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HOUSE BILL 46

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Joy Garratt

AN ACT

RELATING TO PUBLIC WORKS; REQUIRING CONTRIBUTIONS TO APPRENTICE AND TRAINING PROGRAMS OR TO THE PUBLIC WORKS APPRENTICE AND TRAINING FUND FOR ALL PUBLIC WORKS CONSTRUCTION PROJECTS; CONFORMING REFERENCES TO THE WORKFORCE SOLUTIONS DEPARTMENT THROUGHOUT THE PUBLIC WORKS APPRENTICE AND TRAINING ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 13-4D-3 NMSA 1978 (being Laws 1992, Chapter 74, Section 3, as amended) is amended to read:

"13-4D-3. DEFINITIONS.--As used in the Public Works Apprentice and Training Act:

A. "approved apprentice and training programs" means building trades apprenticeship and training programs in New Mexico that are recognized by the bureau of apprenticeship and training of the United States department of labor or the

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1 New Mexico apprenticeship council;

2 B. "compliance statement" means a monthly record of
3 an employer's contributions paid into an approved apprentice
4 and training program in New Mexico or into the public works
5 apprentice and training fund;

6 C. "~~director~~ or ~~division~~ department" means the
7 ~~labor relations division of the~~ workforce solutions
8 department; and

9 D. "employer" means a contractor, subcontractor or
10 any person acting as a contractor on a public works project, as
11 that term is defined in the provisions of the Construction
12 Industries Licensing Act."

13 SECTION 2. Section 13-4D-4 NMSA 1978 (being Laws 1992,
14 Chapter 74, Section 4) is amended to read:

15 "13-4D-4. ADMINISTRATION.--

16 A. The Public Works Apprentice and Training Act
17 shall be administered by the ~~public works bureau of the labor~~
18 ~~and industrial division of the labor~~ department. The ~~bureau~~
19 department shall collect employers' contributions in accordance
20 with ~~this~~ that act, review employers' compliance statements,
21 review certified payroll reports to verify training
22 contributions, investigate allegations of and impose penalties
23 for employer noncompliance and disburse funds as provided in
24 Section ~~[5 of the Public Works Apprentice and Training Act]~~
25 13-4D-5 NMSA 1978.

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1 B. Public works construction projects [~~except for~~
2 ~~street, highway, bridge, road, utility or maintenance contracts~~
3 ~~with employers who elect not to participate in training~~] shall
4 not be constructed unless an employer agrees to make
5 contributions to approved apprentice and training programs in
6 New Mexico in which the employer is a participant or to the
7 public works apprentice and training fund administered by the
8 [~~public works bureau of the labor and industrial division of~~
9 ~~the labor~~] department. Contributions shall be made in the same
10 manner and in the same amount as apprentice and training
11 contributions required pursuant to wage rate determinations
12 made by the [~~director~~] department.

13 C. The [~~director~~] department shall adopt rules and
14 regulations necessary to implement the provisions of the Public
15 Works Apprentice and Training Act."

16 SECTION 3. Section 13-4D-5 NMSA 1978 (being Laws 1992,
17 Chapter 74, Section 5, as amended) is amended to read:

18 "13-4D-5. FUND CREATED--DISBURSEMENT OF FUNDS.--There is
19 created the "public works apprentice and training fund" in the
20 [~~labor and industrial division of the labor~~] department.
21 Contributions into the fund shall be as provided under the
22 provisions of Section 13-4D-4 NMSA 1978. Funds contributed
23 under the provisions of the Public Works Apprentice and
24 Training Act shall be distributed in the following manner:

25 A. no more than fifteen percent of the funds may be

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1 used by the [~~public works bureau of the labor and industrial~~
2 ~~division of the labor~~] department to hire staff to administer
3 the funds collected by the [~~division~~] department; and

4 B. the remainder of the funds shall be used for
5 approved apprentice and training programs in New Mexico. The
6 [~~labor and industrial division of the labor~~] department shall
7 develop an annual budget and, subject to appropriation by the
8 legislature in the general appropriation act, shall disburse
9 funds to approved apprentice and training programs in New
10 Mexico, taking into account participant contact hours of
11 classroom instruction and on-the-job training for the preceding
12 year, to be not less than ninety percent of one hundred
13 forty-four contact hours of classroom instruction per
14 participant per school year and not less than one thousand
15 hours of on-the-job training per twelve-month period.
16 Notwithstanding any language in the general appropriation act
17 that otherwise limits budget adjustments, if the fund balance
18 available for disbursement to approved programs exceeds the
19 amount appropriated, pursuant to Sections 6-3-23 through 6-3-25
20 NMSA 1978, the [~~labor~~] department may request budget increases
21 up to the excess fund balance for distribution to the
22 programs."

23 SECTION 4. Section 13-4D-6 NMSA 1978 (being Laws 1992,
24 Chapter 74, Section 6) is amended to read:

25 "13-4D-6. NOTICE TO EMPLOYERS--PUBLICATION OF PROGRAMS.--

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1 A. An employer's contribution requirement under the
2 provisions of the Public Works Apprentice and Training Act
3 shall be included with all minimum wage determinations issued
4 by the [~~labor and industrial division of the labor~~] department
5 on all public works construction projects. The [~~director~~]
6 department shall also provide the contribution rate for
7 approved apprentice and training programs, and that information
8 shall be part of the public works construction projects.

9 B. The [~~labor and industrial division of the labor~~]
10 department shall publish a list of approved apprentice and
11 training programs in New Mexico."

12 SECTION 5. Section 13-4D-7 NMSA 1978 (being Laws 1992,
13 Chapter 74, Section 7, as amended) is amended to read:

14 "13-4D-7. NONCOMPLIANCE--PENALTIES.--An employer who
15 willfully and knowingly fails to comply with the requirements
16 of the Public Works Apprentice and Training Act shall be
17 subject to the following penalties:

18 A. a noncomplying employer shall pay a civil
19 penalty of ten dollars (\$10.00) for every calendar day of
20 noncompliance, and the penalty shall be imposed and collected
21 for deposit into the public works apprentice and training fund
22 by the [~~public works bureau of the labor and industrial~~
23 ~~division of the labor~~] department;

24 B. a noncomplying employer shall have the unpaid
25 contributions, as required under the provisions of the Public

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1 Works Apprentice and Training Act, withheld as provided in
2 Subsections A and B of Section 13-4-14 NMSA 1978; and
3 C. a noncomplying employer shall not be permitted
4 to bid on any public works contracts as provided in Subsections
5 A and B of Section 13-4-14 NMSA 1978."

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