

HOUSE BILL 192

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC WORKS; AMENDING AND REPEALING SECTIONS OF
THE PUBLIC WORKS APPRENTICE AND TRAINING ACT; REPEALING THE
PUBLIC WORKS MINIMUM WAGE ACT; MAKING AN APPROPRIATION.

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

SECTION 1. Section 13-4D-2 NMSA 1978 (being Laws 1992,
Chapter 74, Section 2) is amended to read:

"13-4D-2. PURPOSE.--The purpose of the Public Works
Apprentice and Training Act is to ~~[ensure funding, through
contributions made by employers, to]~~ establish an
apprenticeship program that will develop skilled building
trades craftsmen in occupations required for public works
construction in New Mexico, which occupations are recognized by
the ~~[bureau of apprenticeship and training]~~ office of
apprenticeship of the United States department of labor or the

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1 ~~[New Mexico apprenticeship council]~~ workforce solutions
2 department. The ~~[funding will ensure adequate]~~ training
3 ~~[during economic downturns]~~ will increase the number of New
4 Mexicans possessing skills that will enhance their
5 opportunities for employment and maintain the high standards of
6 craftsmanship in ~~[our]~~ the state."

7 SECTION 2. Section 13-4D-3 NMSA 1978 (being Laws 1992,
8 Chapter 74, Section 3, as amended) is amended to read:

9 "13-4D-3. DEFINITIONS.--As used in the Public Works
10 Apprentice and Training Act:

11 A. "approved apprentice and training programs"
12 means building trades apprenticeship and training programs in
13 New Mexico that are recognized by the ~~[bureau of apprenticeship~~
14 ~~and training]~~ office of apprenticeship of the United States
15 department of labor or the ~~[New Mexico apprenticeship council]~~
16 workforce solutions department;

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

21 ~~[G.]~~ B. "director" or "division" means the labor
22 relations division of the workforce solutions department ~~[and~~

23 ~~D. "employer" means a contractor, subcontractor or~~
24 ~~any person acting as a contractor on a public works project, as~~
25 ~~that term is defined in the provisions of the Construction~~

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1 ~~Industries Licensing Act]."~~

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

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

5 A. The Public Works Apprentice and Training Act
6 shall be administered by ~~[the public works bureau of]~~ the labor
7 ~~[and industrial division of the labor]~~ relations division of
8 the workforce solutions department. The ~~[bureau]~~ division
9 shall ~~[collect employers' contributions in accordance with this~~
10 ~~act, review employers' compliance statements, review certified~~
11 ~~payroll reports to verify training contributions, investigate~~
12 ~~allegations of and impose penalties for employer noncompliance~~
13 ~~and]~~ disburse funds as provided in Section ~~[5 of the Public~~
14 ~~Works Apprentice and Training Act.~~

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

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1 ~~made by the director]~~ 13-4D-5 NMSA 1978 and shall publish a
2 list of approved apprentice and training programs in New
3 Mexico.

4 ~~[G.]~~ B. The director shall adopt rules ~~[and~~
5 ~~regulations]~~ necessary to implement the provisions of the
6 Public Works Apprentice and Training Act."

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

9 "13-4D-5. FUND CREATED--DISBURSEMENT OF FUNDS.--There is
10 created the "public works apprentice and training fund" in the
11 labor ~~[and industrial division of the labor]~~ relations division
12 of the workforce solutions department. ~~[Contributions into the~~
13 ~~fund shall be as provided under the provisions of Section~~
14 ~~13-4D-4 NMSA 1978. Funds contributed under the provisions of~~
15 ~~the Public Works Apprentice and Training Act]~~ The fund shall
16 consist of appropriations, contributions, gifts, grants,
17 donations and bequests made to the fund and all investment and
18 interest income from the fund. Money in the fund shall not
19 revert to the general fund at the end of a fiscal year. The
20 fund shall be distributed in the following manner:

21 A. no more than fifteen percent of the ~~[funds]~~ fund
22 may be used by ~~[the public works bureau of]~~ the labor ~~[and~~
23 ~~industrial division of the labor]~~ relations division of the
24 workforce solutions department to hire staff to administer the
25 ~~[funds collected by the division]~~ Public Works Apprentice and

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1 Training Act; and

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

22 SECTION 5. TEMPORARY PROVISION.--This act shall not
23 affect a contract existing or a contract that may be entered
24 into pursuant to invitations for bids that are outstanding
25 pursuant to the Public Works Minimum Wage Act as of June 30,

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1 2018.

2 **SECTION 6. APPROPRIATION.**--One million five hundred
3 thousand dollars (\$1,500,000) is appropriated from the general
4 fund to the public works apprentice and training fund for
5 expenditure in fiscal year 2019 and subsequent fiscal years to
6 carry out the purposes of the Public Works Apprentice and
7 Training Act. Any unexpended or unencumbered balance remaining
8 at the end of a fiscal year shall not revert to the general
9 fund.

10 **SECTION 7. DELAYED REPEAL.**--Sections 13-4-10 through
11 13-4-17 NMSA 1978 (being Laws 1963, Chapter 304, Section 1,
12 Laws 2009, Chapter 206, Section 2, Laws 1965, Chapter 35,
13 Sections 1 and 3, Laws 2004, Chapter 89, Section 1, Laws 1965,
14 Chapter 35, Section 4, Laws 2004, Chapter 89, Sections 2 and 3,
15 Laws 1963, Chapter 304, Section 5 and Laws 1937, Chapter 179,
16 Sections 4 and 5, as amended) are repealed effective July 1,
17 2019.

18 **SECTION 8. REPEAL.**--Sections 13-4D-6 through 13-4D-8 NMSA
19 1978 (being Laws 1992, Chapter 74, Sections 6 through 8) are
20 repealed.

21 **SECTION 9. EFFECTIVE DATE.**--The effective date of the
22 provisions of this act is July 1, 2018.