

Amendment No. 693

Senate Amendment to Assembly Bill No. 305 First Reprint (BDR 28-112)

Proposed by: Senate Committee on Government Affairs

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AMD/HAC



Date: 5/21/2023

A.B. No. 305—Revises provisions governing public works. (BDR 28-112)





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

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 *, with certain exceptions,* 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, to the extent practicable: (1) at least 2 percent of the hours of labor for vertical construction that is required to be performed by apprentices must be performed by women; and (2) at least 1 percent of the hours of labor for horizontal construction that is required to be performed by apprentices must be performed by women. ***Section 1 also requires the State Apprenticeship Council to review, at least once every 2 years, the policies of an apprenticeship program that does not provide enough apprentices who are women to enable a contractor or subcontractor to meet the percentage of hours of labor required to be performed by women.*** **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. *To the extent practicable, at least 2 percent of the hours of labor that is required to be performed by apprentices must be performed by women. For purposes of this subsection, "to the extent practicable" means to the extent the requirement to have at least 2 percent of the hours of labor to be performed by apprentices who are women is feasible or capable of being done or carried out with reasonable effort, taking into account the number and availability of apprentices who are women in the applicable apprenticed craft or type of work.*

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. *To the extent practicable, at least 1 percent of the hours of labor that is required to be performed by apprentices must be performed by women. For purposes of this subsection, "to the extent practicable" means to the extent the requirement to have at least 3 percent of the hours of labor to be performed by apprentices who are women is feasible or capable of being done or carried out with reasonable effort, taking into account the number and availability of apprentices who are women in the applicable apprenticed craft or type of work.*

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, *regardless of gender*, 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 more apprentices required pursuant to subsection 1 or 2 for good cause. A public body must submit such a request, before an advertisement for bids has been placed, the opening of bids or the award of a contract for a public work or after the public body has commenced work on the public work. Such a request must include any supporting documentation, including, without limitation, proof of denial of or failure to approve a request for apprentices pursuant to subparagraph (3) of paragraph (d) of subsection ~~10~~ 11.

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

8. A public body, contractor or subcontractor may request a hearing on the determination of the Labor Commissioner within 10 days after receipt of the

determination of the Labor Commissioner. The hearing must be conducted in accordance with regulations adopted by the Labor Commissioner. If the Labor Commissioner does not receive a request for a hearing pursuant to this subsection, the determination of the Labor Commissioner is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.

9. A contractor or subcontractor engaged on a public work shall enter into an apprenticeship agreement for all apprentices required to be used in the construction of a public work. If the Labor Commissioner granted a modification or waiver pursuant to subsection 7 because the Labor Commissioner finds that a request for apprentices was denied or the request was not approved within 5 business days as described in subparagraph (3) of paragraph (d) of subsection ~~10~~ 11 and apprentices are later provided, then the contractor or subcontractor shall enter into an apprenticeship agreement for all apprentices later provided.

10. If a contractor or subcontractor does not meet the requirements set forth in subsection 1 or 2, as applicable, to have a percentage of the hours of labor performed by apprentices who are women, there is a rebuttable presumption that there were not enough apprentices who are women available to comply with such requirements. If an apprenticeship program is unable to rebut the presumption, the State Apprenticeship Council shall, at least once every two years, require the apprenticeship program to appear before the State Apprenticeship Council to review the policies of the program to recruit women. The State Apprenticeship Council may, without limitation, recommend improvements for recruiting women to the apprenticeship program.

11. As used in this section:

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

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

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

(d) "Good cause" means:

(1) There are no apprentices available from an apprenticeship program within the jurisdiction where the public work is to be 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) "State Apprenticeship Council" means the State Apprenticeship Council created by NRS 610.030.

**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.