

**HF10 - 1E - Petroleum Refinery; Skilled & Trained Workforces**

Chief Author: **Dave Lislegard**  
 Committee: **Ways And Means**  
 Date Completed: **3/21/2023 4:28:04 PM**  
 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	(5)	(5)	(5)	(5)	(5)
<b>Total</b>	-	<b>(5)</b>	<b>(5)</b>	<b>(5)</b>	<b>(5)</b>	<b>(5)</b>
<b>Biennial Total</b>			<b>(10)</b>			<b>(10)</b>

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

**LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
General Fund	-	(5)	(5)	(5)	(5)	(5)
<b>Total</b>	-	(5)	(5)	(5)	(5)	(5)
<b>Biennial Total</b>			(10)			(10)
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund	-	-	-	-	-	-
<b>Total</b>	-	-	-	-	-	-
<b>Biennial Total</b>			-			-
<b>2 - Revenues, Transfers In*</b>						
General Fund	-	5	5	5	5	5
<b>Total</b>	-	5	5	5	5	5
<b>Biennial Total</b>			10			10

**Bill Description**

Section 1. Provides enforcement authority to the Department of Labor and Industry (DLI) to issue an order requiring an employer to comply with the skilled and trained contractor workforce requirements in the bill. The effective date of this section is January 1, 2024.

Section 2. Subd 1. Provides definitions for the following terms: contractor, registered apprenticeship program, skilled and trained workforce, petroleum refinery, apprentice occupation, and OEM (original equipment manufacturer).

Specifically, "skilled and trained workforce" is defined as a workforce in which each employee of the contractor or subcontractor of any tier working at the site of the petroleum refinery in an apprentice occupation in the building and construction trades meets one of these four criteria:

1. Is currently registered as an apprentice in the applicable trade.
2. has graduated from a registered apprenticeship program in the applicable trade.
3. has completed all related instruction and on-the-job learning requirements needed to graduate from a registered apprenticeship program their employer participates in; or
4. has at least five years of experience working in the applicable trade and is currently participating in journey worker upgrade training in a registered apprenticeship program in the applicable trade or has completed any training identified as necessary by the registered apprenticeship training program for the employee to become a qualified journey worker in the trade.

Subd 2. Requires an owner or operator of a petroleum refinery to require contractors and their subcontractors of any tier to use a skilled and trained workforce when performing construction, alteration, demolition, installation, repair, maintenance, or hazardous materials handling work at the site of the petroleum refinery. The requirement to use a safe and skilled workforce does not apply to contractors or subcontractors hired to perform Original Equipment Manufacturer (OEM) work to comply with equipment warranty requirements.

Requires a contractors' workforce to meet requirements to use a skilled and trained workforce as follows:

- 30% by January 1, 2024
- 45% by January 1, 2025

- 60% by January 1, 2026

#### Exemptions from the skilled and trained workforce requirement for contractors

- If a contractor is required to hire workers referred by a labor organization, and the labor organization is unable to provide sufficient workers to meet the percentage requirement within 48 hours of the contractor's request, the contractor must use the workers available but is relieved from the skilled and trained workforce percentage requirement until the labor organization has sufficient workers available to meet the applicable percentage.
- The skilled and trained workforce requirement shall not apply to a contractor to the extent there is an emergency that makes compliance with the requirement impracticable; however, once practicable or the emergency ends, the requirement applies.

#### Exemptions from the skilled and trained workforce requirements for owners and operators -

- If an owner or operator has entered into a project labor agreement or all contractors and subcontractors have entered into a collective bargaining agreement with labor organizations requiring participation in a registered apprenticeship program, and all contracted work at the refinery is also subject to the project labor agreement or collective bargaining agreements requiring participation in registered apprenticeship programs.

Subd. 3. The Labor Standards Division of the Department of Labor and Industry (DLI) shall receive complaints of violations. DLI shall fine an owner, operator, contractor, or subcontractor not less than \$5,000 or more than \$10,000 for each violation.

An owner or operator shall be found in violation and subject to fines for failing to:

- Require a skilled and trained workforce in its contracts and subcontracts
- Enforce the requirement to use a skilled and trained workforce

A contractor or subcontractor shall be found in violation and subject to fines for failing to:

- Use a skilled and trained workforce

Each shift on which a violation occurs is a separate violation. Fines are in addition to penalties provided under Minn. Stat. § 177.27, subd 7, and the fine amount must take into consideration the size of the employer and the gravity of the violation.

Section 2 would be effective January 1, 2024 and applies to contracts entered into on or after that date. Existing contracts entered into before that date must be renegotiated to comply with section 2 by January 1, 2025.

### **Assumptions**

There are two oil refineries in the state of Minnesota that this bill would apply to. The State of Washington, which has five applicable oil refineries, received five complaints during the first ten months of enactment of a similar law and has a compliance requirement that 35% of skilled journeypersons on a project must be graduates of an apprenticeship program in the applicable occupation that has been approved by the Washington State Apprenticeship & Training Council (WSATC).

DLI anticipates two complaints annually as a result of the requirements in this bill; responding to those complaint inquiries would be immaterial for existing staff. The agency estimates \$5,000 in penalty revenue annually as a result of this bill. DLI estimates one compliance order would be issued finding one shift violation per year with an average penalty of \$5,000 per shift violation. Given the higher mandated percentages in future years, DLI continues to anticipate one compliance order with one shift violation each year.

Estimates of complaints were derived from states operating similar programs (State of Washington), while estimates of violations resulting in penalties were estimated based on the ratio of complaints to penalties issued in areas where DLI has similar enforcement authority.

**Expenditure and/or Revenue Formula**

Revenues	2024	2025	2026	2027
Annual Shift Violations Issued	1	1	1	1
Average Penalty Collected per Shift Violation	5,000	5,000	5,000	5,000
<b>Total Annual Revenues</b>	5,000	5,000	5,000	5,000

**Long-Term Fiscal Considerations**

NA

**Local Fiscal Impact**

NA

**References/Sources**

NA

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