

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0933.01 Nicole Myers x4326

HOUSE BILL 18-1278

HOUSE SPONSORSHIP

Benavidez,

SENATE SPONSORSHIP

Moreno,

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT CONTRACTORS FOR PUBLIC**
102 **PROJECTS OVER FIVE HUNDRED THOUSAND DOLLARS THAT ARE**
103 **NOT FUNDED USING FEDERAL MONEY USE APPRENTICES FOR THE**
104 **PARTS OF THE PROJECT THAT ARE PERFORMED BY WORKERS IN**
105 **AN APPRENTICEABLE OCCUPATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the contractor for any public project that does not receive any federal money to use apprentices registered with an

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 26, 2018

apprenticeship program for at least 25% of the workforce in an apprenticeable occupation that is hired to work on the public project (apprenticeship requirements). The apprenticeship program must be registered with the United States department of labor, office of apprenticeship. For purposes of the bill, a public project is a project under the supervision of any state agency, including the department of transportation, that is likely to cost \$500,000 or more in any fiscal year.

A government agency may consider a bid or proposal for a public project that does not receive any federal money only if the bid or proposal indicates that at least 25% of the project workforce that is in an apprenticeable occupation and that is hired by the contractor to work on the public project will be apprentices registered with an apprenticeship program.

Upon completion of a public project, the contractor is required to submit an affidavit to the government agency stating that the contractor has either complied with the apprenticeship requirements or has made a good faith effort to comply. If the contractor complied with the apprenticeship requirements, the affidavit must include the names of the registered apprentices, identify the specific apprenticeship programs with which the apprentices are registered, and specify the total number of people in the workforce for the public project who are in apprenticeable occupations. If the contractor did not comply with the apprenticeship requirements, the affidavit must include documentation of the contractor's good faith effort to comply. If the contractor fails to submit the affidavit or if the state agency finds that the affidavit does not reflect the contractor's compliance or good faith effort to comply with the apprenticeship requirements, the agency may retain any unallocated portion of the amount of the contract price that the agency is authorized to withhold until the contract is completed as liquidated damages.

The bill specifies that the apprenticeship requirements do not supersede existing statutory requirements for licensed apprenticeable occupations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-92-104.3 as
3 follows:

4 **24-92-104.3. Apprenticeship utilization requirements for**
5 **public projects - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "APPRENTICEABLE OCCUPATION" MEANS AN OCCUPATION

1 SPECIFIED BY INDUSTRY THAT:

2 (I) INVOLVES SKILLS THAT ARE CUSTOMARILY LEARNED IN A
3 PRACTICAL WAY THROUGH A STRUCTURED, SYSTEMATIC PROGRAM OF
4 ON-THE-JOB SUPERVISED LEARNING;

5 (II) IS CLEARLY IDENTIFIED AND COMMONLY RECOGNIZED
6 THROUGHOUT AN INDUSTRY;

7 (III) INVOLVES THE PROGRESSIVE ATTAINMENT OF MANUAL,
8 MECHANICAL, OR TECHNICAL SKILLS AND KNOWLEDGE THAT, IN
9 ACCORDANCE WITH THE INDUSTRY STANDARD FOR THE OCCUPATION,
10 WOULD REQUIRE THE COMPLETION OF AT LEAST TWO THOUSAND HOURS OF
11 ON-THE-JOB LEARNING TO ATTAIN; AND

12 (IV) REQUIRES RELATED INSTRUCTION TO SUPPLEMENT THE
13 ON-THE-JOB LEARNING.

14 (b) "APPRENTICESHIP PROGRAM" MEANS AN APPRENTICESHIP
15 PROGRAM THAT IS REGISTERED WITH THE UNITED STATES DEPARTMENT OF
16 LABOR, OFFICE OF APPRENTICESHIP PURSUANT TO 29 CFR 29, OR THAT IS
17 REGISTERED WITH A FEDERALLY RECOGNIZED STATE APPRENTICESHIP
18 AGENCY.

19 (c) "CONTRACTOR" MEANS THE GENERAL CONTRACTOR THAT HAS
20 A CONTRACT WITH AN AGENCY OF GOVERNMENT.

21 (d) "PROJECT WORKFORCE" MEANS EVERY PERSON EMPLOYED BY
22 THE CONTRACTOR AND ANY SUBCONTRACTORS TO WORK ON A PUBLIC
23 PROJECT.

24 (e) "PUBLIC PROJECT" HAS THE SAME MEANING AS DEFINED IN
25 SECTION 24-92-102 (8); EXCEPT THAT "PUBLIC PROJECT" DOES NOT
26 INCLUDE ANY PROJECT UNDER THE SUPERVISION OF THE DEPARTMENT OF
27 TRANSPORTATION FOR WHICH APPROPRIATION OR EXPENDITURE OF FUNDS

1 MAY BE REASONABLY EXPECTED NOT TO EXCEED FIVE HUNDRED
2 THOUSAND DOLLARS IN THE AGGREGATE FOR ANY FISCAL YEAR.

3 (2) A CONTRACTOR FOR A PUBLIC PROJECT THAT DOES NOT
4 RECEIVE ANY FEDERAL MONEY IS REQUIRED TO USE APPRENTICES
5 REGISTERED WITH AN APPRENTICESHIP PROGRAM FOR AT LEAST
6 TWENTY-FIVE PERCENT OF THE PROJECT WORKFORCE THAT IS IN AN
7 APPRENTICEABLE OCCUPATION AND THAT IS HIRED TO WORK ON THE
8 PUBLIC PROJECT.

9 (3) AN AGENCY OF GOVERNMENT MAY CONSIDER A BID OR
10 PROPOSAL FOR A PUBLIC PROJECT FOR WHICH APPROPRIATION OR
11 EXPENDITURE OF MONEY MAY BE REASONABLY EXPECTED NOT TO EXCEED
12 FIVE HUNDRED THOUSAND DOLLARS IN THE AGGREGATE FOR ANY FISCAL
13 YEAR AND THAT DOES NOT RECEIVE ANY FEDERAL MONEY, ONLY IF THE
14 BID OR PROPOSAL INDICATES THAT AT LEAST TWENTY-FIVE PERCENT OF
15 THE PROJECT WORKFORCE WILL BE APPRENTICES REGISTERED WITH AN
16 APPRENTICESHIP PROGRAM.

17 (4) (a) UPON COMPLETION OF A PUBLIC PROJECT, A CONTRACTOR
18 SHALL SUBMIT AN AFFIDAVIT TO THE APPLICABLE AGENCY OF
19 GOVERNMENT STATING THAT THE CONTRACTOR EITHER COMPLIED WITH
20 THE REQUIREMENTS OF THIS SECTION OR MADE A GOOD FAITH EFFORT TO
21 COMPLY WITH THE REQUIREMENTS OF THIS SECTION BUT WAS UNABLE TO
22 COMPLY.

23 (b) (I) IF THE CONTRACTOR COMPLIED WITH THE REQUIREMENTS
24 OF THIS SECTION, THE AFFIDAVIT MUST INCLUDE THE NAMES OF THE
25 REGISTERED APPRENTICES WHO WORKED ON THE PUBLIC PROJECT,
26 IDENTIFY THE SPECIFIC APPRENTICESHIP PROGRAMS WITH WHICH THE
27 APPRENTICES ARE REGISTERED, AND SPECIFY THE TOTAL NUMBER OF

1 PEOPLE IN THE PROJECT WORKFORCE WHO ARE IN APPRENTICEABLE
2 OCCUPATIONS.

3 (II) IF THE CONTRACTOR WAS UNABLE TO COMPLY WITH THE
4 REQUIREMENTS OF THIS SECTION, THE AFFIDAVIT MUST ALSO INCLUDE
5 DOCUMENTATION OF THE CONTRACTOR'S GOOD FAITH EFFORTS TO COMPLY
6 AND THE REASON WHY COMPLIANCE WAS NOT POSSIBLE.

7 (c) BEFORE THE AGENCY OF GOVERNMENT MAKES FINAL PAYMENT
8 ON THE WITHHELD PERCENTAGE OF THE CONTRACT PRICE PURSUANT TO
9 SECTION 24-91-103, THE AGENCY OF GOVERNMENT SHALL ENSURE THAT
10 THE AFFIDAVIT REFLECTS THE CONTRACTOR'S COMPLIANCE OR GOOD FAITH
11 EFFORT TO COMPLY WITH THIS SECTION. IF THE CONTRACTOR FAILS TO
12 SUBMIT AN AFFIDAVIT OR IF THE AGENCY OF GOVERNMENT DETERMINES
13 THAT THE AFFIDAVIT DOES NOT REFLECT THE CONTRACTOR'S COMPLIANCE
14 OR GOOD FAITH EFFORT TO COMPLY WITH THIS SECTION, THE AGENCY OF
15 GOVERNMENT MAY RETAIN ANY PORTION OF THE WITHHELD PERCENTAGE
16 OF THE CONTRACT PRICE THAT WAS NOT ALLOCATED FOR OTHER
17 CONTRACT PURPOSES AS LIQUIDATED DAMAGES.

18 (5) A CONTRACTOR THAT IS AWARDED A CONTRACT BY AN AGENCY
19 OF GOVERNMENT SHALL REQUIRE, THROUGH PRIVATE CONTRACT, THAT
20 ANY SUBCONTRACTOR THAT THE CONTRACTOR USES TO FULFILL THE
21 TERMS OF THE CONTRACT COMPLIES WITH THE REQUIREMENTS OF THIS
22 SECTION. THE CONTRACTOR MAY REQUIRE, THROUGH PRIVATE CONTRACT,
23 THAT A SUBCONTRACTOR PROVIDE NECESSARY INFORMATION TO THE
24 CONTRACTOR TO ALLOW THE CONTRACTOR TO COMPLY WITH SUBSECTION
25 (4) OF THIS SECTION.

26 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE
27 THE REQUIREMENTS FOR APPRENTICEABLE OCCUPATIONS THAT ARE

1 LICENSED PURSUANT TO TITLE 12, INCLUDING SECTIONS 12-23-105,
2 12-23-110.5, 12-58-105, AND 12-58-117.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2018 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.