

SENATE BILL 457

B5, K3, P2

6lr2694
CF HB 108

By: **Senator McFadden**

Introduced and read first time: February 2, 2016

Assigned to: Finance and Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Capital Budget – Construction Projects – Apprenticeship Requirements**

3 FOR the purpose of requiring a contractor or subcontractor that performs work on a
4 construction project that receives a certain amount of funding from the State capital
5 budget to be affiliated with, and to use apprentices from, an apprenticeship program
6 that is registered with and approved by the Department of Labor, Licensing, and
7 Regulation or the United States Department of Labor, or requiring the contractor or
8 subcontractor to make certain payments to the State Apprenticeship Training Fund
9 or to certain apprenticeship programs under certain circumstances; providing that,
10 under certain circumstances, certain contractors and subcontractors are not subject
11 to the requirement; requiring certain contractors and subcontractors to make certain
12 payments in a certain manner under certain circumstances; authorizing a contractor
13 or subcontractor to make a certain request; requiring the Secretary of Labor,
14 Licensing, and Regulation to make a good-faith effort to accommodate a certain
15 request; requiring registered apprenticeship programs that receive certain funds to
16 certify to the Secretary that the funds are used solely for the purpose of improving
17 or expanding apprenticeship training; authorizing the State Apprenticeship
18 Training Fund to include certain payments made in accordance with this Act;
19 requiring the Secretary to adopt certain regulations; defining certain terms; and
20 generally relating to a requirement that certain contractors and subcontractors
21 performing work on certain capital construction projects be affiliated with certain
22 apprenticeship programs and use certain registered apprentices or make certain
23 payments to the State Apprenticeship Training Fund or to certain apprenticeship
24 programs.

25 BY repealing and reenacting, with amendments,
26 Article – State Finance and Procurement
27 Section 17–602
28 Annotated Code of Maryland
29 (2015 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – State Finance and Procurement
 3 Section 17–6A–01 through 17–6A–05 to be under the new subtitle “Subtitle 6A.
 4 Apprenticeship Requirements for Capital Construction Projects”
 5 Annotated Code of Maryland
 6 (2015 Replacement Volume)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 8 That the Laws of Maryland read as follows:

9 **Article – State Finance and Procurement**

10 17–602.

- 11 (a) There is a State Apprenticeship Training Fund in the Department.
- 12 (b) The Fund consists of:
- 13 (1) payments made by contractors or subcontractors in accordance with
 14 this subtitle **AND SUBTITLE 6A OF THIS TITLE**; and
- 15 (2) penalties collected as a result of violations of this subtitle.
- 16 (c) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of this
 17 article.
- 18 (d) The State Treasurer shall hold the Fund separately, and the Comptroller shall
 19 account for the Fund.
- 20 (e) The Secretary shall use money in the Fund to:
- 21 (1) promote preapprenticeship programs and other workforce development
 22 programs in the State’s public secondary schools and community colleges that assist
 23 students in preparing for and entering apprenticeship training programs; and
- 24 (2) pay any costs associated with carrying out the provisions of this
 25 subtitle.

26 **SUBTITLE 6A. APPRENTICESHIP REQUIREMENTS FOR CAPITAL**
 27 **CONSTRUCTION PROJECTS.**

28 **17–6A–01.**

29 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 30 **INDICATED.**

1 **(B) “CAPITAL CONSTRUCTION PROJECT” MEANS A CONSTRUCTION**
2 **PROJECT THAT RECEIVES FUNDING THROUGH THE STATE CAPITAL BUDGET IN THE**
3 **AMOUNT OF \$100,000 OR MORE DURING A FISCAL YEAR.**

4 **(C) “CONSTRUCTION” INCLUDES:**

5 **(1) BUILDING;**

6 **(2) RECONSTRUCTING;**

7 **(3) IMPROVING;**

8 **(4) ENLARGING;**

9 **(5) PAINTING AND DECORATING;**

10 **(6) ALTERING;**

11 **(7) MAINTAINING; AND**

12 **(8) REPAIRING.**

13 **(D) “DEPARTMENT” MEANS THE DEPARTMENT OF LABOR, LICENSING, AND**
14 **REGULATION.**

15 **(E) “FUND” MEANS THE STATE APPRENTICESHIP TRAINING FUND**
16 **ESTABLISHED UNDER § 17-602 OF THIS TITLE.**

17 **(F) “REGISTERED APPRENTICESHIP PROGRAM” MEANS AN**
18 **APPRENTICESHIP PROGRAM THAT IS REGISTERED WITH, AND APPROVED BY, THE**
19 **DEPARTMENT OR THE UNITED STATES DEPARTMENT OF LABOR.**

20 **(G) “SECRETARY” MEANS THE SECRETARY OF LABOR, LICENSING, AND**
21 **REGULATION.**

22 **17-6A-02.**

23 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH**
24 **CONTRACTOR OR SUBCONTRACTOR THAT PERFORMS WORK ON A CAPITAL**
25 **CONSTRUCTION PROJECT SHALL:**

26 **(1) (I) BE AFFILIATED WITH A REGISTERED APPRENTICESHIP**
27 **PROGRAM; AND**

1 (II) USE APPRENTICES FROM A REGISTERED APPRENTICESHIP
2 PROGRAM FOR EACH CRAFT OR TRADE IN WHICH THE CONTRACTOR OR
3 SUBCONTRACTOR EMPLOYS PERSONS FOR THE CAPITAL CONSTRUCTION PROJECT;

4 (2) MAKE PAYMENTS TO THE FUND; OR

5 (3) MAKE PAYMENTS IN AMOUNTS DETERMINED UNDER § 17-6A-03
6 OF THIS SUBTITLE TO A REGISTERED APPRENTICESHIP PROGRAM FOR THE
7 PURPOSE OF SUPPORTING THE PROGRAM.

8 (B) A CONTRACTOR OR SUBCONTRACTOR IS NOT SUBJECT TO THE
9 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IF:

10 (1) THERE ARE NO REGISTERED APPRENTICESHIP PROGRAMS FOR
11 THE CRAFT OR TRADE IN WHICH THE CONTRACTOR OR SUBCONTRACTOR EMPLOYS
12 PERSONS FOR THE CAPITAL CONSTRUCTION PROJECT; OR

13 (2) THE CONTRACTOR OR SUBCONTRACTOR IS PERFORMING WORK
14 ON A CAPITAL CONSTRUCTION PROJECT THAT IS ALSO A COVERED PROJECT UNDER
15 SUBTITLE 6 OF THIS TITLE.

16 17-6A-03.

17 (A) (1) A CONTRACTOR OR SUBCONTRACTOR THAT ELECTS TO MAKE
18 PAYMENTS TO THE FUND IN ACCORDANCE WITH THIS SUBTITLE SHALL MAKE
19 PAYMENTS, AS DETERMINED BY THE SECRETARY, NOT TO EXCEED 25 CENTS PER
20 HOUR FOR EACH EMPLOYEE WHO IS EMPLOYED BY THE CONTRACTOR OR
21 SUBCONTRACTOR ON THE CAPITAL CONSTRUCTION PROJECT.

22 (2) PAYMENTS MADE TO THE FUND IN ACCORDANCE WITH THIS
23 SUBSECTION SHALL BE MADE ON A MONTHLY BASIS.

24 (B) (1) IF THE SECRETARY DETERMINES THAT A CONTRACTOR OR
25 SUBCONTRACTOR FOR A CAPITAL CONSTRUCTION PROJECT HAS MADE
26 CONTRIBUTIONS TO A REGISTERED APPRENTICESHIP PROGRAM AT RATES LOWER
27 THAN THOSE REQUIRED BY THIS SUBTITLE, THE CONTRACTOR OR SUBCONTRACTOR
28 SHALL MAKE PAYMENTS TO THE FUND FOR THE DIFFERENCE BETWEEN ITS
29 CONTRIBUTION AND THE CONTRIBUTION RATE REQUIRED BY THIS SUBTITLE.

30 (2) PAYMENTS MADE TO THE FUND IN ACCORDANCE WITH THIS
31 SUBSECTION SHALL BE MADE ON A MONTHLY BASIS.

1 **17-6A-04.**

2 (A) (1) A CONTRACTOR OR SUBCONTRACTOR THAT MAKES
3 CONTRIBUTIONS TO THE FUND OR A REGISTERED APPRENTICESHIP PROGRAM MAY
4 REQUEST THAT ITS CONTRIBUTIONS BE DIRECTED TO A SPECIFIC
5 PREAPPRENTICESHIP OR WORKFORCE DEVELOPMENT PROGRAM.

6 (2) THE SECRETARY SHALL MAKE A GOOD-FAITH EFFORT TO
7 ACCOMMODATE REQUESTS RECEIVED IN ACCORDANCE WITH PARAGRAPH (1) OF
8 THIS SUBSECTION.

9 (B) A REGISTERED APPRENTICESHIP PROGRAM THAT RECEIVES FUNDS
10 FROM CONTRACTORS OR SUBCONTRACTORS UNDER § 17-6A-02(A)(3) OF THIS
11 SUBTITLE SHALL CERTIFY TO THE SECRETARY THAT ALL FUNDS RECEIVED ARE
12 USED SOLELY FOR THE PURPOSE OF IMPROVING OR EXPANDING APPRENTICESHIP
13 TRAINING.

14 **17-6A-05.**

15 (A) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
16 PROVISIONS OF THIS SUBTITLE.

17 (B) (1) THE REGULATIONS SHALL ESTABLISH THE PROCESS FOR A
18 CONTRACTOR OR SUBCONTRACTOR TO PROVIDE WRITTEN VERIFICATION TO THE
19 DEPARTMENT THAT THE REQUIREMENTS OF THIS SUBTITLE HAVE BEEN MET.

20 (2) IF A CONTRACTOR OR SUBCONTRACTOR IS AFFILIATED WITH A
21 REGISTERED APPRENTICESHIP PROGRAM, THE REGULATIONS SHALL REQUIRE THE
22 REGISTERED APPRENTICESHIP PROGRAM TO PROVIDE WRITTEN DOCUMENTATION
23 TO THE CONTRACTOR OR SUBCONTRACTOR VERIFYING THE AFFILIATION.

24 (C) THE REGULATIONS SHALL ESTABLISH A PROCESS FOR AUDITING
25 ORGANIZATIONS THAT PROVIDE REGISTERED APPRENTICESHIP PROGRAMS TO
26 ENSURE THAT ALL FUNDS RECEIVED BY A REGISTERED APPRENTICESHIP PROGRAM
27 UNDER § 17-6A-02(A)(3) OF THIS SUBTITLE ARE USED SOLELY TO IMPROVE AND
28 EXPAND APPRENTICESHIP PROGRAMS IN THE STATE.

29 (D) THE REGULATIONS SHALL ESTABLISH THE PENALTY FOR A
30 CONTRACTOR OR SUBCONTRACTOR THAT FAILS TO MEET THE REQUIREMENTS OF
31 THIS SUBTITLE.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
33 1, 2016.