SPONSOR: Rep. Mulrooney & Rep. Osienski & Sens. Hall-Long & Marshall;
Reps. Bennett, Bentz, Bolden, Brady, Carson, Heffernan, Jaques, J. Johnson, Keeley, Kowalko, Longhurst, Lynn, Matthews, Mitchell, Paradee, B. Short, Viola, K. Williams; Sens. Blevins, Ennis, McBride, McDowell, Poore

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 283

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO VETERANS, SKILLED WORKERS AND COMMUNITY WORKFORCE ACT.

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

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

CHAPTER 3. THE VETERANS, SKILLED WORKERS AND COMMUNITY WORKFORCE ACT.

§ 301. Title; definitions.

(a) This chapter shall be known and may be cited as "The Veterans, Skilled Workers and Community Workforce Act".

(b) Definitions. For the purposes of this chapter:

(1) "Apprenticeship program" means a registered apprenticeship program approved by the Delaware Department of Labor pursuant to Chapter 2 of Title 19, an apprenticeship program registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor and meeting the standards established by the Bureau, or an apprentice program registered by a State apprenticeship agency recognized by the Bureau.

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

(3)"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project.

(4) "Public entity" means the State, any of its political subdivisions, any authority created by the Legislature and any instrumentality or agency of the State or of any of its political subdivisions, including school districts.

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

§ 302. Local hiring plan.

(a) The contracting state agency shall establish a local hiring policy that will require contractors and their subcontractors on public works projects to draw a minimum of 30% of their project workers from persons residing within the Representative District in which the project is partly or wholly located. Representative district shall be defined by the Delaware Department of Elections. If the contractors and their subcontractors cannot meet the minimum employment requirements within said Representative District, contractor and their subcontractors shall employ remaining number of workers to meet the minimum 30% within the county in which the project is partly or wholly located.

(b) The contracting state agency shall establish a hiring policy that will require contractors and their subcontractors on public works projects to employ no less than 5% of workers on each project who shall be classified as an individual who has served in the Armed Forces of the United States or the Delaware Military Forces, being discharged under honorable conditions and residing in the State of Delaware. The same worker may be counted in fulfilling the requirements of this subsection and subsection (a) of this section.

(c) The contracting agency shall make policies in support of the Veterans and Community Workforce Act, authorize incentives for contractors and subcontractors who exceed local hiring requirements, mandating assessment of penalties against contractors and subcontractors who fail to meet minimum local hiring requirements, and establish monitoring, enforcement and administrative procedures in support of the policy.

(d) The contracting state agency shall establish reporting procedures for contractors and subcontractors to submit to the contracting agency the certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers on the covered projects.

§ 303. Hiring of skilled workers.

(a) Purposes. The Legislature finds and declares:

(1) The United States Supreme Court held in Building & Const. Trades Council of Metropolitan Dist. v. Associated Builders & Contractors of Massachusetts/Rhode Island, Inc., 507 U.S. 218 (1993) that state and local governments, when acting as market participants, are permitted under the National Labor Relations Act (29 U.S.C. s. 151 et seq.) to enforce bid specifications requiring contractors to abide by project labor agreements with labor

organizations, including requirements for participation in apprenticeship programs, for construction projects owned by those state and local governments;

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

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

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

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

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

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

(8) Project labor agreements also make it possible to provide for peaceful, orderly, and mutually binding procedures for resolving labor issues;

(9) Project labor agreements and apprenticeship programs make it possible to provide the State with a guarantee that public works projects are completed with highly skilled workers;

(10) Project labor agreements allow public agencies to more accurately predict the actual cost of projects;

(11) Project labor agreements make it possible to provide the State with assurances that public works projects are completed with a diverse workforce;

(12) Project labor agreements facilitate the efficient integration of work schedules among different trades on project sites;

(13) Project labor agreements also promote harmonious and productive work environments in public works projects;

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

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

(b) The state contracting agency shall require that all contractors and subcontractors participate in an apprenticeship program prior to bidding on any large public works project subject to contract procedures under § 6962 of Title 29.

(c) Eligibility and Negotiation of Project Labor Agreements. For all projects subject to contract procedures under § 6962 of Title 29 and covered by this chapter, a public entity shall require or include a project labor agreement in a public works project on a project-by-project basis. Taking into consideration the size, complexity and cost of the public works project, and the need for promoting labor stability and advancing the interests of the public entity in cost, efficiency, skilled labor force, quality, safety and timeliness, the public entity shall either: directly negotiate in good faith a project labor agreement with one or more labor organizations engaged in the construction industry; or condition the award of a contract to a contractor upon a requirement that the contractor negotiate in good faith a project labor agreement with one or more labor organizations engaged in the construction industry. If the contractor and the labor organizations engaged in the construction industry cannot agree to the terms of the project labor agreement, the Governor shall appoint a designee to assist the parties in reaching a project labor agreement.

§ 304. Project labor agreement.

(a) The contents of the project labor agreement, pursuant to this act, shall:

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

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

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

(4) Ensure a reliable source of skilled and experienced labor.

(5) Set forth goals for apprenticeship hours to be performed by minorities and females and set forth goals for total hours to be performed by underrepresented minorities and females.

(6) Bind all contractors and subcontractors on all construction projects, public works projects, or improvement projects utilizing any state funds through the inclusion of appropriate bid specifications in all relevant bid documents.

(7) Provide that the successful bidder and any subcontractor of the bidder need not be a party to a labor agreement with the labor organizations other than for the public works project covered by the project labor agreement.

(8) Include such other terms as the parties deem appropriate, including provisions that permit contractors and subcontractors working on the public works project to retain a percentage of their current workforce .

(b) Covered projects funded in part by federal funds shall include a project labor agreement compliant with Executive Order 13502.

§ 305. Severability.

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

Section 2. This Act shall take effect on January 1, 2017.

SYNOPSIS

This bill is the Veterans, Skilled Workers, and Community Workforce Act. It requires that on all state-funded construction, public works, or improvement projects that contractors and subcontractors must draw 30% of their workforce from the Representative District where the project is located, and 5% of their workforce from eligible Delaware veterans. Such projects are to be governed by a Project Labor Agreement with the Delaware Building and Construction Trades Council to provide structure and stability and promote efficient completion.