



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2024-375, **Version:** 2

An ordinance to amend Chapter 4.20 of the Metropolitan Code of Laws to establish a contract and compliance board for existing construction contracts of the Metropolitan Government.

WHEREAS, the Metropolitan Government of Nashville and Davidson County is dedicated to advocating for safe working conditions and equitable wages, safeguarding against retaliation, and upholding other rights of workers; and

WHEREAS, there have been widespread reports regarding wage theft of contractors paying inordinately low salaries and neglecting to pay their workers for work completed on construction sites throughout Nashville and Davidson County, and it is imperative that the Metropolitan Government work to ensure that those furnishing labor and materials on Metropolitan Government construction projects receive timely payment; and

WHEREAS, misclassification of workers creates competitive disparities which disadvantage law-abiding businesses; and

WHEREAS, it is important that construction sites in Nashville and Davidson County are safe for all workers present; and

WHEREAS, tragically, fatalities have occurred on construction sites in Nashville-two of which involved Gustavo Ramirez, aged 16, and Denis Geovani Ba Ché, aged 20. Mr. Ché died in a construction accident on Metro Nashville Public Schools property; and

WHEREAS, the Metropolitan Government, being one of the foremost procurers of construction projects in Davidson County, establishes the benchmark for construction standards in the area; and

WHEREAS, the Metropolitan Government must oversee its current contracts to guarantee compliance with all construction site requirements; and

WHEREAS, it is in the interest of the welfare of the residents of the Metropolitan Government of Nashville and Davidson County that this ordinance be adopted.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 4.20 of the Metropolitan Code of Laws is hereby amended by adding the following as a new Section 4.20.130, as follows:

4.20.130 - Contract and Compliance board

A. There is established a contract and compliance board (the "board") related to construction contracts where the metropolitan government is a party with the following powers and duties to:

1. ~~To m~~Meet, evaluate, and monitor compliance with existing construction contracts related to construction activities on property owned projects by the metropolitan government;
2. ~~To inspect~~ Review construction sites if such ~~inspection~~ review is in connection with the evaluation of existing construction contracts;

3. Provide recommendations for the scope of safety plans for construction project procurement such as (a) types and size of projects, (b) whether safety plans should be required as part of the procurement process, and (c) other relevant issues related to safety plans. These suggestions should be submitted to the purchasing agent and the metropolitan council no later than July 1, 2025. This deadline may be extended by a resolution of the metropolitan council; To ensure each construction contract is in compliance with the equal business opportunity program established by Chapter 4.46 of this code;

4. Provide recommendations related to contractor payment application requirements, including whether such requirements should be required in the metropolitan code of laws. These recommendations should be submitted to the purchasing agent and the metropolitan council no later than July 1, 2025. This deadline may be extended by a resolution of the metropolitan council;

5. Study best practices on public construction worksites and provide recommendations concerning improvements in worksite safety on Metropolitan Government construction worksites; and

6. Create subcommittees related the performance of these duties, including subcommittees comprised of representatives of relevant metropolitan departments.

7. Confer with metropolitan government construction safety specialists employed pursuant to this section in connection with any accident reported to such specialists and measures taken to prevent the occurrence of similar accidents.

48. ~~To m~~ Make recommendations to the Department of Finance for policies and practices regarding construction contracts; and

59. ~~To a~~ Accept and investigate complaints related to existing construction contracts wherein the metropolitan government is a party and related to the relevant construction sites.

B. The mayor, in consultation with the board, shall appoint an executive director of the board. The chair of the board, at the direction of the board, may be present at interviews for the hiring of an executive director.

C. The executive director may employ staff, including ~~inspectors~~ construction safety specialists, necessary to carry out the powers and duties of the board. All staff shall be subject to the civil service provisions of the metropolitan charter. The construction safety specialists shall be qualified by education, training, and experience in the field of construction worksite safety. Such construction safety specialists shall provide advice and assistance to all departments and agencies of the Metropolitan Government on recommended construction safety practices. The executive director, upon approval of the board, may hire consultants or experts in the construction industry to assist with the work of the board.

D. The board shall consist of ~~five~~ seven voting members and one non-voting member who each serve a term of two years. The membership shall be as follows:

1. Two members shall be appointed by the mayor and confirmed by the metropolitan council. At least one member appointed by the mayor shall have experience in the enforcement of occupational safety and health standards and construction labor and material payment protocols ~~the enforcement of wage protections;~~

2. One member shall be appointed by the mayor from a list of no fewer than three candidates provided by the Nashville Area Central Labor Council and confirmed by the metropolitan council. One member shall be a representative of labor appointed by the mayor and confirmed by the council;

3. One member shall be a contractor licensed by the State of Tennessee, in good standing, appointed by the mayor and confirmed by the council;

~~34.~~ One member shall be the purchasing agent, or their designee;

~~45.~~ Two members shall be elected by a majority vote of the whole membership of the metropolitan council;

~~56.~~ One member shall be a council member who shall serve in a nonvoting capacity. This council member shall be elected by the metropolitan council. In no event shall the term of the council member extend beyond the council term in which they were elected. This member shall not count toward quorum for the board.

E. To the extent a complaint submitted to the board is for an alleged violation of the terms of the contract, complaints shall be investigated by the board and its staff. Complaints for an alleged violation of federal or state law, including health and safety violations, shall be referred to the appropriate federal or state authority.

F. The board shall submit to the metropolitan council annual reports compiling relevant anonymized accident and injury safety data from metropolitan government construction projects, utilizing data received by construction safety specialists.

G. Nothing in this section shall be construed to conflict with the Metropolitan Charter or other provisions of the Metropolitan Code of Laws governing the authority of the purchasing agent.

Section 2. This ordinance shall take effect from and after its final passage, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance, as substituted, would create a contract and compliance board related to construction contracts where the Metropolitan Government is a party. The contract and compliance board would be authorized to:

- Meet and evaluate existing construction contracts related to construction activities on projects by Metro;
- Review construction sites, if such review is in connection with the evaluation of existing construction contracts;
- Provide recommendations for the scope of safety plans for construction project procurement to the purchasing agent and council no later than July 1, 2025. This deadline may be extended by a resolution of council.
- Provide recommendations related to contractor payment application requirements to the purchasing agent and Council no later than July 1, 2025. This deadline may be extended by a resolution of Council.
- Study best practices on public construction worksites and provide recommendations on improvements on Metro construction worksites;
- Create subcommittees related to this work, including subcommittees comprised of representatives of relevant Metro departments;
- Confer with Metro construction safety specialists in connection with any accident reported and measures taken to prevent similar accidents;
- Make recommendations to the Department of Finance for policies and practices related to construction

contracts; and

- Accept and investigate complaints related to existing construction contracts wherein Metro is a party and related to the relevant construction sites.

The mayor, in consultation with the board, would appoint an executive director. The executive director would be authorized to employ staff, including construction safety specialists, necessary to carry out the powers and duties of the board. The executive director would also be authorized to hire consultants or experts to assist with the work of the board.

The board would consist of seven voting members and one non-voting member for a term of two years. The membership would include:

- Two members appointed by the mayor with experience in the enforcement of occupational safety and health standards and construction labor and material payment protocols and confirmed by the council;
- One member would be a representative of labor appointed by the mayor and confirmed by the council;
- One member would be a contractor licensed by the State of Tennessee, in good standing, appointed by the mayor and confirmed by the council;
- One member would be the purchasing agent or their designee;
- Two members would be elected by a majority vote of the whole membership of the metro council; and
- One non-voting member who would be a council member elected by the metro council.

The board and its staff would investigate complaints submitted to the board. Complaints for an alleged violation of federal or state law, including health and safety violations, would be referred to the appropriate federal or state authority.

The board would submit to the council annual reports compiling relevant anonymized accident and injury safety data from Metro construction projects.

Fiscal Note: The salary for the executive director and additional support staff has not been determined. The review and assessment of the position's job duties, functions and qualifications, as determined by the board, will need to be conducted by the Human Resource Department prior to assigning the position's salaries.