

LFC Requestor: GARCIA, Rachel

**2025 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS**

**Section I: General**

**Chamber:** House  
**Number:** HB305

**Category:** Bill  
**Type:** Introduced

**Date** (of THIS analysis): 02/06/2025

**Sponsor(s):** Rebecca Dow and Miguel P. García

**Short Title:** PUBLIC CONTRACT REIMBURSEMENTS & WAGES - ASD

**Reviewing Agency:** Agency 665 - Department of Health

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**Section II: Fiscal Impact**

**APPROPRIATION (dollars in thousands)**

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
<b>Total</b>	\$0	\$0	\$0	\$0	N/A	

While the exact cost of implementing this bill is unknown, it likely to be significant since the burden of paying for increased wages related to minimum wage will be placed on state agencies rather than contracted entities.

**Section III: Relationship to other legislation**

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

**Section IV: Narrative**

**1. BILL SUMMARY**

a) Synopsis

HB 305 proposes to place the monetary responsibility of a state minimum wage increase onto public contracts made with vendors who provide “services” on behalf of the State.

HB305 is intended to address the lack of clarity around which entity (state or contractor) is responsible for assuming costs associated with a state minimum wage increase once a contract has been executed and is in use. HB305 intends to address which entity will pay the additional costs with a minimum wage increase.

Is this an amendment or substitution?  Yes  No

Is there an emergency clause?  Yes  No

b) Significant Issues

HB305 will have a large monetary impact on NMDOH stakeholders and the residents of New Mexico by placing the monetary responsibility of the state minimum wage increase onto the taxpayers of New Mexico.

HB305 will impact NMDOH as the agency is currently managing approximately \$50 million dollars of contractual services, which employ thousands of health care providers and staff connected to the work of all divisions, facilities, and public health offices. The State of New Mexico currently has multiple statewide price agreements with multiple vendors who pay for “services”.

HB305 will affect all state agencies contracted with vendors for “services”.

## Chapter 13 Public Purchasing and Property Article 1 Procurement.

13-4-11. Prevailing wage and benefit rates determined; minimum wages and fringe benefits on public works; weekly payment; withholding funds.

Every contract or project in excess of sixty thousand dollars (\$60,000) that the state or any political subdivision thereof is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads of the state and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classifications of laborers and mechanics, which shall be based upon the wages and benefits that will be determined by the director to be prevailing for the corresponding classifications of laborers and mechanics employed on contract work of a similar nature in the state or locality, and every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Subsection B of this section to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

Employer cannot be ordered to pay additional wages. — This section expressly confers the power to determine the prevailing wage but does grant the power to order an employer to pay the additional wages determined to be due his laborers. If it is determined that a person or firm has failed to pay the prevailing minimum wages, then the certification procedure outlined in Paragraphs [Subsections] A and B of Section 13-

4-14 NMSA 1978 must be followed. *Grauerholtz v. New Mexico Labor & Indus. Comm'n*, 1986-NMSC-071, 104 N.M. 674, 726 P.2d 351.

13-4-13. Failure to pay minimum wage; termination of contract.

Every contract within the scope of the Public Works Minimum Wage Act [13-4-10 to 13-4-17 NMSA 1978] shall contain further provision that in the event it is determined by the director that any laborer or mechanic employed on the site of the project has been or is being paid a wage rate or fringe benefit rate less than the rates required, and in the absence of a voluntary resolution by the parties, the contracting agency shall, within thirty days of the director's determination, by written notice to the contractor, subcontractor, employer or person acting as a contractor, terminate the right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages or fringe benefits, and the contracting agency shall prosecute the work to completion by contract or otherwise, and the contractor or person acting as a contractor and the contractor's or person's sureties shall be liable to the state for any excess costs occasioned thereby. Any party receiving notice of termination of a project or subcontract pursuant to the provisions of this section may appeal the finding of the director as provided in the Public Works Minimum Wage Act.

History: 1953 Comp., § 6-6-7, enacted by Laws 1965, ch. 35, § 3; 1991, ch. 224, § 3; 2009, ch. 206, § 4; 2020, ch. 47, § 2.

13-1-87. Definition; services.

"Services" means the furnishing of labor, time or effort by a contractor not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance. "Services" includes the furnishing of insurance but does not include construction or the services of employees of a state agency or a local public body. History: Laws 1984, ch. 65, § 60. ANNOTATIONS

13-1-41. Definition; contract. "Contract" means any agreement for the procurement of items of tangible personal property, services, or construction. History: Laws 1984, ch. 65, § 14.

13-1-43. Definition; contractor. "Contractor" means any business having a contract with a state agency or a local public body. History: Laws 1984, ch. 65, § 16.

13-1-76. Definition; professional services.

"Professional services" means the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services, which may be designated as such by a determination issued by the state purchasing agent or a central purchasing office.

History: Laws 1984, ch. 65, § 49; 1989, ch. 69, § 5; 1997, ch. 171, § 2.

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?  
 Yes  No
- Is this proposal related to the NMDOH Strategic Plan?  Yes  No
  - Goal 1:** We expand equitable access to services for all New Mexicans
  - Goal 2:** We ensure safety in New Mexico healthcare environments
  - Goal 3:** We improve health status for all New Mexicans
  - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals
- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

Currently DOH has a minimum of 400 contracts which subcontract with professional service individuals (estimate of 5000+ individuals) and providers that provide health and medical services. HB305 will have a large monetary impact if these individuals are not currently paid at minimum wage.

## 4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH?  Yes  No

## 5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

## 6. TECHNICAL ISSUES

Are there technical issues with the bill?  Yes  No

**7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)**

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

**8. DISPARITIES ISSUES**

None.

**9. HEALTH IMPACT(S)**

None.

**10. ALTERNATIVES**

None.

**11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

If SB305 is not enacted, then the increased costs of contractors for minimum wage and statutory benefit expense increases will not be passed on to the governmental contracting entity.

**12. AMENDMENTS**