SENATE BILL 243

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Shirley M. Bailey

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AN ACT

RELATING TO WAGES; REMOVING PUBLIC SCHOOL CONSTRUCTION PROJECTS FROM MINIMUM WAGE REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-4-11 NMSA 1978 (being Laws 1965, Chapter 35, Section 1, as amended) is amended to read:

"13-4-11. MINIMUM WAGES ON PUBLIC WORKS--WEEKLY
PAYMENT--POSTING WAGE SCALE--WITHHOLDING FUNDS.--Every
contract or project in excess of twenty thousand dollars
(\$20,000) to which the state or any political subdivision
thereof, except a public school district, is a party 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 which requires or involves the employment of mechanics,

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laborers or both shall contain a provision stating the minimum wages to be paid to various classes of laborers and mechanics, which shall be based upon the wages that will be determined by the director of the labor and industrial division of the labor department to be prevailing for the corresponding classes 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 any 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 issued for the project.

A. For the purpose of making wage determinations, the director of the labor and industrial division of the labor department shall conduct a continuing program for the obtaining and compiling of wage-rate information and shall encourage the voluntary submission of wage-rate data by contractors, contractors' associations, labor organizations, interested persons and public officers. Before making a determination of wage rates for any project, [he] the director shall give due regard to the information thus obtained.

Whenever the director deems that the data at hand are

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insufficient to make a wage determination, he may have a field survey conducted for the purpose of obtaining sufficient information upon which to make determination of wage rates. Any interested person shall have the right to submit to the director written data, views and arguments why the wage determination should be changed.

- B. The scale of wages to be paid shall be posted by the contractor or person acting as a contractor in a prominent and easily accessible place at the site of the work; and it is further provided that there may be withheld from the contractor, subcontractor, employer or any person acting as a contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed on the project the difference between the rates of wages required by the director of the labor and industrial division of the labor department to be paid to laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractor, employer or any person acting as a contractor or their agents.
- C. The director of the labor and industrial division of the labor department shall have authority to issue rules [and regulations] necessary to administer and accomplish the purposes of the Public Works Minimum Wage Act."

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