

HB0263S01 compared with HB0263

~~text~~ shows text that was in HB0263 but was deleted in HB0263S01.

text shows text that was not in HB0263 but was inserted into HB0263S01.

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Representative Jennifer Dailey-Provost proposes the following substitute bill:

APPRENTICESHIP ON PUBLIC WORKS REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer ~~Dailey-Provost~~ Dailey-Provost

Senate Sponsor: ~~_____~~ David P. Hinkins

LONG TITLE

General Description:

This bill enacts provisions relating to labor provided by an apprentice for a public works project.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes technical and conforming changes; and
- ▶ for certain public works projects:
 - requires that a specified amount of labor be performed by an apprentice;
 - establishes other requirements for a contract between a government entity and a contractor relating to labor provided by an apprentice; and
 - provides exceptions to the apprentice labor requirement under certain

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circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-30-201, Utah Code Annotated 1953

34-30-202, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

34-30-101, (Renumbered from 34-30-1, as enacted by Laws of Utah 1969, Chapter 85)

34-30-102, (Renumbered from 34-30-8, as enacted by Laws of Utah 1969, Chapter 85)

34-30-103, (Renumbered from 34-30-9, as last amended by Laws of Utah 2018,
Chapter 148)

34-30-104, (Renumbered from 34-30-13, as last amended by Laws of Utah 2016,
Chapter 348)

34-30-105, (Renumbered from 34-30-14, as last amended by Laws of Utah 2007,
Chapter 329)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-30-101**, which is renumbered from Section 34-30-1 is renumbered and amended to read:

Part 1. Employment on Public Works Projects

~~[34-30-1].~~ **34-30-101. Citizens to be given preference -- Provision to be included in contracts.**

~~{~~ (1) In employing workmen in the construction of public works by the state or any county or municipality, or by persons contracting with the state or any county or municipality, preference shall be given citizens of the United States, or those having declared their intention of becoming citizens.

(2) In each contract for the construction of public works a provision shall be inserted to the effect that, if the provisions of this section are not complied with, the contract shall be void.

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Section 2. Section **34-30-102**, which is renumbered from Section 34-30-8 is renumbered and amended to read:

~~[34-30-8].~~ **34-30-102. Forty-hour work week -- Overtime at one and one-half regular rate.**

(1) Forty hours shall constitute a working week on all works and undertakings carried on by the state, county, or municipal governments, or by any officer of the state or of any county or municipal government.

(2) Any persons, corporation, firm, contractor, agent, manager, or foreman, who shall require or contract with any person to work upon such works or undertakings longer than 40 hours in one week shall pay such employees at a rate not less than one and one-half times the regular rate at which he is employed.

Section 3. Section **34-30-103**, which is renumbered from Section 34-30-9 is renumbered and amended to read:

~~[34-30-9].~~ **34-30-103. Violation of chapter -- Failure to keep or produce records -- Misdemeanor.**

Any officer, agent or representative of the state, or of any political subdivision, district or municipality of it who shall violate, or omit to comply with any of the provisions of this chapter, and any contractor or subcontractor, or agent or representative thereof, doing such public work, who shall neglect to keep, or cause to be kept, an accurate record of the names, occupation and actual wages paid to each laborer, workman and mechanic employed by him or her, in connection with this public work or who shall refuse to allow access to same at any reasonable hour to any person authorized to inspect same under this chapter is guilty of a class B misdemeanor.

Section 4. Section **34-30-104**, which is renumbered from Section 34-30-13 is renumbered and amended to read:

~~[34-30-13].~~ **34-30-104. Compliance with federal requirements.**

Notwithstanding any other provision in this chapter to the contrary, the governor of the state of Utah may, in the governor's discretion, elect to suspend the provisions of this chapter in whole or in part if it becomes necessary to do so in order to comply with requirements imposed by the government of the United States, in order for the state of Utah to remain eligible for participation in programs which are financed in whole or in part by the United States

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government.

Section 5. Section **34-30-105**, which is renumbered from Section 34-30-14 is renumbered and amended to read:

~~[34-30-14]~~. 34-30-105. Public works -- Wages.

(1) For purposes of this section:

(a) "Political subdivision" means a county, city, town, school district, local district, special service district, public corporation, institution of higher education of the state, public agency of any political subdivision, or other entity that expends public funds for construction, maintenance, repair or improvement of public works.

(b) "Public works" or "public works project" means a building, road, street, sewer, storm drain, water system, irrigation system, reclamation project, or other facility owned or to be contracted for by the state or a political subdivision, and that is to be paid for in whole or in part with tax revenue paid by residents of the state.

(2) (a) Except as provided in Subsection (2)(b) or as required by federal or state law, the state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair, or improvement of public works pay its employees:

(i) a predetermined amount of wages or wage rate; or

(ii) a type, amount, or rate of employee benefits.

(b) Subsection (2)(a) does not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(3) The state or any political subdivision that contracts for the construction, maintenance, repair, or improvement of public works may not require that a contractor, subcontractor, or material supplier or carrier engaged in the construction, maintenance, repair or improvement of public works execute or otherwise become a party to any project labor agreement, collective bargaining agreement, prehire agreement, or any other agreement with employees, their representatives, or any labor organization as a condition of bidding, negotiating, being awarded, or performing work on a public works project.

(4) This section applies to any contract executed after May 1, 1995.

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Section 6. Section **34-30-201** is enacted to read:

Part 2. Apprenticeships

34-30-201. Definitions.

As used in this part:

(1) "Apprentice" means the same as that term is defined in Section 35A-6-102.

(2) "Apprenticeship utilization requirement" means a requirement related to the amount of labor performed by an apprentice.

(3) "Governmental entity" means:

(a) a political subdivision; or

(b) the state.

(4) (a) "Labor hour" means an hour of construction work performed by an individual receiving an hourly wage.

(b) "Labor hour" includes an hour of work performed by:

(i) an individual employed by the contractor; or

(ii) an individual employed by a subcontractor.

(c) "Labor hour" does not include an hour of work performed by:

(i) a foreman;

(ii) a superintendent; or

(iii) the company owner of a general contractor or subcontractor.

(5) "Political subdivision" means the same as that term is defined in Section 34-30-14.

(6) "Public works project" means the same as that term is defined in Section 34-30-14.

(7) "Short-term project" means a project that is scheduled to be completed within three months after the day on which work begins on the project.

Section 7. Section **34-30-202** is enacted to read:

34-30-202. Labor provided by an apprentice.

(1) Subsection (2) applies to each public works project:

(a) for which a governmental entity enters into a contract on or after July 1, 2023; and

(b) that is estimated to cost \$500,000 or more.

(2) Except as provided in Subsection (3) ~~((a))~~, a governmental entity shall include in a contract for a public works project described in Subsection (1):

(a) an apprenticeship utilization requirement that requires apprentices complete at least

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10% of:

(i) the total labor hours performed by workers from each trade; and

(ii) the total labor hours performed by each contractor and subcontractor; and

(b) that each contractor and subcontractor provide to the governmental entity quarterly or, if a short-term project, at completion of the short-term project, a payroll report that certifies:

(i) for each worker performing one or more labor hours:

(A) the worker's name and trade;

(B) the number of hours the worker worked; and

(C) whether the worker is a journey-level worker or an apprentice; and

(ii) for the quarter or the short-term project, the percentage of the total labor hours

completed by the contractor's or subcontractor's apprentices:

(A) from each trade; and

(B) from all trades.

(3) Subsection (2)(a) does not apply to a public works project if:

(a) the site of the public works project is in a geographic area in which there is a lack of available apprentices;

(b) the public works project meets the cost threshold described in Subsection (1)(b) due to high material costs, but requires limited labor hours;~~f or~~

(c) the governmental entity demonstrates a good faith effort to comply with the requirements described in Subsection (2)(a)~~f.r~~; or

~~(d) the governmental entity is a county of the fifth or sixth class as defined in Section 17-50-501.~~