SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee Date

Committee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

SB19-196 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

Amend printed bill, strike everything below the enacting clause and substitute:

"SECTION 1. In Colorado Revised Statutes, add 24-92-115 as follows:

24-92-115. Apprenticeship utilization requirements - mechanical, electrical, and plumbing contracts - public projects - definition. (1) (a) UNLESS PROHIBITED BY APPLICABLE FEDERAL LAW, AND EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, THE CONTRACT FOR ANY PUBLIC WORKS PROJECT THAT DOES NOT RECEIVE FEDERAL MONEY, INCLUDING A PUBLIC PROJECT THAT WILL HAVE AN INTEGRATED PROJECT DELIVERY CONTRACT PURSUANT TO ARTICLE 93 OF THIS TITLE 24, IN THE AMOUNT OF ONE MILLION DOLLARS OR MORE SHALL REQUIRE THE GENERAL CONTRACTOR OR OTHER FIRM TO WHICH THE CONTRACT IS AWARDED TO SUBMIT, AT THE TIME THE MECHANICAL, ELECTRICAL, OR PLUMBING SUBCONTRACTOR IS PUT UNDER CONTRACT, DOCUMENTATION TO THE AGENCY OF GOVERNMENT THAT:

(I) IDENTIFIES THE CONTRACTORS OR SUBCONTRACTORS THAT WILL BE USED FOR ALL MECHANICAL, SHEET METAL, FIRE SUPPRESSION, SPRINKLER FITTING, ELECTRICAL, AND PLUMBING WORK REQUIRED ON THE PROJECT;

(II) CERTIFIES THAT ALL FIRMS IDENTIFIED PARTICIPATE IN APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR STATE APPRENTICESHIP COUNCILS RECOGNIZED BY THE UNITED STATES
DEPARTMENT OF LABOR AND HAVE A PROVEN RECORD OF GRADUATING
APPRENTICES AS FOLLOWS:

(A) BEGINNING JULY 1, 2021, THROUGH JUNE 30, 2026, A
MINIMUM OF FIFTEEN PERCENT OF ITS APPRENTICES FOR AT LEAST THREE
OF THE PAST FIVE YEARS;

(B) BEGINNING JULY 1, 2026, THROUGH JUNE 30, 2031, A
MINIMUM OF TWENTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF
THE PAST FIVE YEARS; AND

(C) BEGINNING JULY 1, 2031, AND EACH YEAR THEREAFTER, A
MINIMUM OF THIRTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF
THE PAST FIVE YEARS; AND

(III) SUPPLIES SUPPORTING DOCUMENTATION FROM THE UNITED
STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP VERIFYING
THE INFORMATION PROVIDED IN THE CERTIFICATION SPECIFIED IN
SUBSECTION (1)(a)(II) OF THIS SECTION.

(b) The provisions of this section do not apply to the
department of transportation, regardless of the amount or
funding source of the public project. The provisions of this
section also does not apply to any county, city and county, city,
municipality, town, school district, special district, or any
other political subdivision of the state.

(c) For the purposes of subsection (1)(a)(II) of this section,
"GRADUATING" MEANS THE COMPLETION OF A MULTI-YEAR PROGRAM,
INCLUDING THE REQUISITE CLASSROOM COURSE WORK AND ON-THE-JOB
TRAINING REQUIREMENTS AND A CERTIFICATE OF COMPLETION ISSUED BY
THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP.

(2) The documentation required pursuant to subsection (1)
of this section shall be made publicly available by the
contracting agency of government through its website within
THIRTY DAYS FROM WHEN IT IS SUBMITTED.

(3) To ensure compliance with the requirements of
subsection (1) of this section, the general contractor or other
firm to which the contract is awarded shall agree to provide
additional documentation to the contracting agency regarding
affected apprenticeship training programs relating to the
requirements of this section.

(4) A contractor that plans to submit a bid for a public
works project may request a waiver of the requirements of this
section prior to submitting a bid. A contractor that requests a
waiver must provide substantial evidence to the agency of
government soliciting the contract that there are no available,
ELIGIBLE SUBCONTRACTORS TO FULFILL THE MECHANICAL, ELECTRICAL, OR PLUMBING PORTIONS OF THE CONTRACT. EACH AGENCY OF GOVERNMENT THAT HAS CONTRACTS FOR PUBLIC PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS SECTION SHALL MAKE PUBLIC ALL WAIVERS AND THE SPECIFIC RATIONALE FOR GRANTING THE WAIVER.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE THE REQUIREMENTS FOR LICENSED PLUMBERS, LICENSED ELECTRICIANS, OR APPRENTICES REGISTERED WITH THE STATE PURSUANT TO TITLE 12, INCLUDING SECTIONS 12-23-105, 12-23-110.5, 12-58-105, AND 12-58-117.

(6) (a) TO PROMOTE AND FACILITATE THE DEVELOPMENT OF NEW APPRENTICESHIP PROGRAMS, AN APPRENTICESHIP PROGRAM THAT DOES NOT SATISFY THE REQUIREMENTS OF SUBSECTION (1) (a) OF THIS SECTION MAY PETITION THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR CONDITIONAL APPROVAL FOR PURPOSES OF THIS SECTION. TO BE ALLOWED CONDITIONAL APPROVAL, AN APPRENTICESHIP PROGRAM MUST DEMONSTRATE THE FOLLOWING:

(I) THE PROGRAM HAS BEEN REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR A STATE APPRENTICESHIP COUNCIL AND HAS BEEN PROVIDING TRAINING FOR AT LEAST SIX MONTHS; AND

(II) THE PROGRAM IS PERFORMING BONA FIDE APPRENTICESHIP TRAINING AS EVIDENCED BY INFORMATION SHOWING THAT IT HAS THE REQUITE FACILITIES, PERSONNEL, AND OTHER RESOURCES NEEDED TO PROVIDE SUCH TRAINING; AND

(b) (I) IF CONDITIONAL APPROVAL IS GRANTED, THE PROGRAM WILL REMAIN ELIGIBLE FOR FUTURE COVERED PROJECTS, SUBJECT TO ANNUAL REVIEWS BY THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR FIVE YEARS AFTER CONDITIONAL APPROVAL IS GRANTED OR UNTIL IT CAN SATISFY THE REQUIREMENTS OF SUBSECTION (1) (a) OF THIS SECTION AND CAN SHOW A THREE-YEAR GRADUATION TRACK RECORD.

(II) TO MAINTAIN CONDITIONAL APPROVAL PURSUANT TO THIS SUBSECTION (6), THE APPRENTICESHIP PROGRAM MUST DEMONSTRATE TO THE DEPARTMENT OF LABOR AND EMPLOYMENT THAT IT HAS REGISTERED NEW APPRENTICES INTO ITS PROGRAM FOR EVERY YEAR IT HAS BEEN IN OPERATION AND THAT IT HAS ADVANCED, AT A MINIMUM, TEN PERCENT OF ITS APPRENTICES IN EACH YEAR OF OPERATION. THE DEPARTMENT SHALL RESCIND A CONDITIONAL APPROVAL FOR ANY PROGRAM THAT FAILS TO MAINTAIN THESE STANDARDS.

SECTION 2. In Colorado Revised Statutes, add part 2 to article 92 of title 24 as follows:

PART 2
PREVAILING WAGE FOR PUBLIC PROJECTS

24-92-201. Definitions. As used in this Part 2, unless the context otherwise requires:

(1) "Agency of Government" means any agency, department, division, board, bureau, commission, institution, or section of the state which is a budgetary unit exercising construction contracting authority or discretion. "Agency of Government" does not include any county, city and county, city, municipality, town, school district, special district, or any other political subdivision of the state.

(2) "Contractor" means any person having a contract for a public project with an agency of government.

(3) "Director" means the director of the department of personnel.

(4) "Employees" means employees of contractors or subcontractors performing jobs on various types of public projects including mechanics, laborers, and other construction employees.

(5) "Public project" means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of public health, welfare, or safety and any operation or maintenance programs for the operation and upkeep of such projects. "Public project" includes any work, construction, or repair performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more agencies of government.

(6) "Wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" means:

(a) The basic hourly rate of pay; and

(b) For medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of:
(I) THE RATE OF CONTRIBUTION IRREVOCABLY MADE BY A CONTRACTOR OR SUBCONTRACTOR TO A TRUSTEE OR TO A THIRD PERSON UNDER A FUND, PLAN, OR PROGRAM; AND

(II) THE RATE OF COSTS TO THE CONTRACTOR OR SUBCONTRACTOR THAT MAY BE REASONABLY ANTICIPATED IN PROVIDING BENEFITS TO EMPLOYEES PURSUANT TO AN ENFORCEABLE COMMITMENT TO CARRY OUT A FINANCIALLY RESPONSIBLE PLAN OR PROGRAM WHICH WAS COMMUNICATED IN WRITING TO THE EMPLOYEES AFFECTED.

24-92-202. Contractors subject to provisions - weekly payment of employees - rules. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, ANY CONTRACTOR WHO IS AWARDED A CONTRACT FOR A PUBLIC PROJECT BY AN AGENCY OF GOVERNMENT IN THE AMOUNT OF FIFTY THOUSAND DOLLARS OR MORE, AND ANY SUBCONTRACTORS WORKING ON THE PUBLIC PROJECT, SHALL PAY THEIR EMPLOYEES AT WEEKLY INTERVALS AND SHALL COMPLY WITH THE ENFORCEMENT PROVISIONS ESTABLISHED IN SECTION 24-92-209. THIS PART 2 APPLIES TO A CONTRACT FOR A PUBLIC PROJECT AWARDED PURSUANT TO PART 1 OF THIS ARTICLE 92 AND TO AN INTEGRATED PROJECT DELIVERY CONTRACT FOR A PUBLIC PROJECT AWARDED PURSUANT TO ARTICLE 93 OF THIS TITLE 24. THIS PART 2 DOES NOT APPLY TO CONTRACTS FOR PUBLIC PROJECTS THAT RECEIVE FEDERAL FUNDING.


(3) THE DIRECTOR MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24 AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE ANY REQUIREMENT OF THIS PART 2.

24-92-203. Prevailing rate of wages and other payments - specifications in solicitations and contract. (1) BEFORE AWARDING ANY CONTRACT FOR A PUBLIC PROJECT IN THE AMOUNT OF FIFTY THOUSAND DOLLARS OR MORE, AN AGENCY OF GOVERNMENT SHALL OBTAIN FROM THE DIRECTOR THE GENERAL PREVAILING RATE, AS DETERMINED BY THE DIRECTOR PURSUANT TO SECTION 24-92-205, OF THE REGULAR, HOLIDAY, AND OVERTIME WAGES PAID AND THE GENERAL PREVAILING PAYMENTS ON BEHALF OF EMPLOYEES TO LAWFUL WELFARE, PENSION, VACATION, APPRENTICE TRAINING, AND EDUCATIONAL FUNDS IN THE STATE, FOR EACH EMPLOYEE NEEDED TO EXECUTE THE CONTRACT FOR THE PUBLIC PROJECT.
PAYMENTS TO THE FUNDS MUST CONSTITUTE AN ORDINARY BUSINESS EXPENSE DEDUCTION FOR FEDERAL INCOME TAX PURPOSES BY CONTRACTORS AND SUBCONTRACTORS.

(2) An agency of government shall specify in the competitive solicitation for a public project in the amount of fifty thousand dollars or more and in the contract for such public project, the general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees to the welfare, pension, vacation, apprentice training, and education funds existing in the geographic locality for each employee needed to execute the contract or work.

(3) The general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees to the welfare, pension, vacation, apprentice training, and education funds specified in the competitive solicitation and in the contract for a public project pursuant to subsection (2) of this section shall remain the same for the duration of the work on the public project.

24-92-204. Specification in contract - payment of wages - amount and frequency - unclaimed prevailing wages special trust fund - creation. (1) Every contract for a public project subject to the provisions of this part 2 shall contain a stipulation that:

(a) The contractor and any subcontractors shall pay all the employees employed directly on the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates not less than those stated in the competitive solicitation, regardless of any contractual relationships that may be alleged to exist between the contractor or subcontractor and the employees;

(b) The scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work;

(c) The contractor and any subcontractors shall prepare and submit payroll reports to the contracting agency of government on a monthly basis that disclose all relevant payroll information, including the name and address of any entities to which fringe benefits are paid, and that the contracting agency of government is required to review the certified payroll reports in a timely manner;
The contractor and any subcontractors shall maintain on the site where public projects are being constructed a daily log of employees employed each day on the public project. The log shall include, at a minimum, for each employee his or her name, primary job title, and employer, and shall be kept on a form prescribed by the director. The log shall be available for inspection on the site at all times by the contracting agency of government and the director.

If the contractor or any subcontractors fail to pay the wages as required by the contract, the state controller shall not approve a warrant or demand for payment to the contractor until the contractor provides the director with evidence, satisfactory to the director, that the wages required by the contract have been paid. If the contractor or any subcontractor fails to pay wages as are required by the contract, the contracting agency of government shall not approve a warrant or demand for payment to the contractor until the contractor furnishes the contracting agency of government evidence satisfactory to such agency of government that such wages so required by the contract have been paid; except that the contracting agency of government shall approve and pay any portion of a warrant or demand for payment to the contractor to the extent the agency of government has been furnished evidence satisfactory to the agency of government that the contractor or one or more subcontractors has paid such wages required by the contract, even if the contractor has not furnished evidence that all of the subcontractors have paid wages as required by the contract. Any contractor or subcontractor may use the following procedure in order to satisfy the requirements of this section:

I. The contractor or subcontractor may submit to the director, for each employee to whom such wages are due, a check as required by the director. Such check shall be payable to that employee or to the state so it is negotiable by either of those parties. Each such check shall be in an amount representing the difference between the accrued wages required to be paid to that employee by the contract and the wages actually paid by the contractor or subcontractor.

II. If any check submitted pursuant this subsection (I)(e) cannot be delivered to the employee within a reasonable period...
AS DETERMINED BY THE DIRECTOR, THEN IT SHALL BE NEGOTIATED BY THE STATE AND THE PROCEEDS DEPOSITED IN THE DIRECTOR'S UNCLAIMED PREVAILING WAGES SPECIAL TRUST FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. NOTHING IN THIS SUBSECTION (1) SHALL BE CONSTRUED TO LESSEN THE RESPONSIBILITY OF THE CONTRACTOR OR SUBCONTRACTOR TO ATTEMPT TO LOCATE AND PAY ANY EMPLOYEE TO WHOM WAGES ARE DUE.

(III) ANY VALID, VERIFIED CLAIM FOR PREVAILING WAGES THAT IS ACTUALLY RECEIVED BY THE STATE THROUGH NEGOTIATION OF ANY CHECK SUBMITTED PURSUANT TO THIS SUBSECTION (1)(e) MUST BE MADE PRIOR TO TWO YEARS AFTER THE DATE OF THE LAST UNDERPAYMENT BY THE CONTRACTOR OR ANY SUBCONTRACTOR TO THE EMPLOYEE TO WHOM SUCH WAGES WERE DUE. AFTER SUCH DATE, THE STATE SHALL NO LONGER BE LIABLE FOR PAYMENT. THE STATE, AS TRUSTEE, SHALL PAY SUCH CLAIMANT ONLY THE AMOUNT OF THE CHECK THAT IS ACTUALLY NEGOTIATED, REGARDLESS OF ANY DISPUTE AS TO ANY ADDITIONAL AMOUNT OF WAGES OWED TO THE EMPLOYEE. NO INTEREST SHALL BE PAID BY THE STATE ON ANY FUNDS RECEIVED OR DISBURSED PURSUANT TO THIS SUBSECTION (1)(e)(III).

(IV) ON THE LAST WORKING DAY OF EACH MONTH, THE AMOUNT OF ANY CLAIM FOR WHICH THE STATE IS NO LONGER LIABLE SHALL BE CREDITED TO THE GENERAL FUND, EXCEPT AS OTHERWISE REQUIRED BY LAW.

(V) THE DIRECTOR SHALL MAINTAIN A LIST OF ALL UNCLAIMED, STATE-NEGOTIATED PREVAILING WAGE CHECKS FOR WHICH THE STATE IS LIABLE. SUCH LIST SHALL BE UPDATED MONTHLY AND SHALL BE AVAILABLE FOR INSPECTION AT THE OFFICE OF THE DIRECTOR.

24-92-205. Investigation and determination of prevailing wages - filing of schedule. (1) IN DETERMINING THE APPLICABLE PREVAILING WAGE FOR PUBLIC PROJECTS PURSUANT TO SECTION 24-92-204, THE DIRECTOR SHALL USE APPROPRIATE WAGE DETERMINATIONS ISSUED BY THE UNITED STATES DEPARTMENT OF LABOR IN ACCORDANCE WITH THE "DAVIS-BACON ACT", 40 U.S.C. SEC. 3141, ET SEQ., TO ESTABLISH THE PREVAILING WAGE RATES FOR THE APPLICABLE TRADES OR OCCUPATION FOR THE GEOGRAPHIC LOCALITY OF THE PUBLIC PROJECT. THE DIRECTOR SHALL KEEP A SCHEDULE ON FILE IN HIS OR HER OFFICE OF THE CUSTOMARY PREVAILING RATE OF WAGES AND PAYMENTS MADE TO OR ON BEHALF OF THE EMPLOYEES, WHICH SHALL BE OPEN TO PUBLIC INSPECTION.

(2) THE DIRECTOR SHALL UPDATE THE APPLICABLE PREVAILING WAGE FOR PUBLIC PROJECTS AS DETERMINED PURSUANT TO SUBSECTION

*SB196_S_SA 001*
24-92-206. Statutory provisions included in contracts. A copy of sections 24-92-203 and 24-92-204 shall be inserted in all contracts for public projects awarded by an agency of government if the contract price is fifty thousand dollars or more.

24-92-207. Prevailing wage rates - posting. (1) Each contractor awarded a contract for public project with a contract price of fifty thousand dollars or more and each subcontractor who performs work on the public project shall post in conspicuous places on the project, where employees are employed, posters that contain the current prevailing rate of wages and the current prevailing rate of payments to the funds required to be paid for each employee employed to execute the contract as established in sections 24-92-203 and 24-92-204, and the rights and remedies of any employee described in section 24-92-210 for nonpayment of any wages earned pursuant to this section. The posters shall be furnished to contractors and subcontractors by the director in a form and manner to be determined by the director.

(2) A contractor or subcontractor who fails to comply with this section shall be deemed guilty of a misdemeanor and shall pay to the director one hundred dollars for each calendar day of noncompliance as determined by the director.

(3) Contracts set forth in this section shall not be awarded by an agency of government until the director has prepared and delivered the posters to the contractor to whom the contract is to be awarded.

24-92-208. Apprenticeship contribution rate. (1) (a) The director shall establish a separate apprenticeship contribution rate under the prevailing wage and fringe benefit requirements of this part 2.

(b) The contracting agency of government shall specify in the competitive solicitation for a public project in the amount of fifty thousand dollars or more and in the contract for such public project the apprenticeship contribution rate and fringe benefit requirements of this part 2.

(c) The director shall update the applicable apprenticeship contribution rate as determined pursuant to subsection (1)(a) of the section on or before July 1, 2022, and on
OR BEFORE JULY 1 EACH YEAR THEREAFTER.

(d) The applicable apprenticeship contribution rate specified in the competitive solicitation and in the contract for a public project pursuant to this subsection (1) shall remain the same for the duration of the work on the public project.

(2) The amount of the apprenticeship contribution will be set in accordance with the apprenticeship contribution of the collective bargaining agreement of the applicable trade in the geographic locality of the public project. Contractors shall achieve compliance with this requirement by one of the following options:

(a) Contractors signatory to the applicable collective bargaining agreement shall be required to pay no more than the apprenticeship contribution rate of the agreement;

(b) Contractors that are not signatory to the applicable collective bargaining agreement but that participate in an apprenticeship program registered with the United States Department of Labor's Employment and Training Administration or a State Apprenticeship Council registered with the United States Department of Labor shall pay the determined apprenticeship contribution to that program; or

(c) Contractors that do not qualify for either option specified in subsection (2)(a) or (2)(b) of this section shall be required to pay the amount of the apprenticeship contribution to affected workers in cash payments in addition to the other components of the prevailing wage and fringe benefit package required pursuant to this Part 2.

(3) The apprenticeship contribution rate shall be deducted from the prevailing wage rate package to avoid double payment by the contractor or subcontractor.

24-92-209. Enforcement - rules. (1) Upon receipt of a complaint or upon analysis of certified payroll records, a contracting agency of government shall report any perceived violation of this Part 2 to the contractor within forty-eight hours of being made aware of the perceived violation. In connection with the perceived violation:

(a) The contracting agency of government shall allow the contractor to cure the perceived violation within fifteen calendar days if the contractor can demonstrate the instance in question was the result of legitimate administrative error.

(b) If the contractor does not remedy the perceived
VIOLATION WITHIN FIFTEEN CALENDAR DAYS OR IF THE CONTRACTING
AGENCY DETERMINES THAT THE PERCEIVED VIOLATION WAS WILLFUL, THE
CONTRACTING AGENCY SHALL REPORT THE PERCEIVED VIOLATION TO THE
DEPARTMENT OF LABOR AND EMPLOYMENT FOR INVESTIGATION.

(2) (a) The department of labor and employment shall
investigate all complaints referred to the department by the
contracting agency of government to determine if the perceived
violation was conducted in a willful manner.

(b) For the purposes of this section, "willful violation"
includes intentional violations and those violations made with
reckless disregard or deliberate ignorance of the law.

(3) If the department of labor and employment determines
that a willful violation occurred, it shall require restitution
of applicable back pay for the impacted employees and shall
subject the contractor to the following fines:

(a) five thousand dollars for the first violation in
addition to wage restitution to the impacted employees;

(b) ten thousand dollars for the second violation in
addition to wage restitution to the impacted employees; and

(c) twenty-five thousand dollars for the third and all
subsequent violations in addition to wage restitution to the
impacted employees.

(4) At the discretion of the director, the contractor may
be debarred if they have been found to have three or more
willful violations in any five year period. The term of debarment
will be three years.

(5) The department of labor and employment shall
maintain a list of contractors who have been found to have
willfully violated this act, including details of the violation,
on a publicly available website.

(6) If a contracting agency of government or the
department of labor and employment fails to resolve an
actionable wage claim within one hundred twenty days, the
employee shall have the right to file a private lawsuit pursuant
to section 24-92-210.

(7) The department of labor and employment may
promulgate rules in accordance with article 4 of this title 24 as
may be necessary to administer and enforce any requirement of
this part 2. Such rules may include a reasonable administrative
appeal process for determinations made pursuant to this section.

24-92-210. Private right of action to collect wages or benefits
definition. (1) An employee or former employee of a contractor or subcontractor may bring a civil action for a violation of section 24-92-204 for appropriate injunctive relief, actual damages, or both within three years after the occurrence of the alleged violation. An action commenced pursuant to this section may be brought in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom in the civil complaint is filed resides or has their principal place of business. Any contractor or subcontractor who violates section 24-92-204 shall be liable to the affected employee or employees in the amount of unpaid wages or benefits plus interest.

(2) A contractor or subcontractor's responsibility and liability is solely for its own employees.

(3) An action initiated pursuant to this section may be brought by one or more employees or former employees on behalf of him or herself or themselves and other employees similarly situated; except that no employee shall be a party plaintiff to any such action unless he or she consents in writing to become such a party and such consent is filed in the court in which such action is brought.

(4) If the court finds that an action brought pursuant to this section was frivolous, the court shall award costs and attorney fees to the defendant in the action.

(5) The court in an action filed under this section shall award affected employees or former employees liquidated damages in an amount equal to two times the amount of unpaid wages or benefits owed. Unpaid fringe benefit contributions owed pursuant to this section in any form shall be paid to the appropriate benefit fund; except that in the absence of an appropriate fund the benefit shall be paid directly to the individual.

(6) The filing of a civil action under this section shall not preclude the director from prohibiting a contractor or subcontractor from bidding on or otherwise participating in state contracts or from prohibiting termination of work on failure to pay agreed wages.

(7) (a) Any person, firm, or corporation found to have willfully made a false or fraudulent representation in connection with wage obligations owed on a contract shall be...
REQUIRED TO PAY A CIVIL PENALTY IN AN AMOUNT OF NO LESS THAN ONE THOUSAND DOLLARS AND NOT GREATER THAN THREE THOUSAND DOLLARS PER REPRESENTATION. SUCH PENALTIES SHALL BE RECOVERABLE IN CIVIL ACTIONS FILED PURSUANT TO THIS SECTION.

(b) For purposes of this subsection (7) "willfully" means representations that are known to be false or representations made with deliberate ignorance or reckless disregard for their truth or falsity.

(8) An employer shall not discharge, threaten, or otherwise discriminate against an employee, or former employee, regarding compensation terms, conditions, locations or privileges of employment because the employee or former employee, or a person or organization acting on his or her behalf reports or makes a complaint under this section or otherwise asserts his or her rights under this section.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to solicitations issued on or after July 1, 2021.".