

First 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. 17-0372.01 Nicole Myers x4326

HOUSE BILL 17-1300

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 MONEYS USE APPRENTICES FOR**
104 **THE PARTS OF THE PROJECT THAT ARE PERFORMED BY**
105 **WORKERS IN 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 moneys to use apprentices registered with an

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

HOUSE
Amended 2nd Reading
April 21, 2017

apprenticeship program for at least 25% of the workforce in an apprenticeable occupation that is hired to work on the public project (apprenticeship requirements). 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. The apprenticeship program must be registered with the United States department of labor, office of apprenticeship.

A government agency may consider a bid or proposal for a public project that does not receive any federal moneys 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 satisfied 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 fails to submit the affidavit or if the state agency finds that the affidavit does not reflect the contractor's compliance 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
8 SPECIFIED BY INDUSTRY THAT:

9 (I) INVOLVES SKILLS THAT ARE CUSTOMARILY LEARNED IN A

1 PRACTICAL WAY THROUGH A STRUCTURED, SYSTEMATIC PROGRAM OF
2 ON-THE-JOB SUPERVISED LEARNING;

3 (II) IS CLEARLY IDENTIFIED AND COMMONLY RECOGNIZED
4 THROUGHOUT AN INDUSTRY;

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

10 (IV) REQUIRES RELATED INSTRUCTION TO SUPPLEMENT THE
11 ON-THE-JOB LEARNING.

12 (b) "APPRENTICESHIP PROGRAM" MEANS AN APPRENTICESHIP
13 PROGRAM THAT IS REGISTERED WITH THE UNITED STATES DEPARTMENT OF
14 LABOR, OFFICE OF APPRENTICESHIP PURSUANT TO 29 CFR 29.

15 (c) "PUBLIC PROJECT" HAS THE SAME MEANING AS DEFINED IN
16 SECTION 24-92-102 (8); EXCEPT THAT "PUBLIC PROJECT" DOES NOT
17 INCLUDE ANY PROJECT UNDER THE SUPERVISION OF THE DEPARTMENT OF
18 TRANSPORTATION FOR WHICH APPROPRIATION OR EXPENDITURE OF FUNDS
19 MAY BE REASONABLY EXPECTED NOT TO EXCEED FIVE HUNDRED
20 THOUSAND DOLLARS IN THE AGGREGATE FOR ANY FISCAL YEAR.

21 (2) A CONTRACTOR FOR A PUBLIC PROJECT THAT DOES NOT
22 RECEIVE ANY FEDERAL MONEYS IS REQUIRED TO USE APPRENTICES
23 REGISTERED WITH AN APPRENTICESHIP PROGRAM FOR AT LEAST
24 TWENTY-FIVE PERCENT OF THE PROJECT WORKFORCE THAT IS IN AN
25 APPRENTICEABLE OCCUPATION AND THAT IS HIRED TO WORK ON THE
26 PUBLIC PROJECT.

27 (3) AN AGENCY OF GOVERNMENT MAY CONSIDER A BID OR

1 PROPOSAL FOR A PUBLIC PROJECT THAT DOES NOT RECEIVE ANY FEDERAL
2 MONEYS ONLY IF THE BID OR PROPOSAL INDICATES THAT AT LEAST
3 TWENTY-FIVE PERCENT OF THE WORKFORCE IN AN APPRENTICEABLE
4 OCCUPATION THAT WILL BE HIRED BY THE CONTRACTOR TO WORK ON THE
5 PUBLIC PROJECT WILL BE APPRENTICES REGISTERED WITH AN
6 APPRENTICESHIP PROGRAM.

7 (4) (a) UPON COMPLETION OF A PUBLIC PROJECT, A CONTRACTOR
8 SHALL SUBMIT AN AFFIDAVIT TO THE APPLICABLE AGENCY OF
9 GOVERNMENT STATING THAT THE CONTRACTOR EITHER COMPLIED WITH
10 THE REQUIREMENTS OF THIS SECTION OR MADE A GOOD FAITH EFFORT TO
11 COMPLY WITH THE REQUIREMENTS OF THIS SECTION BUT WAS UNABLE TO
12 COMPLY.

13 (b) (I) IF THE CONTRACTOR COMPLIED WITH THE REQUIREMENTS
14 OF THIS SECTION, THE AFFIDAVIT MUST INCLUDE THE NAMES OF THE
15 REGISTERED APPRENTICES WHO WORKED ON THE PUBLIC PROJECT,
16 IDENTIFY THE SPECIFIC APPRENTICESHIP PROGRAMS WITH WHICH THE
17 APPRENTICES ARE REGISTERED, AND SPECIFY THE TOTAL NUMBER OF
18 PEOPLE IN THE WORKFORCE FOR THE PUBLIC PROJECT WHO ARE IN
19 APPRENTICEABLE OCCUPATIONS.

20 (II) IF THE CONTRACTOR WAS UNABLE TO COMPLY WITH THE
21 REQUIREMENTS OF THIS SECTION, THE AFFIDAVIT MUST INCLUDE
22 DOCUMENTATION OF THE CONTRACTOR'S GOOD FAITH EFFORTS TO COMPLY
23 AND THE REASON WHY COMPLIANCE WAS NOT POSSIBLE.

24 (c) BEFORE THE AGENCY OF GOVERNMENT MAKES FINAL PAYMENT
25 ON THE WITHHELD PERCENTAGE OF THE CONTRACT PRICE PURSUANT TO
26 SECTION 24-91-103, THE AGENCY OF GOVERNMENT SHALL ENSURE THAT
27 THE AFFIDAVIT REFLECTS THE CONTRACTOR'S COMPLIANCE OR GOOD FAITH

1 EFFORT TO COMPLY WITH THIS SECTION. IF THE CONTRACTOR FAILS TO
2 SUBMIT AN AFFIDAVIT OR IF THE AGENCY OF GOVERNMENT DETERMINES
3 THAT THE AFFIDAVIT DOES NOT REFLECT THE CONTRACTOR'S COMPLIANCE
4 OR GOOD FAITH EFFORT TO COMPLY WITH THIS SECTION, THE AGENCY OF
5 GOVERNMENT MAY RETAIN ANY PORTION OF THE WITHHELD PERCENTAGE
6 OF THE CONTRACT PRICE THAT WAS NOT ALLOCATED FOR OTHER
7 CONTRACT PURPOSES AS LIQUIDATED DAMAGES.

8 (5) A CONTRACTOR THAT IS AWARDED A CONTRACT BY AN AGENCY
9 OF GOVERNMENT SHALL REQUIRE, THROUGH PRIVATE CONTRACT, THAT
10 ANY SUBCONTRACTOR THAT THE CONTRACTOR USES TO FULFILL THE
11 TERMS OF THE CONTRACT COMPLIES WITH THE REQUIREMENTS OF THIS
12 SECTION. THE CONTRACTOR MAY REQUIRE, THROUGH PRIVATE CONTRACT,
13 THAT A SUBCONTRACTOR PROVIDE NECESSARY INFORMATION TO THE
14 CONTRACTOR TO ALLOW THE CONTRACTOR TO COMPLY WITH SUBSECTION
15 (4) OF THIS SECTION.

16 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE
17 THE REQUIREMENTS FOR APPRENTICEABLE OCCUPATIONS THAT ARE
18 LICENSED PURSUANT TO TITLE 12, INCLUDING SECTIONS 12-23-105,
19 12-23-110.5, 12-58-105, AND 12-58-117.

20 **SECTION 2. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 9, 2017, if adjournment sine die is on May 10,
24 2017); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2018 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

3 (2) This act applies to competitive solicitations issued on or after
4 the applicable effective date of this act.