

ARTICLE 1C. WEST VIRGINIA JOBS ACT.

§21-1C-1. Short title.

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

§21-1C-2. Definitions.

As used in this article:

(1) The term "construction project" means any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract in an amount equal to or greater than one million dollars. The term "construction project" does not include temporary or emergency repairs;

(2) (A) The term "employee" means any person hired or permitted to perform hourly work for wages by a person, firm or corporation in the construction industry;

(B) The term "employee" does not include:

(i) Bona fide employees of a public authority or individuals engaged in making temporary or emergency repairs;

(ii) Bona fide independent contractors; or

(iii) Salaried supervisory personnel necessary to assure efficient execution of the employee's work;

(3) The term "employer" means any person, firm or corporation employing one or more employees on any public improvement and includes all contractors and subcontractors;

(4) The term "local labor market" means every county in West Virginia and all counties bordering West Virginia that fall within seventy-five miles of the border of West Virginia;

(5) The term "public authority" means any officer, board, commission or agency of the state of West Virginia and its subdivisions, including counties and municipalities.

Further, the economic grant committee, economic development authority, infrastructure and jobs development council and school building authority shall be required to comply with the provisions of this article for loans, grants or bonds provided for public improvement construction projects;

(6) The term "public improvement" includes the construction of all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures that may be let to contract by a public authority, excluding improvements funded, in whole or in part, by federal funds.

§21-1C-3. Legislative findings; statement of policy.

The Legislature finds that the rate of unemployment in this state is significantly higher than that of most other states and that a majority of West Virginia counties are designated as labor surplus areas by the United States department of labor.

The Legislature finds that the employment of persons from outside the local labor market on public improvement construction projects contracted for and subsidized by the taxpayers of the state contributes significantly to the rate of unemployment and the low per capita income among qualified state residents who would otherwise be hired for these jobs.

Therefore, the Legislature declares that residents of local labor markets should be employed for the construction of public improvement projects which directly utilize taxpayer funding, in whole or in part.

§21-1B-4. Record-keeping requirements; employer compliance.

Every employer, firm and corporation shall make such records of the persons he or she employs including records of proof of the legal status or authorization to work of all employees. Such records shall be preserved pursuant to the provisions of section five, article five-c of this chapter and shall be maintained at the place of employment. Pursuant to section three, article one of this chapter, such records shall be made available to the commissioner or his or her authorized representative for inspection and investigation as the commissioner deems necessary and appropriate for the purposes of determining whether any employer, firm or corporation has violated any provision of this article which may aid in the enforcement of the provisions of this article.

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

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

(b) For public improvement projects let pursuant to this article, the public authority shall file, or require an employer as defined in section two of this article to file, with the Division of Labor copies of the waiver certificates and certified payrolls, pursuant to article five-a of this chapter, or other comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation.

(c) The Division of Labor shall compile the information required by this section and submit it annually to the Joint Committee on Government and Finance by the fifteenth day of October. The joint committee may forward these reports to the Legislative Auditor to review and make comments regarding the usefulness of the information collected and to suggest changes to the division's method of reporting to ensure the information collected will prove useful in evaluating the effectiveness of the provisions of this article.

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

(e) The Division of Labor is authorized to establish procedures for the efficient collection of data, collection of civil penalties prescribed in section six of this article and transmittal of data to the Joint Committee on Government and Finance.

§21-1C-6. Penalties for violation of article.

Any employer who violates any provision of this article is subject to a civil penalty of one hundred dollars per day of violation.

§21-1C-7.

Repealed.

Acts, 2006 Reg. Sess., Ch. 131.