

FILED

2001 MAY -1 P 2:16

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2001*

---

**ENROLLED**

*Committee Substitute for*

**SENATE BILL NO.** 103

**(By Senator** Hunter, et al **)**

---

**PASSED** April 14, 2001

**In Effect** 90 days from **Passage**

FILED

2001 MAY -1 P 2: 16

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 103**

(SENATORS HUNTER, KESSLER, EDGELL, BOWMAN, LOVE, ROWE,  
BURNETTE, REDD, MCKENZIE, BAILEY, CHAFIN, CRAIGO,  
JACKSON, PLYMALE, SNYDER, PREZIOSO, MCCABE, UNGER,  
ANDERSON, HELMICK, MINARD, SHARPE, ROSS, MITCHELL,  
CALDWELL AND TOMBLIN, MR. PRESIDENT, *original sponsors*)

---

[Passed April 14, 2001; in effect ninety days from passage.]

---

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-c, relating to the West Virginia jobs act; requiring a certain percentage of employment from the local labor market for construction projects let by certain public authorities; requiring public authorities to submit information for a legislative audit; providing civil penalties; and establishing effective dates for the article.

*Be it enacted by the Legislature of West Virginia:*

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-c, to read as follows:

**ARTICLE 1C. EMPLOYMENT OF RESIDENTS OF LABOR MARKET.**

**§21-1C-1. Short title.**

1 This article shall be called the “West Virginia Jobs Act”.

**§21-1C-2. Definitions.**

1 As used in this article:

2 (1) The term “construction project” means any construc-  
3 tion, reconstruction, improvement, enlargement, painting,  
4 decorating or repair of any public improvement let to  
5 contract in an amount equal to or greater than five  
6 hundred thousand dollars. The term “construction pro-  
7 ject” does not include temporary or emergency repairs;

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

11 (B) The term “employee” does not include:

12 (i) Bona fide employees of a public authority or individ-  
13 uals engaged in making temporary or emergency repairs;

14 (ii) Bona fide independent contractors; or

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

17 (3) The term “employer” means any person, firm or  
18 corporation employing one or more employees on any  
19 public improvement and includes all contractors and  
20 subcontractors;

21 (4) The term “local labor market” means every county in  
22 West Virginia and all counties bordering West Virginia

23 that fall within seventy-five miles of the border of West Virginia;

24 (5) The term “public authority” means any officer,  
25 board, commission or agency of the state of West Virginia,  
26 excluding counties and municipalities. Further, the  
27 economic development authority, infrastructure and jobs  
28 development council and school building authority shall  
29 be required to comply with the provisions of this article  
30 for loans, grants or bonds provided for public improve-  
31 ment construction projects: *Provided*, That any project  
32 initiated by a county or local economic development  
33 authority and which is under the effective management of  
34 the county or local economic development authority shall  
35 not be included in this requirement;

36 (6) The term “public improvement” includes the con-  
37 struction of all buildings, roads, highways, bridges, streets,  
38 alleys, sewers, ditches, sewage disposal plants, water-  
39 works, airports and all other structures that may be let to  
40 contract by a public authority, excluding improvements  
41 funded, in whole or in part, by federal funds.

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

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

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

13 Therefore, the Legislature declares that residents of  
14 local labor markets should be employed and given prefer-  
15 ence in hiring for the construction of public improvement

16 projects which depend, in whole or in part, on state  
17 taxpayer funding.

**§21-1C-4. Local labor market quota on public improvement  
construction projects; waiver certificates.**

1 (a) Employers shall hire at least seventy-five percent of  
2 employees for public improvement construction projects  
3 from the local labor market, to be rounded off, with at  
4 least two employees from outside the local labor market  
5 permissible for each employer per project. Employees  
6 shall have resided in the local labor market for at least six  
7 months prior to their application for employment.

8 (b) Any employer unable to employ the minimum  
9 number of employees from the local labor market shall  
10 inform the nearest office of the bureau of employment  
11 programs' division of employment services of the number  
12 of qualified employees needed and provide a job descrip-  
13 tion of the positions to be filled.

14 (c) If, within three business days following the placing  
15 of a job order, the division is unable to refer any qualified  
16 job applicants to the employer or refers less qualified job  
17 applicants than the number requested, then the division  
18 shall issue a waiver to the employer stating the unavail-  
19 ability of applicant and shall permit the employer to fill  
20 any positions covered by the waiver from outside the local  
21 labor market. The waiver shall be either oral or in writing  
22 and shall be issued within the prescribed three days. A  
23 waiver certificate shall be sent to both the employer for its  
24 permanent project records and to the public authority.

**§21-1C-5. Applicability and scope of article; reporting require-  
ments.**

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

4 (b) For public improvement projects let pursuant to this  
5 article, the public authority shall file with the division of  
6 labor copies of the waiver certificates and certified  
7 payrolls, pursuant to article five-a of this chapter, or other  
8 comparable documents that include the number of em-  
9 ployees, the county and state wherein the employees reside  
10 and their occupation.

11 (c) The division of labor shall compile the information  
12 required by this section and submit it to the joint commit-  
13 tee on government and finance by the fifteenth day of  
14 October, two thousand two, for a legislative audit to be  
15 prepared for the December, two thousand two, interim  
16 session.

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

22 (e) The division of labor is authorized to establish  
23 procedures for the efficient collection of data, collection of  
24 civil penalties prescribed in section six and transmittal of  
25 data to the joint committee on government and finance.

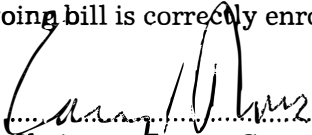
**§21-1C-6. Penalties for violation of article.**

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

**§21-1C-7. Effective date.**

1 This article is effective from the first day of September,  
2 two thousand one, though the fifteenth day of March, two  
3 thousand three.

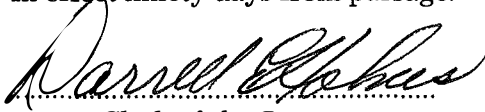
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

  
.....  
Chairman House Committee

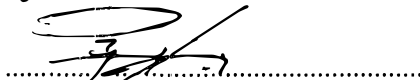
Originated in the Senate.

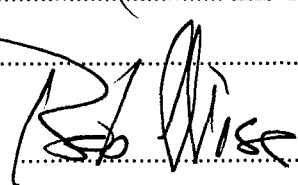
In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *30<sup>th</sup>* .....  
Day of *April* ....., 2001.  
  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/01

Time 9.30 am