

SPONSOR:

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO COMMUNITY WORKFORCE AGREEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 19 of the Delaware Code by making deletions as shown by strike through and insertions
2 as shown by underline as follows:

3 CHAPTER 3. COMMUNITY WORKFORCE AGREEMENT ACT.

4 § 301. Title; application.

5 (a) This chapter shall be known and may be cited as “The Community Workforce Agreement Act.

6 (b). Definitions: For the purposes of this Chapter:

7 “Apprenticeship program” means a registered apprenticeship program approved by the Delaware Department of
8 Labor pursuant to Chapter 2 of Title 19, an apprenticeship program registered by the Bureau of Apprenticeship and
9 Training of the U.S. Department of Labor and meeting the standards established by the Bureau, or an apprentice program
10 registered by a State apprenticeship agency recognized by the Bureau.

11 “Labor organization engaged in the construction industry” means an organization which represents, for purposes
12 of collective bargaining, employees involved in the performance of public works contracts and eligible to be paid prevailing
13 wages under § 6960 of Title 29 and has the present ability to refer, provide or represent sufficient numbers of qualified
14 employees to perform the contracted work, in a manner consistent with the provisions of this act.

15 “Community workforce agreement” means a form of pre-hire collective bargaining agreement covering terms and
16 conditions of a specific project.

17 “Public entity” means the State, any of its political subdivisions, any authority created by the Legislature and any
18 instrumentality or agency of the State or of any of its political subdivisions, including school districts.

19 “Public works project” means any contract or aggregate of contracts, utilizing state funds, relating to a public
20 works project for new construction (including painting and decorating) or for alteration, repair, renovation, rehabilitation,
21 demolition or reconstruction (including painting and decorating of buildings or works) to which this State or any
22 subdivision thereof is a party and for which it is required by law that workers be paid the prevailing wage paid prevailing
23 wages under § 6960 of Title 29.

24 § 302. Hiring of skilled workers and community workforce agreements.

25 (a) Purposes: The Legislature finds and declares:

26 (1). The United States Supreme Court held in Building & Const. Trades Council of Metropolitan Dist. v.
27 Associated Builders & Contractors of Massachusetts/Rhode Island, Inc., 507 U.S. 218 (1993) that state and local
28 governments, when acting as market participants, are permitted under the National Labor Relations Act (29 U.S.C. s. 151 et
29 seq.) to enforce bid specifications requiring contractors to abide by collective bargaining agreements with labor
30 organizations, including requirements for participation in apprenticeship programs, for construction projects owned by
31 those state and local governments;

32 (2). Delaware also has a compelling interest in guaranteeing that public works projects meet the highest standards
33 of safety and quality;

34 (3). A highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of the completed
35 project;

36 (4). Delaware has a compelling interest in carrying out public works projects at the lowest reasonable cost and the
37 highest degree of quality;

38 (5). Apprenticeship programs make it possible to provide the State with a guarantee that public works projects are
39 completed with highly skilled workers;

40 (6) Delaware has a compelling interest in having labor disputes in connection with public works projects resolved
41 without the disruptions of strikes, lock-outs, or slowdowns;

42 (7). Community workforce agreements make possible legally enforceable guarantees that projects will be carried
43 out in an orderly and timely manner, without strikes, lock-outs, or slowdowns;

44 (8). Community workforce agreements also make it possible to provide for peaceful, orderly, and mutually binding
45 procedures for resolving labor issues;

46 (9). Community workforce agreements and apprenticeship programs make it possible to provide the State with a
47 guarantee that public works projects are completed with highly skilled workers;

48 (10). Community workforce agreements allow public agencies to more accurately predict the actual cost of
49 projects;

50 (11). Community workforce agreements make it possible to provide the State with assurances that public works
51 projects are completed with a diverse workforce;

52 (12). Community workforce agreements facilitate the efficient integration of work schedules among different
53 trades on project sites;

54 (13). Community workforce agreements also promote harmonious and productive work environments in public
55 works projects;

56 (14). Delaware can best accomplish these goals by providing, on public works projects, Community workforce
57 agreements between public works contractors and subcontractors and labor organizations concerning important issues of
58 employment, including work hours, starting times, overtime rates, and procedures for resolving disputes; and

59 (15). Community workforce agreements, therefore, give Delaware an effective means to advance the interests of
60 efficiency, quality, and timeliness of public works projects.

61 (b) Eligibility and Negotiation of Community Workforce Agreements: For all projects, where the public entity
62 estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed \$3 million, and
63 which are subject to contract procedures under § 6962 of Title 29 and covered by this chapter, a public entity shall include
64 a community workforce agreement in a public works project on a project-by-project basis. Taking into consideration the
65 size, complexity and cost of the public works project, the need for promoting labor stability and advancing the interests of
66 the public entity in cost, efficiency, skilled labor force, quality, safety and timeliness, and , in the case of a public entity
67 which is a political subdivision, promotes employment of residents of the political subdivision, .the public entity shall
68 either: directly negotiate in good faith a community workforce agreement with one or more labor organizations engaged in
69 the construction industry; or condition the award of a contract to a contractor upon a requirement that the contractor
70 negotiate in good faith a community workforce agreement with one or more labor organizations engaged in the construction
71 industry. If the contractor and the labor organizations engaged in the construction industry cannot agree to the terms of the
72 Community workforce agreement, the Governor shall appoint a designee to assist the parties in reaching a Community
73 workforce agreement.

74 § 304. Community workforce agreement.

75 (a) Any community workforce agreement negotiated pursuant to this Act between the public entity or its
76 representative or a construction manager and one or more labor organizations shall be binding on all contractors and
77 subcontractors working on the public works project. .

78 (b) The contents of the community workforce agreement, pursuant to this act, shall:

79 (1) Advance the interests of the public entity, including the interests in cost, efficiency, quality, timeliness,
80 skilled labor force, and safety.

81 (2) Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes
82 and grievances arising before the completion of work.

83 (3) Contain guarantees against strikes, lockouts, or similar actions.

- 84 (4) Ensure a reliable source of skilled and experienced labor.
- 85 (5) Set forth goals for apprenticeship hours to be performed by minority group members, members of
86 disadvantaged communities, and women and set forth goals for total hours to be performed by minority group
87 members, members of disadvantaged communities, and women.
- 88 (7) Include measures giving minority group members, members of disadvantaged communities, and women
89 priority in referral and placement from the referral systems of signatory unions, programs to provide on-the-job or
90 off-the-job outreach and training, and programs to provide incentives for, or otherwise facilitate, their hiring and
91 employment
- 92 (8) Bind all contractors and subcontractors on all construction projects, public works projects, or improvement
93 projects utilizing any state funds through the inclusion of appropriate bid specifications in all relevant bid
94 documents.
- 95 (9) Provide that the successful bidder and any subcontractor of the bidder need not be a party to a labor
96 agreement with the labor organizations other than for the public works project covered by the community
97 workforce agreement.
- 98 (10) Provide that the successful bidder and any subcontractor of the bidder working on the public works
99 project will be permitted to retain a percentage of up to twenty-five percent of their current workforce.
- 100 (11) Fully conform to all statutes, regulations, executive orders and applicable local ordinances regarding the
101 implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which
102 shall be expressly provided in the project labor agreement;
- 103 (12) Include such other terms as the parties deem appropriate, including provisions that promote employment
104 of residents of a political subdivision on the public works project.
- 105 (c) Covered projects funded in part by federal funds shall include a community workforce agreement compliant
106 with applicable Executive Orders.

107 § 305. Severability.

108 Nothing in this Act shall be construed to contravene any state or federal law or to jeopardize the State's
109 entitlement to federal funding. If any provision of this Act or its application to any person or circumstance is held invalid
110 by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Act that can
111 be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Act are declared
112 to be severable.

113 Section 2. This Act shall take effect on July 1, 2022.

SYNOPSIS

This bill is the Community Workforce Agreement Act. It requires that on all large state-funded construction, public works, or improvement projects that such projects are to be governed by a Community Workforce Agreement with labor organizations engaged in the construction industry to provide structure and stability and promote efficient completion.

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