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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Garratt/Sanchez/Chandler</u>	<b>LAST UPDATED</b> <u>2/22/2023</u> <b>ORIGINAL DATE</b> <u>1/23/2023</u>
<b>SHORT TITLE</b> <u>Public Works Project Contributions</u>	<b>BILL NUMBER</b> <u>House Bill 46/aHLVMC</u> <b>ANALYST</b> <u>Hanika-Ortiz/Simon/Carswell/Chenier</u>

### REVENUE\* (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
	\$2,900.0 - \$3,400.0	\$2,900.0 - \$3,400.0	Recurring	DWS public works apprentice and training fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>State Road Projects</b>		\$2,000.0	\$2,000.0	\$4,000.0	Recurring	Road Fund
<b>Local Government Road Projects</b>		\$900.0	\$900.0	\$1,800.0	Recurring	Local Governments
<b>State Maintenance Contracts</b>		Up to \$500.0	Up to \$500.0	Up to \$1,000.0	Recurring	General Fund
		\$50.0	\$50.0	\$100.0	Recurring	Apprenticeship Scholarship Fund
<b>Total</b>		\$2,950.0 - \$3,450.0	\$2,950.0 - \$3,450.0	\$5,900.0 - \$6,900.0	Recurring	

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Workforce Solutions Department (WSD)

Department of Transportation (DOT)

## SUMMARY

### Synopsis of HLVMC Amendment

The House Labor and Human Resources Committee amendment to House Bill 46 enacts a new section of the Act to create the apprenticeship scholarship fund as a nonreverting fund consisting of appropriations and other money distributed or allocated to the fund. The new fund is subject to appropriation by the legislature to WSD to: (1) purchase materials and electronic equipment for the apprenticeship program; (2) cover fees for the apprenticeship program or related licenses or certifications; and (3) cover unreimbursed expenses to help successfully complete apprenticeship training, such as child care and transportation expenses.

### Synopsis of House Bill 46

House Bill 46 amends Section 13-4D-4 NMSA 1978, the “Public Works Apprentice and Training Act,” to remove the exclusion of street, highway, bridge, road, utility, or maintenance contracts from public works projects that require employers to make contributions to apprentice and training programs. The effect of the bill is that all public works construction contractors will be required to make contributions to apprentice and training programs administered by WSD.

HB46 also changes the responsible agency in the Act from a division of WSD to the entire WSD.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## FISCAL IMPLICATIONS

Current law requires a contractor that is awarded a public works project to contribute to approved apprentice and training programs, but includes an exemption for street, highway, bridge, road, utility, or maintenance contracts. HB46/aHLVMC would remove this exemption, which would increase the costs of these projects. Rules adopted by WSD set this rate at 60 cents per labor hour.

NMDOT reports a total of 1.8 million labor hours in FY21 and 1.6 million labor hours in FY22. At the 60 cents per hour rate, that amounts to between \$983 thousand and \$1.1 million in additional costs on federally funded construction projects. NMDOT estimates those costs would account for about half of the total impact on the department, with a total impact of about \$2 million.

Additionally, local governments would see cost increases. Estimates from local governments are not directly available, but based on overall spending, LFC staff estimate costs of \$900 thousand per year for local governments. According to data from the U.S. Census Bureau, local governments in New Mexico account for about 30 percent of total highway spending, while the state accounts for about 70 percent.

HB46/aHLVMC could also lead to additional costs for state maintenance contracts. Currently, many larger state maintenance projects are completed using statewide price agreements. Rates under these agreements are sometimes tied to nationwide price agreements from the federal

General Services Administration or the National Association of State Purchasing Officers. As a result, it is unclear if rates for these price agreements will increase due to the bill. However, state agencies could see increased costs, particularly on smaller projects that are not based on nationally referenced price agreements.

HB46/aHLVMC amendment creates a new fund and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

Money in the apprenticeship scholarship fund is appropriated to WSD to carry out the purposes of the fund. WSD could work with participating public works contractors initially to develop the criteria to review applications and make the award on an objective and nondiscriminatory basis. LFC staff estimates the additional operating budget impact for WSD is \$50 thousand for .5 FTE.

## **SIGNIFICANT ISSUES**

Currently, the law exempts street, highway, bridge, road, utility, or maintenance contracts from contributing to apprentice and training programs administered by WSD. HB46 will require all contractors, not just building trades contractors, performing construction and maintenance work to: a) contribute to the apprentice and training fund for each hour of labor provided; b) have unpaid contributions withheld for nonpayment; and c) excluded from bidding on future public works projects if noncompliant.

DOT notes many highway construction contractors are already subject to federal on-the-job training obligations. Additionally, DOT contractors participate in the New Mexico Technician Training and Certification Program (TTCP) with the Associated Contractors of New Mexico. The TTCP provides testing and certification services and associated documentation to ensure that all materials and highway projects are properly measured and evaluated in accordance with national standards for transportation construction. The TTCP training programs are specifically designed for highway construction and are not duplicated by or a part of the WSD apprentice trainings.

## **ADMINISTRATIVE IMPLICATIONS**

Public works project owners will need to ensure contractors have not been disqualified from bidding based on non-compliance with the apprentice and training contribution requirement. It may be challenging for some agencies to monitor contributions made pursuant to small maintenance contracts, particularly for those below the \$60 thousand limit that would require the agency to go out for competitive bidding.

## **TECHNICAL ISSUES**

NMDOT notes that removing the exemption applicable to street, highway, bridge, road, utility, or maintenance contracts may conflict with Section 13-4D-3(A) NMSA 1978 which defines the approved training programs as applying to “building trades” recognized by the U.S. Department of Labor Bureau of Apprenticeship and Training or the New Mexico Apprenticeship Council.