

SENATE BILL NO. 82—SENATOR DALY

PREFILED JANUARY 26, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions related to public works.
(BDR 28-535)

FISCAL NOTE: Effect on Local Government: No.
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; revising provisions relating to the use of apprentices on public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires contractors or subcontractors engaged on public works to employ one or more apprentices for a certain percentage of the total hours performed on a public work, depending on the number of apprentices so employed, and to enter into an apprenticeship agreement for all apprentices so required. (NRS 338.01165) This bill: (1) modifies the percentage of labor hours that are required to be worked for certain projects depending on how many hours the apprentices will be working; and (2) limits the requirement to enter into an apprenticeship agreement to those contractors or subcontractors who are not signatories to a collective bargaining agreement with a sponsoring union.

Existing law: (1) authorizes the Labor Commissioner to adjust this percentage and grant a modification or waiver from these requirements upon a finding of good cause; and (2) defines the circumstances that constitute "good cause." (NRS 338.01165) This bill amends the definition of good cause to include any other circumstance set forth by regulation of the Labor Commissioner. This bill further provides that only the public body that awards the contract for the public work may request that the Labor Commissioner modify or waive these requirements.

Existing law provides that an apprentice who graduates from an apprenticeship program while employed on a public work is deemed a journeyman for certain purposes, including the payment of wages. (NRS 338.01165) This bill expands the circumstances that treat an apprentice as a journeyman to include when the apprentice is working for a contractor or subcontractor who is a signatory to a collective bargaining agreement with a sponsoring union.



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~~ 7 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~~, if workers ~~are~~ will be employed ~~for more than 350 hours of work for each 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~~ 5 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~~, if workers ~~are~~ will be employed ~~for more than 500 hours of work for each 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. *An apprentice who graduates from an apprenticeship program and works for a contractor or subcontractor who is a signatory to a collective bargaining agreement with the union that sponsors the apprenticeship program for an apprenticed craft or type of work:*

(a) Shall be deemed an apprentice on the public work for the purposes of subsections 1 and 2:

(1) Except as otherwise provided in subparagraph (2), for up to 36 months after graduation from the program; or



(2) *If the apprentice is employed on the public work 36 months after graduation from the program, until the completion of the public work.*

(b) *Shall be deemed a journeyman for all other purposes, including, without limitation, the payment of wages and benefits to a journeyman pursuant to the collective bargaining agreement.*

6. 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]~~

7. *A contractor or subcontractor may request that the public body that awarded the contract for a public work 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. Such a contractor or subcontractor must submit to the public body any supporting documentation to show that a good faith effort was made to comply with subsection 1 or 2, as applicable, including, without limitation, proof of denial of or failure to approve a request for apprentices. Only the public body that awards the contract for a public work 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] If a public body submits a request to the Labor Commissioner, the 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] to the Labor Commissioner 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.~~

~~—7.] that shows good cause.~~

8. The Labor Commissioner shall issue a determination of whether to grant a modification or waiver requested pursuant to subsection ~~[6]~~ 7 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 *the public body demonstrated that* there is good cause to ~~[modify or waive]~~ *justify the modification or waiver of* the percentage of hours of labor provided by one or more apprentices required pursuant to subsection 1 or 2.

~~[8.]~~ 9. A public body ~~[, contractor or subcontractor]~~ may request a hearing on the determination of the Labor Commissioner



1 within 10 days after receipt of the determination of the Labor
2 Commissioner. The hearing must be conducted in accordance with
3 regulations adopted by the Labor Commissioner. If the Labor
4 Commissioner does not receive a request for a hearing pursuant to
5 this subsection, the determination of the Labor Commissioner is a
6 final decision for the purposes of judicial review pursuant to chapter
7 233B of NRS.

8 ~~[9.]~~ 10. A contractor or subcontractor *who is not a signatory*
9 *to a collective bargaining agreement with the union sponsoring*
10 *the apprenticeship program for an apprenticed craft or type of*
11 *work* engaged on a public work shall enter into an apprenticeship
12 agreement for ~~[all apprentices]~~ *each apprentice* required to be used
13 in the construction of a public work. ~~[If the Labor Commissioner~~
14 ~~granted a modification or waiver pursuant to subsection 7 because~~
15 ~~the Labor Commissioner finds that a request for apprentices was~~
16 ~~denied or the request was not approved within 5 business days as~~
17 ~~described in subparagraph (3) of paragraph (d) of subsection 10 and~~
18 ~~apprentices are later provided, then the contractor or subcontractor~~
19 ~~shall enter into an apprenticeship agreement for all apprentices later~~
20 ~~provided.~~

21 ~~—10.]~~ 11. *The Labor Commissioner shall adopt any*
22 *regulations necessary to carry out the provisions of this section.*

23 12. As used in this section:

24 (a) “Apprentice” means a person enrolled in an apprenticeship
25 program recognized by the State Apprenticeship Council.

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

29 (c) “Apprenticeship program” means an apprenticeship program
30 recognized by the State Apprenticeship Council.

31 (d) “Good cause” ~~[means:]~~ *includes, without limitation:*

32 (1) There are no apprentices available from an apprenticeship
33 program ~~[within]~~ *which covers* the jurisdiction where the public
34 work is to be completed as recognized by the State Apprenticeship
35 Council;

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

39 (3) The contractor or subcontractor has requested apprentices
40 from an apprenticeship program and the request has been denied ,
41 ~~[or]~~ *the apprenticeship program has not responded to a* request
42 ~~[has not been approved]~~ *for an apprentice* within 5 business days ~~[.]~~
43 *or the apprenticeship program is unable to fill the request within*
44 *10 business days; and*



1 (4) *Any other circumstance that the Labor Commissioner*
2 *has set forth by regulation as demonstrating good cause.*

3 ➡ The term does not include the refusal of a contractor or
4 subcontractor to enter into an apprenticeship agreement pursuant to
5 subsection ~~9.~~ 10.

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

8 (f) “State Apprenticeship Council” means the State
9 Apprenticeship Council created by NRS 610.030.

10 **Sec. 2.** 1. This section becomes effective upon passage and
11 approval.

12 2. Section 1 of this act becomes effective:

13 (a) Upon passage and approval for the purpose of adopting any
14 regulations and performing any other preparatory administrative
15 tasks that are necessary to carry out the provisions of this act; and

16 (b) On January 1, 2024, for all other purposes.

