-5 of said code, all relating to
3 prohibiting a governmental entity that requires certain private companies to submit any
4 document that includes records of actual wages paid to employees from disclosing such
5 document or information contained therein to any other entity or person other than state
6 or federal agencies; providing that any such document containing records of actual wages
7 paid to employees shall be considered confidential and proprietary and may not be
8 considered a public record; defining “governmental entity”; providing that any document
9 containing records of actual wages paid to employees that is filed or submitted pursuant
10 to the West Virginia Jobs Act may not be disclosed by the Division of Labor or a public
11 authority to any other entity or person other than a state or federal agency; and providing
12 that any document submitted or filed pursuant to the West Virginia Jobs Act that includes
13 records of actual wages paid to employees or information contained therein shall be
14 considered confidential and proprietary and may not be considered a public record.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.

§5-22-4. Prohibition on requiring submission of wage records; exception.

1 (a) A governmental entity that requires a private company that has contracted with, or is
2 seeking to contract with a governmental entity for a construction project to submit any document
3 that includes records of actual wages paid to employees may not disclose such document or

4 information contained therein to any other entity or person: *Provided*, That this prohibition does
5 not prevent disclosure of such document or information contained therein to another state or
6 federal agency. Any such document shall be considered confidential and proprietary and may not
7 be considered a public record for the purposes of §29B-1-1 *et seq.* of this code.

8 (b) For the purposes of this section, “governmental entity” means the state and its
9 subdivisions or any other entity or person acting on behalf of the state and its subdivisions.

CHAPTER 21. LABOR.

ARTICLE 1C. WEST VIRGINIA JOBS ACT.

§21-1C-5. Applicability and scope of article; reporting requirements.

1 (a) This article applies to expenditures for construction projects by any public authority for
2 public improvements as defined by this article.

3 (b) For public improvement projects let pursuant to this article, the public authority shall
4 file, or require an employer as defined in §21-1C-2 of this code to file, with the Division of Labor
5 copies of the waiver certificates and a certified payrolls, pursuant to §21-5A-1 *et seq.* of this code,
6 or other comparable documents that include the number of employees, the county and state
7 wherein the employees reside and their occupation payroll document that includes the name and
8 address of the employer, identification of the payroll number and the work week ending date, the
9 name of the project location, identification of the contract number, the names of employees, each
10 employee’s work classification or job title, the county and state of the employee’s residence, the
11 days and hours worked, hourly rate of pay or salary, gross wages, federal and state withholding
12 amounts, or other authorized deductions, and net pay.

13 (c) The Division of Labor shall compile the information required by this section and submit
14 it annually to the Joint Committee on Government and Finance by October 15. The joint
15 committee may forward these reports to the Legislative Auditor to review and make comments
16 regarding the usefulness of the information collected and to suggest changes to the division’s

17 method of reporting to ensure the information collected will prove useful in evaluating the
18 effectiveness of the provisions of this article.

19 (d) Each public authority ~~has the duty to~~ shall implement the reporting requirements of this
20 article. Every public improvement contract or subcontract let by a public authority shall contain
21 provisions conforming to the requirements of this article.

22 (e) The Division of Labor ~~is authorized to~~ may establish procedures for the efficient
23 collection of data, collection of civil penalties prescribed in §21-1C-6 of this code and transmittal
24 of data to the Joint Committee on Government and Finance.

25 (f) Any document, filed or submitted pursuant to this section, that includes records of actual
26 wages paid to employees may not be disclosed by the Division of Labor or a public authority to
27 any other entity or person: *Provided*, That this prohibition does not prevent disclosure of such
28 document or information contained therein to another state or federal agency. Any such document
29 shall be considered confidential and proprietary and may not be considered a public record for
30 the purposes of §29B-1-1 et seq. of this code.

NOTE: The purpose of this bill is to provide that any document submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual wages paid to employees or information contained therein shall be considered confidential and proprietary and may not be considered a public record.

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