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HOUSE BILL 323

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

TERRY T. MARQUARDT

AN ACT

RELATING TO PUBLIC WORKS; EXEMPTING FROM CERTAIN REQUIREMENTS  
THOSE CONTRACTS OR PROJECTS IN WHICH A LOCAL SCHOOL DISTRICT  
OR A POST-SECONDARY EDUCATIONAL INSTITUTION IS A PARTY.

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

Section 1. Section 13-4-11 NMSA 1978 (being Laws 1965,  
Chapter 35, Section 1, as amended) is amended to read:

"13-4-11. MINIMUM WAGES ON PUBLIC WORKS--WEEKLY PAYMENT--  
POSTING WAGE SCALE--WITHHOLDING FUNDS.--Every contract or  
project in excess of twenty thousand dollars (\$20,000) to which  
the state or any political subdivision thereof is a party for  
construction, alteration, demolition or repair or any  
combination of these, including painting and decorating, of  
public buildings, public works or public roads of the state and  
which requires or involves the employment of mechanics,

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1 laborers or both shall contain a provision stating the minimum  
2 wages to be paid to various classes of laborers and mechanics,  
3 which shall be based upon the wages that will be determined by  
4 the director of the labor and industrial division of the labor  
5 department to be prevailing for the corresponding classes of  
6 laborers and mechanics employed on contract work of a similar  
7 nature in the state or locality, and every contract or project  
8 shall contain a stipulation that the contractor, subcontractor,  
9 employer or any person acting as a contractor shall pay all  
10 mechanics and laborers employed on the site of the project,  
11 unconditionally and not less often than once a week and without  
12 subsequent unlawful deduction or rebate on any account, the  
13 full amounts accrued at time of payment computed at wage rates  
14 not less than those stated in the minimum wage rates issued for  
15 the project.

16 A. For the purpose of making wage determinations,  
17 the director of the labor and industrial division of the labor  
18 department shall conduct a continuing program for the obtaining  
19 and compiling of wage-rate information and shall encourage the  
20 voluntary submission of wage-rate data by contractors,  
21 contractors' associations, labor organizations, interested  
22 persons and public officers. Before making a determination of  
23 wage rates for any project, [he] the director shall give due  
24 regard to the information thus obtained. Whenever the director  
25 deems that the data at hand are insufficient to make a wage

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1 determination, he may have a field survey conducted for the  
2 purpose of obtaining sufficient information upon which to make  
3 determination of wage rates. Any interested person shall have  
4 the right to submit to the director written data, views and  
5 arguments why the wage determination should be changed.

6 B. The scale of wages to be paid shall be posted by  
7 the contractor or person acting as a contractor in a prominent  
8 and easily accessible place at the site of the work; and it is  
9 further provided that there may be withheld from the  
10 contractor, subcontractor, employer or any person acting as a  
11 contractor so much of accrued payments as may be considered  
12 necessary by the contracting officer to pay to laborers and  
13 mechanics employed on the project the difference between the  
14 rates of wages required by the director of the labor and  
15 industrial division of the labor department to be paid to  
16 laborers and mechanics on the work and the rates of wages  
17 received by such laborers and mechanics and not refunded to the  
18 contractor, subcontractor, employer or any person acting as a  
19 contractor or their agents.

20 C. The director of the labor and industrial division  
21 of the labor department [~~shall have authority to~~] may issue  
22 rules [~~and regulations~~] necessary to administer and accomplish  
23 the purposes of the Public Works Minimum Wage Act.

24 D. As used in this section, "state or any political  
25 subdivision thereof" does not include a local school district,

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1 a local school board, a post-secondary educational institution  
2 or the governing board of a post-secondary educational  
3 institution. "

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