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HOUSE BILL NO. 2419

Offered January 19, 2017

A *BILL to amend the Code of Virginia by adding in Title 40.1 a chapter numbered 10, consisting of sections numbered 40.1-143 through 40.1-148, relating to the relocation of call centers to foreign countries; notification requirements; civil penalties.*

Patrons—Heretick, Bagby, Boysko, Cole, Kory and Simon

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 40.1 a chapter numbered 10, consisting of sections numbered 40.1-143 through 40.1-148, as follows:

CHAPTER 10.**CALL CENTER RELOCATIONS.****§ 40.1-143. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Agency" means any executive branch agency as defined in § 2.2-2006.

"Call center" means any employer that, for the purpose of taking a large volume of telephone calls for customer service or taking orders, employs:

1. Fifty or more employees, excluding part-time employees; or

2. Fifty or more employees who in the aggregate work at least 1,500 hours per week exclusive of hours of overtime.

"Foreign country" means a government other than the United States or any state, district, commonwealth, territory, or insular possession of the United States.

"Part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than six of the 12 months preceding the date on which notice is required under subsection A of § 40.1-144.

§ 40.1-144. List of call centers that relocate to a foreign country; civil penalty.

A. Any employer that intends to relocate a call center, or one or more facilities or operating units within a call center comprising at least 30 percent of the call center's, or operating unit's, total volume when measured against the previous 12-month average call volume of operations or substantially similar operations, from the Commonwealth to a foreign country shall notify the Commissioner at least 120 days before such relocation.

B. An employer that violates subsection A shall be subject to a civil penalty not to exceed \$10,000 for each day of such violation. The Commissioner may reduce the amount of a civil penalty for just cause shown. All procedural rights guaranteed to employers pursuant to § 40.1-49.4 shall apply to the civil penalties set under this subsection. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the state treasury. The Commissioner shall prescribe procedures for the payment of proposed civil penalties that are not contested by employers.

§ 40.1-145. List of call centers that relocate to a foreign country; civil penalty.

A. The Commissioner shall compile a semiannual list of all employers that relocate a call center, or one or more facilities or operating units within a call center comprising at least 30 percent of the call center's total volume of operations, from the Commonwealth to a foreign country.

B. The Commissioner shall distribute the list compiled under subsection A to all agencies.

§ 40.1-146. Grants and guaranteed loans.

A. Except as provided in subsection C and notwithstanding any other provision of law, an employer that appears on the list compiled under subsection A of § 4.1-145 shall be ineligible for five years after the date the list is distributed for any direct or indirect grants of funds from the Commonwealth or any agency, any loans guaranteed by the Commonwealth or any agency, or any tax credit or reduction in tax liability provided under Title 58.1.

B. Except as provided in subsection C and notwithstanding any other provision of law, an employer that appears on the list compiled under subsection A of § 4.1-145 shall remit the unamortized value of direct or indirect grants of funds from the Commonwealth or any agency, any loans guaranteed by the Commonwealth or any agency, any tax credit or reduction in tax liability provided under Title 58.1, or any other governmental support the employer has previously received to the Secretary of Commerce and Trade for deposit into the general fund of the state treasury.

C. The Secretary of Commerce and Trade, in consultation with the appropriate agency providing a loan or grant, may waive the provisions of subsection A if the employer applying for such loan or grant

59 demonstrates that a lack of such loan or grant would:

60 1. Result in substantial job loss in the Commonwealth; or

61 2. Harm the environment.

62 **§ 40.1-147. Procurement of state business-related call center and customer service work.**

63 A. To the extent permitted under the Commerce Clause and Equal Protection Clause of the United
64 States Constitution and other applicable jurisprudential doctrines, the director of each agency shall
65 ensure that all contracts entered into on and after July 1, 2017, for the performance by a contractor of
66 state business-related call center and customer service work provide that such work shall be performed
67 by the contractor or its agents or subcontractors entirely within the Commonwealth.

68 B. To the extent that the terms of the contract and applicable law permit, state contractors who
69 perform state business-related call center and customer service work outside the Commonwealth on July
70 1, 2017, under a contract with an agency entered into prior to that date shall by July 1, 2019, perform
71 such work entirely within the Commonwealth; however, if any such contractors add customer service
72 employees who will perform work on such contracts, those new employees shall immediately be
73 employed within the Commonwealth.

74 **§ 40.1-148. Benefits for employees.**

75 No provision of this chapter shall be construed to permit withholding or denial of payments,
76 compensation, or benefits under any other state law, including state unemployment compensation,
77 disability payments, or worker retraining or readjustment funds, to employees employed by an employer
78 that relocates to a foreign country.