

HOUSE BILL 46

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

INTRODUCED BY

Joy Garratt and Joseph L. Sanchez and Christine Chandler and
Cynthia Borrego

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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;
HLVMC→**CREATING THE APPRENTICESHIP SCHOLARSHIP FUND;**←HLVMC
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,

.223816.2AIC January 27, 2023 (9:15am)

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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
New Mexico apprenticeship council;

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

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

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

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

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

A. The Public Works Apprentice and Training Act
shall be administered by the ~~public works bureau of the labor
and industrial division of the labor~~ department. The ~~bureau~~

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department shall collect employers' contributions in accordance with ~~[this]~~ that act, review employers' compliance statements, review certified payroll reports to verify training contributions, investigate allegations of and impose penalties for employer noncompliance and disburse funds as provided in Section ~~[5 of the Public Works Apprentice and Training Act]~~ 13-4D-5 NMSA 1978.

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

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

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

"13-4D-5. FUND CREATED--DISBURSEMENT OF FUNDS.--There is

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created the "public works apprentice and training fund" in the
[~~labor and industrial division of the labor~~] department.

Contributions into the fund shall be as provided under the
provisions of Section 13-4D-4 NMSA 1978. Funds contributed
under the provisions of the Public Works Apprentice and
Training Act shall be distributed in the following manner:

A. no more than fifteen percent of the funds may be
used by the [~~public works bureau of the labor and industrial
division of the labor~~] department to hire staff to administer
the funds collected by the [~~division~~] department; and

B. the remainder of the funds shall be used for
approved apprentice and training programs in New Mexico. The
[~~labor and industrial division of the labor~~] department shall
develop an annual budget and, subject to appropriation by the
legislature in the general appropriation act, shall disburse
funds to approved apprentice and training programs in New
Mexico, taking into account participant contact hours of
classroom instruction and on-the-job training for the preceding
year, to be not less than ninety percent of one hundred
forty-four contact hours of classroom instruction per
participant per school year and not less than one thousand
hours of on-the-job training per twelve-month period.

Notwithstanding any language in the general appropriation act
that otherwise limits budget adjustments, if the fund balance
available for disbursement to approved programs exceeds the

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amount appropriated, pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, the [~~labor~~] department may request budget increases up to the excess fund balance for distribution to the programs."

HLVMC→SECTION 4. A new section of the Public Works
Apprentice and Training Act is enacted to read:

"[NEW MATERIAL] APPRENTICESHIP SCHOLARSHIP FUND CREATED--
DISBURSEMENT.--

A. The "apprenticeship scholarship fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations, bequests, income from investment of the fund and other money distributed or otherwise allocated to the fund. The department shall administer the fund, and money in the fund is subject to appropriation by the legislature to the department to carry out the purposes of the fund. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of workforce solutions.

B. The fund shall be used by the department for:

(1) purchasing and making available books, tools, computers and other materials and electronic equipment needed for the apprenticeship program;

(2) fees for the program or any related

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licenses or certifications; and

(3) covering the unreimbursed expenses incurred by apprentices to successfully complete an approved apprentice and training program, such as child care and transportation."←HLVMC

SECTION HLVMC→4.←HLVMC HLVMC→5.←HLVMC Section 13-4D-6 NMSA 1978 (being Laws 1992, Chapter 74, Section 6) is amended to read:

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

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

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

SECTION HLVMC→5.←HLVMC HLVMC→6.←HLVMC Section 13-4D-7 NMSA 1978 (being Laws 1992, Chapter 74, Section 7, as amended) is amended to read:

"13-4D-7. NONCOMPLIANCE--PENALTIES.--An employer who willfully and knowingly fails to comply with the requirements

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of the Public Works Apprentice and Training Act shall be subject to the following penalties:

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

B. a noncomplying employer shall have the unpaid contributions, as required under the provisions of the Public Works Apprentice and Training Act, withheld as provided in Subsections A and B of Section 13-4-14 NMSA 1978; and

C. a noncomplying employer shall not be permitted to bid on any public works contracts as provided in Subsections A and B of Section 13-4-14 NMSA 1978."