

Senate Bill No. 703

(By Senators Bowman, Kessler, Chafin, Rowe, Caldwell,
Fanning, Love, Hunter, Sprouse and Weeks)

[Introduced February 23, 2004; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

A BILL to amend the code of West Virginia, 1931, as amended, by adding thereto two new sections, designated § 5A-3-37b and §5A-3-37c, all relating to creating the "Job Preservation Act of 2004"; providing companies that lose one hundred or more employees due to outsourcing of jobs are ineligible to enter procurement contracts with the state or local governments or receive government grants; requiring certain companies that lose one hundred or more employees to notify the division of labor about the loss; requiring the division to send a survey to companies that report the loss of one hundred or more employees in order to determine the number of employees lost because of outsourcing jobs outside of the United States; and requiring the division to provide written notice to state agencies and local governments.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated § 5A-3-37b and § 5A-3-37c, all to read as follows:

§5A-3-37b. Job preservation act of 2004.

(a) *Short title.*-- This section shall be known and cited as the "Job Preservation Act of 2004."

(b) *Legislative declaration.*-- The Legislature hereby finds, determines and declares that:

(1) In recent years, a number of companies have replaced highly-skilled workers from this state with lower-paid, foreign laborers, a practice that is known as outsourcing.

(2) In many cases, the impetus for the outsourcing is pressure from domestic and foreign capital venture companies that see foreign labor as a way of increasing their already significant profits.

(3) The preservation of jobs in this state is of critical importance to the economic vitality of the state and the local communities within the state.

(4) The economic dislocation caused by a company outsourcing jobs threatens the health, safety, and welfare of the people of this state.

(5) A company that engages in outsourcing should not enjoy the benefits of a lucrative state or local procurement contract.

(6) Companies should also be prohibited from receiving any economic development assistance or subsidies from state and local government.

(c) *Definitions.*-- As used in this article, unless the context otherwise requires:

(1) "Company" means any corporation, subchapter S corporation, professional corporation, business trust, estate, trust, joint stock company, joint venture, limited liability company, partnership, association, unincorporated association, society or any other nongovernmental legal entity.

(2) "Department" means the department of labor and employment.

(3) "Executive director" means the executive director of the department of labor and employment.

(4) "Local government" means a county, city and county, city, municipality, town, school district, junior college district, a local improvement and service district, special district, or any other independent local entity having the authority under the general laws of this state to levy taxes or impose assessments.

(5) "Procurement" means any state contract which exceeds five hundred dollars.

(6) "State" means a department, office, commission, institution, board or other agency of state government, including an institution of higher education.

(7) "Survey" means the job relocation survey that the executive director prepares in accordance with the provisions contained in subsection (d) of this section.

(d) *Job relocation - notice - survey.*--

(1) On or before the thirty-first day of January, two thousand five, and each thirty-first of January thereafter, any company doing business in this state that had a net loss of one hundred or more employees in the state during the prior calendar year shall notify the department of the loss.

(2) The executive director shall prepare a job relocation survey to be completed by a company that notifies the department pursuant to subdivision one of this subsection. In addition to any other information required by the executive director, the survey shall include the following:

(A) The name and principle place of business of the company;

(B) Identification of any procurement contracts that the company has with the state or a local government;

(C) Identification of any grants or loans that the company has received from the state or a local government;

(D) A statement of the number of employees of the company that lost their jobs in the preceding calendar year;

(E) A statement of the number of jobs that were added in this state the preceding calendar year; and

(F) A statement of the number of jobs that employees lost that were caused as a result of the company outsourcing the jobs to employees located outside of the United States.

(3) A company shall complete and return the survey to the department within thirty days of receiving it. A company that fails to respond to the survey shall be subject to the

penalties identified in subsection (e) of this section until the time that the survey is completed.

(4) Any person who believes that he or she lost his or her job as a result of a company outsourcing jobs to employees located outside of the United States is encouraged to report such information to the department.

(e) Outsourcing - penalties. --

(1) Notwithstanding any provision of law, any company that has had a net loss of one hundred or more employees in the state during the prior calendar year and the loss was caused by the relocation of one hundred or more jobs from this state to a site that is located outside the United States shall, for a period of seven years, be ineligible to:

(A) Enter into a procurement contract with the state or a local government;

(B) Receive any government grants or loans from the state or a local government;

or

(C) Use industrial development revenue bonds from the state and a local government.

(2) (A) The executive director shall provide written notice of any company identified in subdivision (1) of this subsection to each of the following: (i) The executive director of the department of personnel and the head of each purchasing agency; (ii) each institution of higher education; (iii) any state agency that provides grants or loans to West Virginia companies; and (iv) each local government.

(B) The seven-year period of ineligibility under subdivision (1) of this subsection shall commence on the date of the written notice provided by the executive director pursuant to subdivision (1) of this subsection.

§5A-3-37c. Ineligible companies.

No procurement contract may be awarded to any company that is ineligible under the provisions of subsection (e), section thirty-seven-b of this article. For the purpose of this section, the term "company" has the same meaning as set forth in section thirty-seven-b of this article.

NOTE: The purpose of this bill is to provide certain companies are ineligible to enter procurement contracts with the state or local governments or receive government grants while requiring those companies, specifically, companies that lose one hundred or more employees due to outsourcing to notify the department of labor about the loss of employees. The bill also requires the department to send a survey to companies that report the loss of one hundred or more employees in order to determine the number of employees lost because of outsourcing jobs outside of the United States while, additionally, requiring the department to provide written notice to state agencies and local governments.

§§5A-3-37b, 5A-3-37c are new; therefore, strike-throughs and underscoring have been omitted.