

## H. B. 3000

(By Delegates Manchin, Caputo, DeLong, Perdue,

Mahan, Boggs, Poling, Hamilton, Ellem and Martin)

[Introduced March 11, 2005 ; referred to the

Committee on Industry and Labor, Economic Development and Small Business then  
Government Organization.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-1D-1, §21-1D-2, §21-1D-3 and §21-1D-4, all relating to the "Keep Jobs in West Virginia Act."

*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 §21-1D-1, §21-1D-2, §21-1D-3 and §21-1D-4, all to read as follows:

### **ARTICLE 1D. "KEEP JOBS IN WEST VIRGINIA ACT."**

#### **§21-1D-1. Short title.**

This article shall be called the "Keep Jobs in West Virginia Act."

#### **§21-1D-2. Legislative findings.**

The Legislature finds that:

- (1) State agencies and subdivisions procure services in part through contracts with private vendors;
- (2) Increasingly private vendors carry out these services, or subcontract or otherwise procure these services, from a location outside the United States;
- (3) Such international outsourcing exacerbates unemployment and workforce dislocation and deprives West Virginia residents of job opportunities, including industries and jobs this state has expended development assistance resources to attract;
- (4) International outsourcing erodes state and local revenues by drawing jobs and income away from the state; and

- (5) International outsourcing additionally may provide less privacy protections for state residents whose personal information may, in the course of service delivery, be transmitted to locations outside the United States.

**§21-1D-3. Prohibiting contracting with, or providing economic assistance to, companies that ship work offshore.**

The following provisions apply to all state contracts, all local contracts funded with state dollars, and state-funded development assistance:

(1) The state agency or local government may not award a contract or development assistance to a vendor, bidder, contractor, subcontractor, or applicant for development assistance that performs the work at a site outside of the United States. Nothing in this Act may be construed to supercede or replace existing requirements in place for development assistance programs.

For purposes of this article, "developmental assistance" means any form of public assistance, including tax expenditures, made for the purpose of stimulating economic development of a corporation, industry, geographic jurisdiction or any other sector of the state's economy, including, but not limited to, industrial development bonds, training grants, loans, loan guarantees, enterprise zones, empowerment zones, tax increment financing, fee waivers, land price subsidies, infrastructure whose principal beneficiary is a single business or defined group of businesses at the time it is built or improved, matching funds, tax abatements, tax credits and tax discounts of every kind, including corporate franchise, personal income, sales and compensating use, raw materials, real property, job creation, individual investment, excise, utility, inventory, accelerated depreciation, and research and development tax credits and discounts.

(2) Each vendor submitting a bid or contract to provide services and all development assistance applicants shall certify that the services covered by the bid, contract, or development assistance will be performed in the United States.

(3) If, during the life of the contract, the vendor, contractor, subcontractor, or development assistance recipient shifts overseas work that is funded under the contract, the state agency or local government shall terminate the contract for noncompliance. In addition, the vendor, contractor, subcontractor, or development assistance recipient shall forfeit penalties to the state agency or local government in an amount equal to the amount paid by the state agency or local government for the percentage of work that was performed with workers outside the United States. Any contractor, subcontractor, vendor, bidder, or development assistance recipient that violates the above sections may not receive any state contracts or development assistance for a period of five years from the date of determination thereof.

(4) The state agency or local government shall be entitled to bring a civil action in state or federal court to compel enforcement under this statute. The court shall award reasonable attorney's fees and costs to the state agency or local government.

**§21-1D-4. Waivers.**

(a) A state agency or local government may waive the requirements of section three of this article for a particular contract, for a period not to exceed six months per waiver, if

that state agency or local government submits a written finding to the State Auditor, and the Auditor does not reject that finding within thirty days of receipt, that either subdivision (1) or (2) are true:

(1) The contract is necessary to respond to an emergency, as determined by the state agency or local government, for all of the following reasons:

(A) The ability of the state agency or local government to provide essential services would be adversely affected if the contract is not performed;

(B) The public health, safety and welfare would be endangered if the contract is not performed; and

(C) A contractor or subcontractor that has the ability to perform the contract solely with workers within the United States is not immediately available to perform the contract; or

(2) The contract is necessary to provide a unique service, as determined by the state agency or local government, for both of the following reasons:

(A) The state agency or local government deems as mandatory the particular service to be performed under the contract; and

(B) Domestic workers cannot adequately perform the unique service to be performed under the contract.

(b) If the State Auditor rejects a written finding while the contract is being performed or after the contract has been performed, the contractor or subcontractor shall forfeit penalties to the state agency or local government in an amount equal to the amount paid by the state agency or local government for the percentage of work that was performed with workers outside the United States.

NOTE: The purpose of this bill is to create the "Keep Jobs in West Virginia Act." This Act provides that state contracts, local government contracts funded with state money, or state development assistance may not be awarded to vendors, contractors or applicants for development assistance that perform the work at a site outside of the United States.

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