

REFERENCE TITLE: power plants; contractors; workforce requirements

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2618**

Introduced by  
Representatives Hernandez A: Abraham, Blackwater-Nygren, Bolding, Chávez,  
Espinoza, Longdon, Mathis, Powers Hannley, Quiñonez, Schwiebert, Sierra

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 34-321 AND 40-360.06, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, Arizona Revised Statutes, is  
3 amended by adding article 4, to read:

4 ARTICLE 4. POWER PLANT SAFETY

5 23-251. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "APPRENTICEABLE OCCUPATION" MEANS AN OCCUPATION FOR WHICH AN  
8 APPRENTICESHIP PROGRAM HAS BEEN APPROVED BY THE UNITED STATES DEPARTMENT  
9 OF LABOR OR THE DEPARTMENT OF ECONOMIC SECURITY.

10 2. "COMMISSION" MEANS THE INDUSTRIAL COMMISSION OF ARIZONA.

11 3. ON-SITE WORK DOES NOT INCLUDE ANY OF THE FOLLOWING:

12 (a) RAIL CAR SUPPORT ACTIVITIES.

13 (b) ENVIRONMENTAL INSPECTION AND TESTING.

14 (c) SECURITY GUARD SERVICES.

15 (d) WORK THAT IS PERFORMED BY AN ORIGINAL EQUIPMENT MANUFACTURER  
16 FOR WARRANTY, REPAIR OR MAINTENANCE ON THE VENDOR'S EQUIPMENT IF REQUIRED  
17 BY THE ORIGINAL EQUIPMENT MANUFACTURER'S WARRANTY AGREEMENT BETWEEN THE  
18 ORIGINAL EQUIPMENT MANUFACTURER AND THE OWNER.

19 (e) INDUSTRIAL CLEANING NOT RELATED TO CONSTRUCTION.

20 (f) SAFETY SERVICES REQUIRING PROFESSIONAL SAFETY CERTIFICATION.

21 (g) NONCONSTRUCTION CATALYST LOADING, REGENERATION AND REMOVAL.

22 (h) CHEMICAL PURGING AND CLEANING.

23 (i) REFINERY BY-PRODUCT SEPARATION AND RECOVERY.

24 (j) INSPECTION SERVICES THAT ARE NOT RELATED TO CONSTRUCTION.

25 (k) WORK PERFORMED THAT IS NOT IN AN APPRENTICEABLE OCCUPATION.

26 4. "POWER PLANT" MEANS AN INDUSTRIAL FACILITY FOR GENERATING  
27 ELECTRIC POWER.

28 5. "PREVAILING HOURLY WAGE RATE" MEANS THE PREVAILING HOURLY WAGE  
29 SET BY THE UNITED STATES DEPARTMENT OF LABOR.

30 6. "REGISTERED APPRENTICE" MEANS AN APPRENTICE REGISTERED IN AN  
31 APPRENTICESHIP PROGRAM APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR  
32 OR THE DEPARTMENT OF ECONOMIC SECURITY.

33 7. "SKILLED AND TRAINED WORKFORCE" MEANS A WORKFORCE THAT MEETS  
34 BOTH OF THE FOLLOWING CRITERIA:

35 (a) ALL THE WORKERS ARE EITHER REGISTERED APPRENTICES OR SKILLED  
36 JOURNEYPERSONS.

37 (b) THE WORKFORCE MEETS THE APPRENTICESHIP GRADUATION AND APPROVED  
38 ADVANCED SAFETY TRAINING REQUIREMENTS ESTABLISHED UNDER THIS ARTICLE.

39 8. "SKILLED JOURNEYPERSON" MEANS A WORKER WHO MEETS BOTH OF THE  
40 FOLLOWING CRITERIA:

41 (a) THE WORKER EITHER:

42 (i) GRADUATED FROM AN APPRENTICESHIP PROGRAM FOR THE APPLICABLE  
43 OCCUPATION THAT WAS APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR OR  
44 THE DEPARTMENT OF ECONOMIC SECURITY THAT HAS GRADUATED JOURNEYMEN IN AT  
45 LEAST THREE OF THE LAST FIVE YEARS.

1 (ii) HAS AT LEAST AS MANY HOURS OF ON-THE-JOB EXPERIENCE IN THE  
2 APPLICABLE OCCUPATION THAT WOULD BE REQUIRED TO GRADUATE FROM AN  
3 APPRENTICESHIP PROGRAM APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR  
4 OR THE DEPARTMENT OF ECONOMIC SECURITY.

5 (b) THE WORKER IS BEING PAID IN ACCORDANCE WITH SECTION 23-254.

6 23-252. Arizona power plant safety committee; membership;  
7 duties

8 A. THE DIRECTOR OF THE COMMISSION SHALL ESTABLISH AN ARIZONA POWER  
9 PLANT SAFETY COMMITTEE. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL  
10 SERVE AS THE CHAIRPERSON OF THE COMMITTEE AND SHALL APPOINT THE DIRECTOR  
11 OF OR A REPRESENTATIVE FROM EACH OF THE FOLLOWING APPRENTICESHIP PROGRAMS  
12 THAT ARE APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR OR THE  
13 DEPARTMENT OF ECONOMIC SECURITY AND THAT HAVE GRADUATED STUDENTS IN AT  
14 LEAST THREE OF THE LAST FIVE YEARS:

- 15 1. A BOILERMAKER APPRENTICESHIP PROGRAM.
- 16 2. A BRICKLAYER APPRENTICESHIP PROGRAM.
- 17 3. AN ELECTRICAL APPRENTICESHIP PROGRAM.
- 18 4. AN ELEVATOR CONSTRUCTOR APPRENTICESHIP PROGRAM.
- 19 5. A HEAT AND FROST INSULATORS APPRENTICESHIP PROGRAM.
- 20 6. AN IRONWORKERS APPRENTICESHIP PROGRAM.
- 21 7. A PLASTERERS AND CEMENT MASONS APPRENTICESHIP PROGRAM.
- 22 8. A SHEET METAL APPRENTICESHIP PROGRAM.
- 23 9. A PIPEFITTER APPRENTICESHIP PROGRAM.
- 24 10. A PLUMBER APPRENTICESHIP PROGRAM.

25 B. THE ARIZONA POWER PLANT SAFETY COMMITTEE SHALL MAKE  
26 RECOMMENDATIONS TO AND CONSULT WITH THE DIRECTOR OF THE COMMISSION  
27 REGARDING ADMINISTERING AND IMPLEMENTING THIS ARTICLE AND ANY ADDITIONAL  
28 ITEMS AS NECESSARY.

29 C. MEMBERS OF THE COMMITTEE ARE NOT ELIGIBLE TO RECEIVE  
30 COMPENSATION BUT ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES  
31 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

32 23-253. Power plant safety; skilled and trained workforce;  
33 training; applicability

34 A. NOTWITHSTANDING ANY OTHER LAW, WHEN CONTRACTING FOR THE  
35 PERFORMANCE OF CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, REPAIR  
36 OR MAINTENANCE WORK ON A POWER PLANT, AN OWNER OR OPERATOR SHALL REQUIRE  
37 THAT ITS CONTRACTORS AND ANY SUBCONTRACTORS USE A SKILLED AND TRAINED  
38 WORKFORCE TO PERFORM ALL ON-SITE WORK WITHIN AN APPRENTICEABLE OCCUPATION  
39 IN THE BUILDING AND CONSTRUCTION TRADES. ALL WORKERS IN THE SKILLED AND  
40 TRAINED WORKFORCE MUST HAVE COMPLETED WITHIN THE PAST THREE CALENDAR YEARS  
41 AT LEAST TWENTY HOURS OF APPROVED ADVANCED SAFETY TRAINING FOR WORKERS AT  
42 POWER PLANTS. THE REQUIREMENTS PRESCRIBED IN THIS SUBSECTION APPLY TO  
43 EACH INDIVIDUAL CONTRACTOR'S AND SUBCONTRACTOR'S ON-SITE WORKFORCE.

44 B. THE ARIZONA POWER PLANT SAFETY COMMITTEE ESTABLISHED PURSUANT TO  
45 SECTION 23-252 SHALL APPROVE A CURRICULUM OF IN-PERSON CLASSROOM AND

1 LABORATORY INSTRUCTION FOR APPROVED ADVANCED SAFETY TRAINING FOR WORKERS  
2 AT A POWER PLANT. THE SAFETY TRAINING MUST BE PROVIDED BY A TRAINING  
3 PROVIDER THAT IS APPROVED BY THE COMMISSION, WHICH MAY INCLUDE A  
4 REGISTERED APPRENTICESHIP PROGRAM APPROVED BY THE UNITED STATES DEPARTMENT  
5 OF LABOR OR THE DEPARTMENT OF ECONOMIC SECURITY. THE COMMISSION MUST  
6 PERIODICALLY REVIEW AND REVISE THE CURRICULUM APPROVED UNDER THIS SECTION  
7 TO ENSURE THAT IT REFLECTS THE CURRENT BEST PRACTICES.

8 C. ON RECEIPT OF CERTIFICATION FROM THE TRAINING PROVIDER APPROVED  
9 UNDER SUBSECTION B OF THIS SECTION, THE COMMISSION SHALL ISSUE A  
10 CERTIFICATE TO ANY WORKER WHO COMPLETES THE APPROVED CURRICULUM. THE  
11 COMMISSION MAY ACCEPT A CERTIFICATE OR OTHER DOCUMENTATION ISSUED BY  
12 ANOTHER STATE IF THE COMMISSION FINDS THAT THE CURRICULUM AND  
13 DOCUMENTATION OF THE OTHER STATE MEET THE REQUIREMENTS UNDER SUBSECTION B  
14 OF THIS SECTION.

15 D. THIS SECTION:

16 1. APPLIES ONLY TO WORK PERFORMED UNDER CONTRACTS AWARDED AND  
17 CONTRACT EXTENSIONS AND CONTRACT RENEWALS OCCURRING ON OR AFTER THE  
18 EFFECTIVE DATE OF THIS SECTION.

19 2. DOES NOT APPLY TO WORK PERFORMED UNDER A CONTRACT AWARDED BEFORE  
20 THE EFFECTIVE DATE OF THIS SECTION.

21 E. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

22 1. THE EMPLOYEES OF THE OWNER OR OPERATOR OF A POWER PLANT. THIS  
23 SECTION ALSO DOES NOT PREVENT THE OWNER OR OPERATOR OF A POWER PLANT FROM  
24 USING ITS OWN EMPLOYEES TO PERFORM ANY WORK THAT HAS NOT BEEN ASSIGNED TO  
25 CONTRACTORS WHILE THE EMPLOYEES OF THE CONTRACTOR ARE PRESENT AND WORKING.

26 2. A CONTRACTOR THAT HAS REQUESTED QUALIFIED WORKERS FROM THE LOCAL  
27 HIRING HALLS OR APPRENTICESHIP PROGRAMS THAT DISPATCH WORKERS IN THE  
28 APPRENTICEABLE OCCUPATION AND THAT, DUE TO WORKFORCE SHORTAGES, IS UNABLE  
29 TO OBTAIN SUFFICIENT QUALIFIED WORKERS WITHIN FORTY-EIGHT HOURS OF THE  
30 REQUEST, SATURDAYS, SUNDAYS AND HOLIDAYS EXCEPTED.

31 3. EMERGENCIES THAT MAKE COMPLIANCE IMPRACTICABLE BECAUSE THEY  
32 REQUIRE IMMEDIATE ACTION TO PREVENT HARM TO THE PUBLIC HEALTH OR SAFETY OR  
33 TO THE ENVIRONMENT. THIS SECTION APPLIES AS SOON AS THE EMERGENCY IS OVER  
34 OR WHEN IT BECOMES PRACTICABLE FOR CONTRACTORS TO OBTAIN A SKILLED AND  
35 TRAINED WORKFORCE.

36 23-254. Wage rate requirements

37 A CONTRACTOR OR SUBCONTRACTOR THAT IS SUBJECT TO THIS ARTICLE SHALL  
38 ENSURE THAT THE CONTRACTOR'S OR SUBCONTRACTOR'S SKILLED JOURNEYPERSONS ARE  
39 BEING PAID AT LEAST A RATE COMMENSURATE WITH THE WAGES TYPICALLY PAID FOR  
40 THE OCCUPATION IN THE APPLICABLE GEOGRAPHIC AREA, SUBJECT TO THE FOLLOWING  
41 PROVISIONS:

42 1. THE PREVAILING HOURLY WAGE RATE PAID FOR A WORKER IN THE  
43 APPLICABLE OCCUPATION AND GEOGRAPHIC AREA ON PUBLIC WORKS PROJECTS MAY BE  
44 USED TO DETERMINE THE APPROPRIATE RATE OF PAY, EXCEPT THAT THIS PARAGRAPH  
45 DOES NOT REQUIRE A CONTRACTOR TO PAY PREVAILING HOURLY WAGE RATES.

1           2. THE WORKER MAY NOT BE PAID AT A RATE LESS THAN AN HOURLY RATE  
2 CONSISTENT WITH THE SEVENTY-FIFTH PERCENTILE IN THE APPLICABLE OCCUPATION  
3 AND GEOGRAPHIC AREA IN THE MOST RECENT OCCUPATIONAL EMPLOYMENT STATISTICS  
4 PUBLISHED BY THE OFFICE OF ECONOMIC OPPORTUNITY.

5           23-255. Civil penalty; enforcement

6           A. AFTER A HEARING, THE COMMISSION SHALL IMPOSE A CIVIL PENALTY OF  
7 AT LEAST \$1,000 PER DAY AGAINST A CONTRACTOR OR SUBCONTRACTOR THAT FAILS  
8 TO COMPLY WITH SECTION 23-253, SUBSECTION A.

9           B. A CONTRACTOR OR SUBCONTRACTOR THAT FAILS TO COMPLY WITH SECTION  
10 23-254 IS SUBJECT TO ALL OF THE FOLLOWING:

11           1. THE CONTRACTOR OR SUBCONTRACTORS SHALL PAY AFFECTED SKILLED  
12 JOURNEYPERSONS BACK WAGES PLUS ANY LEGAL OR ADMINISTRATIVE EXPENSES.

13           2. FOR A SECOND OR SUBSEQUENT VIOLATION OF SECTION 23-254, THE  
14 CONTRACTOR OR SUBCONTRACTOR SHALL PAY EACH AFFECTED SKILLED JOURNEYPERSON  
15 BACK WAGES AND \$100 FOR EACH DAY THE SKILLED JOURNEYPERSON WAS NOT PAID  
16 THE WAGE RATE REQUIRED PURSUANT TO SECTION 23-254. THE CONTRACTOR OR  
17 SUBCONTRACTOR SHALL ALSO PAY THE AFFECTED SKILLED JOURNEYPERSON ANY LEGAL  
18 OR ADMINISTRATIVE EXPENSES THAT RESULT FROM ENFORCING THIS ARTICLE.

19           3. IF A CONTRACTOR OR SUBCONTRACTOR VIOLATES THIS ARTICLE THREE  
20 TIMES WITHIN A FIVE-YEAR PERIOD, THE REGISTRAR OF CONTRACTORS MAY SUSPEND  
21 OR REVOKE THE LICENSE OF THE CONTRACTOR OR SUBCONTRACTOR IN A MANNER  
22 CONSISTENT WITH SECTION 32-1154.

23           23-256. Rules

24           THE COMMISSION MAY ADOPT ANY RULES NECESSARY TO IMPLEMENT THIS  
25 ARTICLE.

26           Sec. 2. Section 34-321, Arizona Revised Statutes, is amended to  
27 read:

28           34-321. Public policy; prevailing wage contracts; prohibited  
29 agreements; exception; definitions

30           A. The public interest in the rates of wages paid under public  
31 works contracts transcends local or municipal interests and is of  
32 statewide concern.

33           B. Agencies and political subdivisions of this state, ~~shall not~~ by  
34 regulation, ~~or~~ OR ordinance or in any other manner, SHALL NOT require public  
35 works contracts to contain a provision requiring the wages paid by the  
36 contractor or any subcontractor to be not less than the prevailing rate of  
37 wages for work of a similar nature in the state or political subdivision  
38 where the project is located.

39           C. Agencies and political subdivisions of this state shall not  
40 require in any public works contracts that a contractor, subcontractor,  
41 material supplier or carrier engaged in the construction, maintenance,  
42 repair or improvement of public works do any of the following as a  
43 condition of or a factor in bidding, negotiating, being awarded or  
44 performing work on a public works contract:



1           2. Fish, wildlife and plant life and associated forms of life on  
2 which they are dependent.

3           3. Noise emission levels and interference with communication  
4 signals.

5           4. The proposed availability of the site to the public for  
6 recreational purposes, consistent with safety considerations and  
7 regulations.

8           5. Existing scenic areas, historic sites and structures or  
9 archaeological sites at or in the vicinity of the proposed site.

10          6. The total environment of the area.

11          7. The technical practicability of achieving a proposed objective  
12 and the previous experience with equipment and methods available for  
13 achieving a proposed objective.

14          8. The estimated cost of the facilities and site as proposed by the  
15 applicant and the estimated cost of the facilities and site as recommended  
16 by the committee, recognizing that any significant increase in costs  
17 represents a potential increase in the cost of electric energy to the  
18 customers or the applicant.

19          9. Any additional factors that require consideration under  
20 applicable federal and state laws pertaining to any such site.

21          B. The committee shall give special consideration to the protection  
22 of areas **THAT ARE** unique because of biological wealth or because they are  
23 habitats for rare and endangered species.

24          C. Notwithstanding any other provision of this article, the  
25 committee shall require in all certificates **OF ENVIRONMENTAL COMPATIBILITY**  
26 for facilities that the applicant comply with all applicable nuclear  
27 radiation standards and air and water pollution control standards and  
28 regulations, ~~but shall not require either of the following:~~

29           ~~1. compliance with performance standards other than those~~  
30 ~~established by the agency having primary jurisdiction over a particular~~  
31 ~~pollution source.~~

32           ~~2. That a contractor, subcontractor, material supplier or other~~  
33 ~~person engaged in the construction, maintenance, repair or improvement of~~  
34 ~~any project subject to approval of the commission negotiate, execute or~~  
35 ~~otherwise become a party to any project labor agreement, neutrality~~  
36 ~~agreement as defined in section 34-321, apprenticeship program~~  
37 ~~participation or contribution agreement or other agreement with employees,~~  
38 ~~employees' representatives or any labor organization as a condition of or~~  
39 ~~a factor in the commission's approval of the project. This paragraph does~~  
40 ~~not:~~

41           ~~(a) Prohibit private parties from entering into individual~~  
42 ~~collective bargaining relationships.~~

43           ~~(b) Regulate or interfere with activity protected by law, including~~  
44 ~~the national labor relations act.~~

1 D. Any certificate OF ENVIRONMENTAL COMPATIBILITY THAT IS granted  
2 by the committee shall be conditioned on compliance by the applicant with  
3 all applicable ordinances, master plans and regulations of ~~the~~ THIS state,  
4 a county or an incorporated city or town, except that the committee may  
5 grant a certificate OF ENVIRONMENTAL COMPATIBILITY notwithstanding any  
6 such ordinance, master plan or regulation, exclusive of franchises, if the  
7 committee finds as a fact that compliance with such AN ordinance, master  
8 plan or regulation is unreasonably restrictive and compliance therewith is  
9 not feasible in view of technology available. When it becomes apparent to  
10 the ~~chairman~~ CHAIRPERSON of the committee or to the hearing officer that  
11 an issue exists with respect to whether such an ordinance, master plan or  
12 regulation is unreasonably restrictive and compliance therewith is not  
13 feasible in view of technology available, the ~~chairman~~ CHAIRPERSON or  
14 hearing officer shall promptly serve notice of ~~such~~ THAT fact by certified  
15 mail on the chief executive officer of the area of jurisdiction affected  
16 and, notwithstanding any provision of this article to the contrary, shall  
17 make ~~such~~ THAT area of jurisdiction a party to the proceedings on its  
18 request and shall give it an opportunity to respond on ~~such~~ THAT issue.

19 Sec. 4. Implementation schedule

20 A. Notwithstanding section 23-253, Arizona Revised Statutes, as  
21 added by this act, to implement the skilled and trained workforce  
22 requirements prescribed in section 23-253, subsection A, Arizona Revised  
23 Statutes, as added by this act, a contractor or subcontractor that is  
24 required to comply with section 23-253, Arizona Revised Statutes, as added  
25 by this act, shall ensure that the following percentages of persons  
26 performing on-site work at a power plant within an apprenticeable  
27 occupation as defined in section 23-251, Arizona Revised Statutes, as  
28 added by this act, in the building and construction trades are skilled  
29 journeypersons as defined in section 23-251, Arizona Revised Statutes, as  
30 added by this act, on or before the following dates:

- 31 1. On or before January 1, 2024, at least twenty percent.
- 32 2. On or before January 1, 2025, at least thirty-five percent.
- 33 3. On or before January 1, 2026, at least forty-five percent.
- 34 4. On or before January 1, 2027, at least sixty percent.
- 35 5. On or before January 1, 2028, one hundred percent.

36 B. Notwithstanding section 23-253, Arizona Revised Statutes, as  
37 added by this act, to implement the training requirements prescribed in  
38 section 23-253, subsection A, Arizona Revised Statutes, as added by this  
39 act, on or before January 1, 2025, all of the workers in a contractor's or  
40 subcontractor's skilled and trained workforce must have completed the  
41 training requirements prescribed in section 23-253, subsection A, Arizona  
42 Revised Statutes, as added by this act.