

ASSEMBLY BILL NO. 305—ASSEMBLYWOMEN MONROE-MORENO
AND CONSIDINE

MARCH 15, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works.
(BDR 28-112)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to public works; requiring a contractor or subcontractor to comply with certain requirements relating to the use of apprentices who are women on a public work; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a contractor or subcontractor engaged in: (1) vertical construction who employs a worker on a public work to use one or more apprentices for at least 10 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed; and (2) horizontal construction who employs a worker on a public work to use one or more apprentices for at least 3 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed. (NRS 338.01165) **Section 1** of this bill requires that at least 5 percent of the hours of labor that is required to be performed by apprentices must be performed by women who are veterans or in a minority group. **Section 2** of this bill provides that such requirements do not apply to a contract for a public work for which bids have been submitted before January 1, 2024.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.01165 is hereby amended to read as follows:

338.01165 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, a contractor or subcontractor engaged in vertical construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 10 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed. *At least 5 percent of the hours of labor that is required to be performed by apprentices must be performed by women who are veterans or in a minority group.*

2. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, a contractor or subcontractor engaged in horizontal construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least 3 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed. *At least 5 percent of the hours of labor that is required to be performed by apprentices must be performed by women who are veterans or in a minority group.*

3. On or after January 1, 2021, the Labor Commissioner, in collaboration with the State Apprenticeship Council, may adopt regulations to increase the percentage of total hours of labor required to be performed by an apprentice pursuant to subsection 1 or 2 by not more than 2 percentage points.

4. An apprentice who graduates from an apprenticeship program while employed on a public work shall:

(a) Be deemed an apprentice on the public work for the purposes of subsections 1 and 2.

(b) Be deemed a journeyman for all other purposes, including, without limitation, the payment of wages or the payment of wages and benefits to a journeyman covered by a collective bargaining agreement.

5. A contractor or subcontractor engaged on a public work is not required to use an apprentice in a craft or type of work performed in a jurisdiction recognized by the State Apprenticeship Council as not having apprentices in that craft or type of work.

6. A public body may, upon the request of a contractor or subcontractor, submit a request to the Labor Commissioner to modify or waive the percentage of hours of labor provided by one or



1 more apprentices required pursuant to subsection 1 or 2 for good
2 cause. A public body must submit such a request, before an
3 advertisement for bids has been placed, the opening of bids or the
4 award of a contract for a public work or after the public body has
5 commenced work on the public work. Such a request must include
6 any supporting documentation, including, without limitation, proof
7 of denial of or failure to approve a request for apprentices pursuant
8 to subparagraph (3) of paragraph (d) of subsection 10.

9 7. The Labor Commissioner shall issue a determination of
10 whether to grant a modification or waiver requested pursuant to
11 subsection 6 within 15 days after the receipt of such request. The
12 Labor Commissioner may grant such a request if he or she makes a
13 finding that there is good cause to modify or waive the percentage
14 of hours of labor provided by one or more apprentices required
15 pursuant to subsection 1 or 2.

16 8. A public body, contractor or subcontractor may request a
17 hearing on the determination of the Labor Commissioner within 10
18 days after receipt of the determination of the Labor Commissioner.
19 The hearing must be conducted in accordance with regulations
20 adopted by the Labor Commissioner. If the Labor Commissioner
21 does not receive a request for a hearing pursuant to this subsection,
22 the determination of the Labor Commissioner is a final decision for
23 the purposes of judicial review pursuant to chapter 233B of NRS.

24 9. A contractor or subcontractor engaged on a public work
25 shall enter into an apprenticeship agreement for all apprentices
26 required to be used in the construction of a public work. If the Labor
27 Commissioner granted a modification or waiver pursuant to
28 subsection 7 because the Labor Commissioner finds that a request
29 for apprentices was denied or the request was not approved within 5
30 business days as described in subparagraph (3) of paragraph (d) of
31 subsection 10 and apprentices are later provided, then the contractor
32 or subcontractor shall enter into an apprenticeship agreement for all
33 apprentices later provided.

34 10. As used in this section:

35 (a) "Apprentice" means a person enrolled in an apprenticeship
36 program recognized by the State Apprenticeship Council.

37 (b) "Apprenticed craft or type of work" means a craft or type of
38 work for which there is an existing apprenticeship program
39 recognized by the State Apprenticeship Council.

40 (c) "Apprenticeship program" means an apprenticeship program
41 recognized by the State Apprenticeship Council.

42 (d) "Good cause" means:

43 (1) There are no apprentices available from an apprenticeship
44 program within the jurisdiction where the public work is to be
45 completed as recognized by the State Apprenticeship Council;



(2) The contractor or subcontractor is required to perform uniquely complex or hazardous tasks on the public work that require the skill and expertise of a greater percentage of journeymen; or

(3) The contractor or subcontractor has requested apprentices from an apprenticeship program and the request has been denied or the request has not been approved within 5 business days.

☞ The term does not include the refusal of a contractor or subcontractor to enter into an apprenticeship agreement pursuant to subsection 9.

(e) “Journeyman” has the meaning ascribed to it in NRS 624.260.

(f) *“Minority group” means:*

(1) A racial or ethnic minority group; or

(2) A group of persons who identify as LGBTQ. As used in this subparagraph, “LGBTQ” means lesbian, gay, bisexual, transgender, queer, intersex or any other nonheterosexual or noncisgender orientation or gender identity or expression.

(g) “State Apprenticeship Council” means the State Apprenticeship Council created by NRS 610.030.

(h) “Veteran” has the meaning ascribed to it in NRS 417.005.

Sec. 2. The amendatory provisions of this act do not apply to a contract for a public work for which bids have been submitted before January 1, 2024.

Sec. 3. This act becomes effective on January 1, 2024.

