WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 72

BY SENATOR SWOPE

[Introduced January 12, 2022; referred

to the Committee on the Workforce]

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   requiring certain documents that include records of wages be considered confidential;

4   prohibiting governmental entity that requires private company contracting with, or seeking

5   to contract with, a governmental entity for a construction project to submit any document

6   that includes records of actual wages paid to employees from disclosing document or

7   information contained therein to any other entity or person; permitting disclosure of such

8   document or information to state or federal agency; providing that any such document

9   containing records of actual wages paid to employees shall be considered confidential

10   and proprietary and may not be considered a public record; defining "governmental entity";

11   defining contents of certified payroll document; providing that any document containing

12   records of actual wages paid to employees filed or submitted pursuant to the West Virginia

13   Jobs Act may not be disclosed by the Division of Labor or a public authority to any other

14   entity or person other than to a state or federal agency; and providing that any document

15   submitted or filed pursuant to the West Virginia Jobs Act that includes records of actual

16   wages paid to employees or information contained therein shall be considered confidential

17   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) No 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 disclose the document or the

4   information contained therein to any other entity or person: *Provided*, That this prohibition does

5   not prevent disclosure of the document or the information contained therein to another state or

6   federal agency. Any such document shall be considered confidential and proprietary, and may

7   not 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:

8   (1) The name and address of the employer;

9   (2) Identification of the payroll number and the work week ending date;

10   (3) The name of the project location;

11   (4) Identification of the contract number; and

12   (5) The name of each employee, including the following information for each employee:

13   (A) The employee's work classification or job title;

14   (B) The county and state of residence;

15   (C) The days and hours worked;

16   (D) The hourly rate of pay or salary;

17   (E) Gross wages;

18   (F) Federal and state withholding amounts, or other authorized deductions; and

19   (G) Net pay.

20   (c) The Division of Labor shall compile the information required by this section and submit

21   it annually to the Joint Committee on Government and Finance by October 15.   The joint

22   committee may forward these reports to the Legislative Auditor to review and make comments

23   regarding the usefulness of the information collected and to suggest changes to the division's

24   method of reporting to ensure the information collected will prove useful in evaluating the

25   effectiveness of the provisions of this article.

26   (d) Each public authority ~~has the duty to~~ shall implement the reporting requirements of this

27   article. Every public improvement contract or subcontract let by a public authority shall contain

28   provisions conforming to the requirements of this article.

29   (e) The Division of Labor ~~is authorized to~~ may establish procedures for the efficient

30   collection of data, collection of civil penalties prescribed in §21-1C-6 of this code, and transmittal

31   of data to the Joint Committee on Government and Finance.

32   (f) Any document filed or submitted pursuant to this section that includes records of actual

33   wages paid to employees may not be disclosed by the Division of Labor or a public authority to

34   any other entity or person: *Provided*, That this prohibition does not prevent disclosure of the

35   document or information contained therein to another state or federal agency. Any such document

36   shall be considered confidential and proprietary, and may not be considered a public record, for

37   the purposes of §29B-1-1 *et seq.* of this code.

NOTE: The purpose of this bill is to require that certain documents that contain records of wages be considered confidential.

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