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HOUSE BILL NO. 557

Offered January 10, 2018

Prefiled January 8, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-4321.3, relating to the Virginia Public Procurement Act; public works contract requirements; apprenticeship utilization.*

Patron—Krizek

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-4321.3 as follows:

§ 2.2-4321.3. Additional public works contract requirements.

A. For the purposes of this section:

"Apprentice" means the same as that term is defined in § 40.1-120.

"Apprentice utilization requirement" means the requirement that the appropriate percentage of labor hours within each separate trade be performed by apprentices of that trade.

"Department" means the Department of General Services.

"Labor hours" means the total hours of employees receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" includes hours performed by employees employed by the contractor and all subcontractors working on the project. "Labor hours" does not include hours worked by foremen, superintendents, and owners.

"Public works" mean the same as that term is defined in § 2.2-4321.2.

"State agency" means the same as that term is defined in § 2.2-4321.2.

B. In addition to adhering to the requirements of § 2.2-4321.2, each state agency, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works paid for in whole or in part by state funds, shall include in its specifications the following minimum requirements for the utilization of apprentices:

1. From July 1, 2018, through December 31, 2018, for all public works projects paid for in whole or in part by state funds estimated to cost \$2 million or more, all specifications shall require that no less than 10 percent of the labor hours within each trade be performed by apprentices of that trade.

2. From January 1, 2019, through December 31, 2019, for all public works projects paid for in whole or in part by state funds estimated to cost \$2 million or more, all specifications shall require that no less than 12 percent of the labor hours within each trade be performed by apprentices of that trade.

3. From January 1, 2020, and thereafter, for all public works projects paid for in whole or in part by state funds estimated to cost \$1 million or more, all specifications shall require that no less than 15 percent of the labor hours within each trade be performed by apprentices of that trade.

C. Work shall not be divided among contractors or subcontractors in order to evade the requirements of this section. Where two or more contractors or subcontractors perform work within a trade, all such contractors or subcontractors shall comply with the requirements of this section.

D. All contractors and subcontractors subject to this section shall provide reports on at least a monthly basis to the awarding state agency, certifying the names of all employees performing labor hours and their trade, hours worked, and designation as a journey-level worker or apprentice.

E. The awarding state agency may adjust the requirements of this section for a specific project for the following reasons:

1. The demonstrated lack of availability of apprentices in specific geographic areas;

2. A disproportionately high ratio of material costs to labor hours that makes the required minimum level of apprentice participation not feasible; or

3. Other criteria the awarding state agency deems appropriate, that are subject to prior review and approval by the Department.

F. The failure of a contractor to comply with the apprentice utilization requirement shall be (i) deemed a breach of contract for which the state agency shall be entitled to all remedies allowed by law and under the contract and (ii) considered as evidence bearing upon a contractor's qualification for the award of future contracts.

G. The Department shall adopt regulations necessary to implement and administer the provisions of this section.

H. No person, business, or other entity shall discharge, demote, harass, or otherwise take adverse actions against any individual because such individual (i) seeks or has sought the enforcement of this section or (ii) testifies, assists, or participates in any manner in an investigation, hearing, or other

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59 *proceeding for the enforcement of this section.*