A BILL FOR AN ACT

CONCERNING THE MODIFICATION OF PROCUREMENT REQUIREMENTS FOR STATE CONTRACTS FOR PUBLIC PROJECTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill modifies procurement requirements for state contracts for public projects. The bill makes the following changes:

Invitation for bids: Currently, all construction contracts for public projects that do not receive federal money may be solicited by invitation for bids. The bill specifies that only a construction contract for a public project that is reasonably expected to cost $1 million or less may be solicited by invitation for bids.
solicited by invitation for bids.

**Competitive sealed best value bids:** Currently, all construction contracts for public projects that do not receive federal money may be awarded by competitive sealed best value bidding. The bill specifies that, unless prohibited by federal law, a construction contract for a public project that is reasonably expected to cost over $1 million is required to be awarded through competitive sealed best value bidding or integrated project delivery, and a construction contract for a public project that is reasonably expected to cost $1 million or less may be awarded through competitive sealed best value bidding or integrated project delivery.

Current law specifies the evaluation factors that are required to be included in an invitation for competitive sealed best value bids for a public project. The bill adds several required evaluation factors including the craft labor staffing plan for the project for the bidder and bidder's subcontractors, the anticipated utilization by the bidder and its subcontractors of apprentices registered with federal or state apprenticeship agencies to complete the work under the contract, and the safety plan and safety record of the bidder and bidder's subcontractors.

**Disclosure of subcontractors:** The bill requires any contractor that responds to a competitive solicitation for a public project to disclose, in its initial bid or proposal, the top 5 subcontractor disciplines it plans to use to fulfill the requirements of the contract. The bill specifies how the top 5 subcontractor disciplines are measured and requires contractors to disclose subcontractors for the mechanical, electrical, and plumbing requirements of the contract, even if they are not included in the top 5 disciplines.

**Apprenticeship utilization requirements:** The general contractor for a public project financed in whole or in part by state money in the amount of $1 million or more is required to submit, prior to the contract award, documentation to the contracting agency that certifies that all subcontractors used on the project participate in apprenticeship training programs that have been approved by a federal or state apprenticeship agency and have a proven record of graduating apprentices for at least 3 of the past 5 years. The contractor is required to provide specified supporting documentation to the contracting agency and the agency is required to make the documentation available to the public on its website. A contractor that plans to submit a bid for a public project may request a waiver of the apprenticeship requirements and the contracting agency is required make public all waivers and the specific rationale for granting the waiver.

**Integrated project delivery:** Current law specifies that integrated project delivery is a project delivery method in which there is a contractual agreement between an agency and a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these
services, for a public project. The bill adds additional evaluation factors that a contracting agency is required to use to evaluate proposals and the capabilities of participating entities. The additional factors include information about past performance and experience of the bidder, the bidder's project management plan for the contract, the bidder's staffing plan, the bidder's safety plan and safety record, the bidder's job standards, and the availability and use of domestically produced iron, steel, and related manufactured goods to execute the contract.

Be it enacted by the General Assembly of the State of Colorado:

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 DO 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
(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 if a contracting agency of government determines that a mechanical, electrical, or plumbing subcontractor has willfully falsified documentation or willfully misrepresented their qualifications required to comply with this section in the contract, the agency of government shall direct the contractor to terminate the subcontractor contract immediately and the subcontractor will be immediately removed from the public project. At the discretion of the director of the department of personnel, the state may initiate the process to debar the contractor pursuant to section 24-109-105, and may pursue any other remedy provided by law.

(4) Upon evaluation of the submitted bids, the contracting agency of government may waive the requirements of this section for a public project if the agency of government determines that there is substantial evidence that there were no responsive, eligible subcontractors available 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. The agency of government shall post notice of the waiver and a justification for the waiver on its website.

(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 requisite 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 WORKERS WHO ARE EMPLOYEES PURSUANT TO SECTION 8-4-101 (5), AND WHO ARE ENGAGED BY CONTRACTORS OR SUBCONTRACTORS TO PERFORM JOBS ON VARIOUS TYPES OF PUBLIC PROJECTS INCLUDING MECHANICS, LABORERS, AND OTHER CONSTRUCTION WORKERS.

(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 FIVE HUNDRED 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.

(2) THIS PART 2 DOES NOT APPLY TO THE DEPARTMENT OF
TRANSPORTATION, REGARDLESS OF THE AMOUNT OR FUNDING SOURCE OF
THE PUBLIC PROJECT; EXCEPT THAT THE DEPARTMENT OF
TRANSPORTATION IS REQUIRED TO PAY EMPLOYEES PERFORMING WORK ON ANY PUBLIC PROJECT, REGARDLESS OF THE AMOUNT OR FUNDING SOURCE OF THE PUBLIC PROJECT, IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL "DAVIS-BACON ACT", 40 U.S.C. SEC 3141, ET SEQ.

(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 FIVE HUNDRED 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 FIVE HUNDRED 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.

(4) CONTRACTING AGENCIES OF GOVERNMENT SHALL NOT ARTIFICIALLY DIVIDE PUBLIC PROJECTS TO AVOID COMPLIANCE WITH THE REQUIREMENTS OF THIS PART 2.

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 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 AS REQUIRED BY THE
STATE CONTRACT;

(c) 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.

(d) 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)(d)
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 UNCLAIMED PROPERTY
TRUST FUND CREATED IN SECTION 38-13-116.6. NOTHING IN THIS
SUBSECTION (I) 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.

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
(1) OF THIS SECTION ON OR BEFORE JULY 1, 2022, AND ON OR BEFORE JULY
1 EACH YEAR THEREAFTER.

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 FIVE HUNDRED 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 FIVE HUNDRED 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 CLASS 3 MISDEMEANOR
AND SHALL PAY TO THE DIRECTOR ONE HUNDRED DOLLARS FOR EACH
CALENDAR DAY OF NONCOMPLIANCE AS DETERMINED BY THE DIRECTOR.

(3) CONTRACTS FOR PUBLIC WORKS PROJECTS SHALL CONTAIN THE
SPECIFIC OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION
INCLUDING PROVISIONS REGARDING THE POSTING OF POSTERS ON THE JOB
SITE AS REQUIRED BY THIS SECTION AND THE DEPARTMENT’S PROCEDURES
FOR THE CONTRACTOR TO RECEIVE THE POSTERS.

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 five hundred 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 FROM AN EMPLOYEE, A FORMER EMPLOYEE, OR A CONTRACTING AGENCY DERIVED FROM AN 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;
(b) TEN THOUSAND DOLLARS FOR THE SECOND VIOLATION; AND

(c) TWENTY-FIVE THOUSAND DOLLARS FOR THE THIRD AND ALL SUBSEQUENT VIOLATIONS.

(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.


(7) THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL 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 SHALL INCLUDE A REASONABLE ADMINISTRATIVE APPEAL PROCESS FOR DETERMINATIONS MADE PURSUANT TO THIS SECTION AND AN ADMINISTRATIVE PROCESS FOR AN EMPLOYEE OR FORMER EMPLOYEE OF A CONTRACTOR OR SUBCONTRACTOR TO FILE A COMPLAINT FOR A VIOLATION OF THIS PART 2.

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 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 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. In Colorado Revised Statutes, 24-109-105, amend (2)(e) and (2)(f); and add (2)(g) as follows:

24-109-105. Debarment and suspension. (2) A person may be debarred for any of the following reasons:

(e) The person is currently under debarment by any other governmental entity which is based upon a settlement agreement or a final administrative or judicial determination issued by a federal, state, or local governmental entity; or

(f) The department of labor and employment has imposed three fines on a contractor within five years pursuant to section 8-17-104, C.R.S., for failure to satisfy Colorado labor requirements; or

(g) THE PERSON WILLFULLY FALSIFIED DOCUMENTATION OR WILLFULLY MISREPRESENTED THEIR QUALIFICATIONS REQUIRED TO COMPLY WITH THE CONTRACT.

SECTION 4. 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;
except that for institutions of higher education and the Auraria higher education center created in article 70 of title 23, Colorado Revised Statutes, this act applies to public projects approved by their governing boards on or after July 1, 2021.