
AB 235 – O'Donnell Apprenticeship and Pre-Apprenticeship

ANALYSIS

Existing law:

- 1) Provides a framework for promoting and developing apprenticeship training through the California Apprenticeship Council (CAC) and the Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations (DIR). DAS enforces apprenticeship standards for, among other things, working conditions, classroom instruction and the specific skills required for state certification as a journey person in an apprentice occupation (Labor Code §3070-3098).
- 2) Defines an "apprenticeable occupation" as one for which the Chief of the Division of Apprenticeship Standards (DAS) has approved an apprenticeship program in the building and construction trades, as specified (Public Contract Code §20119.1, §20155.2, §2601 and Labor Code §3075, among others).
- 3) Requires that all apprenticeship programs be approved by the Chief of the Division of Apprenticeship Standards. Existing law empowers the Chief to approve apprenticeship programs in any trade anywhere in the state, including cities and trade areas, if the apprentice training needs justify the creation of a program (Labor Code §3075).
- 4) Requires that, for public works projects in excess of \$30,000, the contractor utilize apprentices for apprenticeable crafts or trades and that, prior to commencing work, the contractor may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work. The apprenticeship program or programs, upon approving the contractor, must arrange for the dispatch of apprentices to the contractor (Labor Code §1777.5).
- 5) Specifies that when considering applications for new apprenticeship programs, the chief of DAS must consider apprentice training needs to justify the approval and this need is met if any of the following conditions are met:
 - a. There is no existing apprenticeship program serving the same craft or trade and geographic area.
 - b. Existing apprenticeship programs that serve the same craft or trade and geographic area do not have the capacity, or neglect or refuse, to dispatch sufficient apprentices to qualified employers at a public works site who have requested apprentices and are willing to abide by the applicable apprenticeship standards, as shown by a sustained pattern of unfilled requests.
 - c. Existing apprenticeship programs approved under this chapter that serve the same trade and geographic area have been identified by the California Apprenticeship Council as deficient in meeting their obligations under this chapter (Labor Code §3075).

AB 235 does the following:

- 1) Revises current provisions governing apprenticeship program; to create a two-pronged process for the approval of apprenticeship programs, maintaining the current process for building trades and firefighting apprenticeship programs and establishing a separate path for programs in newly emerging areas of apprenticeship.
- 2) Creates the Interagency Advisory Committee on Apprenticeship (IACA), within the Division of Apprenticeship Standards, to provide advice and guidance on apprenticeship programs, standards, and agreements, as well as preapprenticeship, certification, and on-the-job training and retraining programs, in industries other than building and construction trades and firefighters.
- 3) Specifies the membership and duties of the IACA and requires them to work with the chief of DAS on issuing rules and regulations establishing standards for minimum wages, hours and working conditions for apprentices in its designated apprenticeship programs.
- 4) Specifies that if the minimum wages, maximum hours, and working conditions for apprentices in the California Firefighter Joint Apprenticeship Program are in conflict with the provisions of a collective bargaining agreement with a public employer, the provisions of the collective bargaining agreement shall prevail.
- 5) Requires that annual reports to the Legislature by DAS, CAC, and the IACA include the number of apprenticeship programs receiving reimbursement for related and supplemental instruction pursuant to specified funding streams.
- 6) Authorizes any interested party to appeal to the California Apprenticeship Council a decision by the chief of DAS to approve a new, or expanded, apprenticeship program in the building and construction trades and firefighter occupations within 30 days of notice (posted on the DAS internet website).
- 7) Specifies that decisions by the chief of DAS regarding applications for new apprenticeship programs outside the building and construction trades and firefighters are final and not subject to administrative appeal, except as specified.
- 8) Specifies that the chief of DAS shall not approve a new apprenticeship program or approve the amendment of standards that includes a substantial number of work processes covered by an existing program in the building and construction trades or firefighters, unless either of the following applies:
 - a. The program is in the building and construction trades or a firefighter program and subject to the rules and regulations of the California Apprenticeship Council.
 - b. The California Apprenticeship Council has granted consent to the approval of the program or the amendment to the apprenticeship standards.
- 9) Specifies that if no party files an objection with the chief to the approval of the proposed program or amendment alleging overlap of work processes under these provisions, the chief shall not be required to seek the consent of the California Apprenticeship Council prior to approving the program or amendment.

- 10) Requires the DAS at least 30 days before approval of a new apprenticeship program, or of an amendment to the apprenticeship standards to include new work processes, to post on its Internet Web site a copy of the proposal(s), which shall constitute the only form of notice and service that an application on the proposed program or amendment is pending. However, if no notice is provided then the standard may be appealed to the CAC.
- 11) Requires the DAS to create a method on its Internet Web site for members of the public to subscribe to and receive email updates when new decisions or proposed apprenticeship standards are posted pursuant to the requirements above.
- 12) Specifies that only the following programs may dispatch apprentices to projects subject to prevailing wage or skilled and trained workforce requirements:
 - a. Programs in the building and construction trades approved before July 1, 2018.
 - b. Programs in the building and construction trades approved under existing standards which ensure that new programs don't overlap with existing programs.
- 13) Amends existing provisions regarding probationary periods for apprentice agreements to specify that the period of probation be reasonable in relation to the full apprenticeship term and in no event shall exceed the shorter of 25% of the program length or one year.
- 14) Specifies that the term of apprenticeship may be measured either through the completion of the industry standard for hours of on-the-job learning and related and supplemental instruction, attainment of competency, or a hybrid blend of the time-based and competency-based approaches, all as defined. However, programs in the building and construction trades and for firefighters shall use the time-based approach.
- 15) Measures the terms of apprenticeship as follows:
 - a. Time-based approach measures skill acquisition through at least 144 hours of related and supplemental instruction and 2,000 hours of on-the-job learning.
 - b. Competency-based approach measures skill acquisition through successful demonstration of acquired skills and knowledge, as verified by the program sponsor, but must complete no less than six months of an on-the-job learning.
 - c. Hybrid approach measures skill acquisition through a combination of specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.
- 16) Revises the notification and appeal process for complaints of apprentice agreement violations, specifying that notice must be given in writing and sent by regular mail and that decisions for complaints involving non-building and construction trades and firefighter occupations shall be final.
- 17) Defines "preapprenticeship program" as a structured plan of training and studies based on industry standards that is designed to prepare individuals with the skills and competencies needed to enter an approved apprenticeship training program.
- 18) Requires the DAS to develop, on or before January 1, 2019, a process for the approval of preapprenticeship programs for purposes of establishing eligibility for apprenticeship programs. The request for approval must include:

- a. Documentation that the preapprenticeship training activities are conducted in partnership with one or more DAS approved apprenticeship programs.
 - b. A copy of a memorandum of understanding or other formal written agreement that gives priority but not a guarantee to preapprenticeship graduates for acceptance into the apprenticeship program.
- 19) Establishes guidelines that preapprenticeships must follow in order to qualify for DAS approval and must include, among others, the following elements:
- a. Training and curriculum based on industry standards that will prepare individuals with the skills and competencies needed to enter apprenticeships;
 - b. Strategies that increase registered apprenticeship opportunities for under- represented, disadvantaged, or low-skilled individuals;
 - c. Strong recruitment efforts;
 - d. Facilitating access to appropriate support services;
 - e. Providing for automatic acceptance or priority credit for acceptance into apprenticeship program, as specified.
- 20) Preapprenticeship programs shall be evaluated and approved based on a determination of the strengths of the elements provided in the bill and approval shall expire in three years unless the program requests and obtains renewal of its approval by the DAS.
- 21) Adds preapprenticeship programs into the existing auditing provisions for apprenticeship programs to ensure that the program is complying with its standards and requirements. Additionally, this bill proposes to change "audit" to "evaluation" in these provisions.
- 22) Includes an urgency clause and makes other Labor Code and Education Code conforming changes to implement these new policies.

COMMENTS

California has a long-standing commitment to supporting the apprenticeship training model and leads the nation in promoting and funding apprenticeship and pre-apprenticeship initiatives. A particular focus in recent years has been the development of new, non-traditional programs. To this end, the state has invested \$15 million annually beginning in 2015-16 to promote the creation of new apprenticeship programs in industry sectors such as healthcare, advanced manufacturing and IT. At the same time, apprenticeship in the building and construction trades remains the backbone of the apprenticeship system. As the economy has rebounded and the state has made historic investments in infrastructure, there remains a steady demand for skilled and trained workers to enter construction careers. Also, pre-apprenticeship is increasingly recognized as a strategy to promote access and level the playing field for women and disadvantaged populations to compete for spots in state-certified apprenticeship programs. Yet the state currently has no statutory authority to regulate and approve pre-apprenticeship, leading to varying degrees of quality and the potential for predatory programs.

This bill modifies the apprenticeship approval process in a way that supports apprenticeship expansion in California, ensuring quality and program integrity, while promoting flexibility, transparency and access. This bill 1) authorizes a two-pronged process for the approval of apprenticeship programs, maintaining the current process for building trades and firefighting apprenticeship programs, and establishing a

separate path for programs in newly emerging areas of apprenticeship; 2) creates the new Interagency Advisory Committee on Apprenticeship to focus on the approval and oversight of apprenticeship programs in non-building trades and non-firefighting industries; 3) creates pre-apprenticeship provisions to formally recognize these programs as a pathway to apprenticeship; and 4) makes other Labor Code and Education Code conforming changes to implement these new policies.