

INITIAL STATEMENT OF REASONS

FOR PROPOSED ACTION TO AMEND

CALIFORNIA CODE OF REGULATIONS, TITLE 8, CHAPTER 2, PART IV,

SECTION 230.1

INTRODUCTION

Labor Code section 1777.7 authorizes the California Apprenticeship Council (“Council”) to adopt regulations to interpret and make specific the provisions of Labor Code section 1777.5, which governs the employment of apprentices on public works.

Title 8, California Code of Regulations, section 230.1 (“Regulation 230.1”) is a regulation promulgated by the Council to interpret Labor Code section 1777.5. Regulation 230.1 sets forth the requirements that contractors must satisfy with respect to the employment of apprentices on public works projects, including with respect to requests for dispatch of apprentices. The Council has adopted amendments to Regulation 230.1 to clarify and make more specific the requirements for written requests for dispatch of apprentices, including requiring that such requests are not based on conditions circumventing the intent of Labor Code section 1777.5 subdivision (b)(2).

PROBLEM STATEMENT

Without the amendment, public works contractors could impose conditions on the dispatch of apprentices that would undermine the purpose of the apprenticeship laws to provide for the training and employment of apprentices. For example, the contractor could require as a condition to dispatch that apprentices already have training or skills which they should acquire from the employer through the apprenticeship program. Further, if contractors are not required to provide a specific date to report when a journeyman of the same apprenticeable craft is employed, then apprentices will not be given a sufficient opportunity to receive training.

Further, Regulation 230.1 currently does not require dispatch requests to include specific information that is necessary for apprentices and/or apprenticeship programs to timely and appropriately respond, such as the date of the request, information regarding the applicable apprenticeship committee, information regarding the contractor, project information, and dispatch request information.

SPECIFIC PURPOSE OF, AND RATIONALE FOR, EACH PROPOSED AMENDMENT:

The first sentence of the amendment to Regulation 230.1(a) provides: “All requests for dispatch must be made without conditions circumventing the employer’s obligation in Labor Code Section 1777.5 subdivision (b)(2) to pay for preemployment testing, training, examination and other mandatory preemployment processes. The purpose of this language is to ensure that requests for dispatch do not contain conditions that would undermine the purpose of apprenticeship programs, such as requiring apprentices to have certain skills or training that the employer is supposed to provide. The qualification that the prohibited conditions are only those that circumvent the intent of Labor Code Section 1777.5 is included to address the concern that the requirement for wholly unconditional requests could prevent contractors from imposing legitimate conditions that do not undermine the purpose of the apprenticeship program, such as requiring vaccinations or a lack of a criminal record.

The second sentence of the amendment to Regulation 230.1(a) mirrors existing language in section 230 and requires dispatch requests to include specific information that is necessary for apprenticeship programs to timely and appropriately respond, either through the use of a non-mandatory form issued by the Division of Apprenticeship Standards (DAS) or other written notice.

The date of the request is necessary so that apprenticeship programs know whether a request is old and possibly outdated, or recent.

The name, address, telephone number, facsimile number and email address for the applicable apprenticeship committee is necessary so that apprenticeship programs can ensure they are responding to requests directed to them.

The name, address, CSLB License number (if applicable), PWC Registration number, telephone number, facsimile number, and email address of the contractor requesting the dispatch is necessary so that the apprenticeship program is informed about the contractor with which the apprentice will be working and can ensure it is an appropriate position for that apprentice.

The project information – including the project number, contract number, total contract amount, sub-contract amount, and name and address of the project – is necessary for tracking by the apprenticeship program and regulators.

The number of apprentices needed, the craft or trade, and the date, time and address at which the apprentice would be expected to report (72 hours’ notice required) are necessary so that apprenticeship programs can make informed decisions about whether a job is appropriate and works with an apprentice’s schedule.

ANTICIPATED BENEFITS

The proposed amendment to subsection (a) of Regulation 230.1 is intended to increase opportunities for employment and training of apprentices by clarifying and standardizing the information public works contractors must include in their written requests for dispatch from applicable apprenticeship committees. Further, the amendment, by imposing the same requirements on all public works contractors, would ensure that there is no disadvantage to contractors that are subject to collective bargaining agreements which have specific dispatch requirements as opposed to contractors who are not subject to such agreements.

OTHER REQUIRED SHOWINGS – GOVERNMENT CODE § 11346.2(b)(3)-(5)

Studies, Reports, or Documents Relied Upon – Gov. Code § 11346.2(b)(3):
None.

Although this proposal was presented for public comment at regular meetings of the CAC and its committee on Standards, Rules, Regulations & Operating Procedures from March 3, 2021 through July 29, 2021, no commissioner or member of the regulated public proposed any alternative to the proposal under consideration.

Reasonable Alternatives That Would Be Less Burdensome and Equally Effective –Government Code section 11346.2(b)(4)(A):

No such alternatives have been proposed, however, CAC welcomes comments from the public.

Reasonable Alternatives That Would Lessen the Impact on Small Businesses- Government Code § 11346.2(b)(4)(B):

None.

Evidence Relied Upon to Support the Initial Determination That the Regulation Will Not Have A Significant Adverse Economic Impact on Business – Government Code § 11346.2(b)(5):

Most public works contractors already include the information required by the proposed amendments in requests for apprentices. For any contractor that would have to supplement the information currently provided, the cost would be negligible. The Council queried multiple contractors about the amount of time required to enter the additional information for a request. The consensus was that it would take five minutes. Based on the mean wage for office clerks in the occupation employment and wage statistics of California's Employment Development Department, the economic impact of the proposed amendments was determined to be only \$4.30 per business per year. (See the STD.399 attachment for additional details.)

**ECONOMIC IMPACT STATEMENT – GOVERNMENT CODE §
11346.3(b)(1)(A)-(D):**

Because a survey of potentially-affected contractors found that providing the additional information required by amended section 230.1 would require a maximum of 5 minutes of additional office time per project, the Council concludes the following: it is unlikely that the proposed changes (1) will create or eliminate any jobs, (2) create new businesses or eliminate existing businesses in California, (3) expand businesses currently doing business in the state, or (4) benefit worker safety or the state's environment. It is likely that the proposed changes will benefit the health and welfare of California residents by increasing opportunities for employment and training of apprentices.