



SPONSOR: Rep. Q. Johnson

HOUSE OF REPRESENTATIVES  
150th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2  
TO  
SENATE SUBSTITUTE NO. 1  
FOR  
SENATE BILL NO. 48

AMEND Senate Substitute No. 1 for Senate Bill No. 48 by inserting after line 8 and before line 9 the following:

“( ) “Demonstrated history” means having an active apprentice or having graduated at least 1 apprentice within the last 3 years.”

FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 48 by inserting after line 13 and before line 14 the following:

“( ) “Skilled craftsperson” means any individual who has completed a federal apprenticeship program, an apprenticeship program approved by the Delaware Department of Labor pursuant to Chapter 2 of Title 19, or has otherwise documented 8 years of experience in a particular craft.”

FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 48 on line 18 by inserting after “project” and before the comma as it appears therein the following: “in the county where the project takes place”.

FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 48 on line 25 by inserting after “project” and before the comma as it appears therein the following: “in the county where the project takes place”.

FURTHER AMEND Senate Substitute No. 1 for Senate Bill No. 48 by deleting lines 53 through 90 in their entirety and inserting in lieu thereof the following:

~~“(14) *Suspension and debarment.* Any contractor who fails to perform a public works contract or complete a public works project within the time schedule established by the agency in the invitation to bid, may be subject to suspension or debarment for 1 or more of the following reasons:~~

- ~~a. Failure to supply the adequate labor supply ratio for the project;~~
- ~~b. Inadequate financial resources; or~~
- ~~c. Poor performance on the project.~~

~~Upon such failure for any of the above stated reasons, the agency that contracted for the public works project may petition the Director of the Office of Management and Budget for suspension or debarment of the contractor. The~~

agency shall send a copy of the petition to the contractor within 3 working days of filing with the Director. If the Director concludes that the petition has merit, the Director shall schedule and hold a hearing to determine whether to suspend the contractor, debar the contractor or deny the petition. The agency shall have the burden of proving, by a preponderance of the evidence, that the contractor failed to perform or complete the public works project within the time schedule established by the agency and failed to do so for 1 or more of the following reasons:

- a. Failure to supply the adequate labor supply ratio for the project;
- b. Inadequate financial resources; or
- c. Poor performance on the project.

Upon a finding in favor of the agency, the Director may suspend a contractor from bidding on any project funded, in whole or in part, with public funds for up to 1 year for a first offense, up to 3 years for a second offense and permanently debar the contractor for a third offense. The Director shall issue a written decision and shall send a copy to the contractor and the agency. Such decision may be appealed to the Superior Court within 30 days for a review on the record.

(13) Compliance.—

- a. A contractor has met the requirement to provide craft training by satisfying any one of the following:

- 1. The contractor is registered with an approved apprenticeship program and has a demonstrated history of using the program.

- 2. For a contractor whose company is in existence for less than 1 year, the contractor has 1 active apprentice within 1 year of the formation of the contractor's company.

- 3. For a contractor with 10-25 employees whose workforce consists of all skilled craftspeople, the contractor is registered with an approved apprenticeship program.

- b. A contractor is in compliance with the requirement to provide craft training, even if an apprentice is terminated for cause or resigns, so long as the replacement is in place prior to the beginning of the next apprentice class year.

(14) Penalties.—

- a. A contractor who fails to provide craft training by a court or the Department of Labor as defined in § 6902 of this title shall be deemed in violation of this section, and shall be subject to a civil penalty of not less than \$5,000, and not more than \$20,000, for each violation.

- b. A contractor that has been found by a court or the Department of Labor to have failed to provide craft training as defined in § 6902 of this title, twice in a 2-year period shall be subject to a civil penalty of not less than \$20,000 for each violation.

53                    c. A contractor that has been found by a court or the Department of Labor to have failed to provide craft  
54                    training as defined in § 6902 of this title, 3 times in a 2-year period, in addition to civil penalties, the agency that  
55                    contracted for the public works shall suspend the contractor's prequalification for a period of one year and until  
56                    compliance with the requirement to provide craft training is satisfied."

#### SYNOPSIS

This amendment adds definitions for demonstrated history and skilled craftsman. This amendment also removes suspension and debarment as penalties for a violation of §6962 and instead provides for civil penalties. This amendment also requires that the craft training program occur in the county where the project takes place. Finally, this amendment defines when a contractor has met the requirement of providing craft training under the statute.