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**HOUSE BILL 584**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Terry T. Marquardt**

**AN ACT**

**RELATING TO PUBLIC WORKS; AMENDING THE PUBLIC WORKS MINIMUM WAGE ACT TO EXEMPT LOCAL SCHOOL DISTRICT AND POST-SECONDARY EDUCATIONAL INSTITUTION CONSTRUCTION PROJECTS FROM THE PREVAILING WAGE REQUIREMENT.**

**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**

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

18 A. For the purpose of making wage determinations,  
19 the director of the labor and industrial division of the labor  
20 department shall conduct a continuing program for the  
21 obtaining and compiling of wage-rate information and shall  
22 encourage the voluntary submission of wage-rate data by  
23 contractors, contractors' associations, labor organizations,  
24 interested persons and public officers. Before making a  
25 determination of wage rates for any project, ~~[he]~~ the director

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1 shall give due regard to the information thus obtained.  
2 Whenever the director deems that the data at hand are  
3 insufficient to make a wage determination, he may have a field  
4 survey conducted for the purpose of obtaining sufficient  
5 information upon which to make determination of wage rates.  
6 Any interested person shall have the right to submit to the  
7 director written data, views and arguments why the wage  
8 determination should be changed.

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

23 C. The director of the labor and industrial  
24 division of the labor department [~~shall have authority to~~] may  
25 issue rules [~~and regulations~~] necessary to administer and

1 accomplish the purposes of the Public Works Minimum Wage Act.

2 D. As used in this section, "state or any  
3 political subdivision thereof" does not include a local school  
4 district, a local school board, a post-secondary educational  
5 institution or the governing board of a post-secondary  
6 educational institution."

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