

CALIFORNIA APPRENTICESHIP COUNCIL

INITIAL STATEMENT OF REASONS
CODE OF REGULATIONS,
TITLE 8, SECTIONS 212.5 AND 230.2(d),

The California Apprenticeship Council ("Council") proposes to adopt as title 8, California Code of Regulations ("CCR") 212.5 a regulation that finds the existence of a special circumstance justifying the approval of new apprenticeship training programs within the meaning of Labor Code section 3075(c). The Council also proposes to adopt as 8 CCR section 230.2(d) a regulation that establishes a procedure for the disbursement of training fund contributions under Labor Code Section 1777.5, relating to the employment of apprentices employed on public works.

RATIONALE/REASONABLE NECESSITY

1. 8 CCR section 212.5

Labor Code section 3075(a) provides that a new apprenticeship training program shall be approved "whenever the apprentice training needs justify the establishment." Section 3075(b) provides that in the building and construction trades there is a need for a new program if one of the following conditions apply: (1) there is no existing program in the same craft or trade in the same geographic area; (2) existing programs lack capacity, or fail or refuse to dispatch qualified apprentices or (3) the Council has determined that existing programs are deficient. Section 3075(c) provides that, notwithstanding section 3075(b), the Council may approve a new program if justified by "special circumstances". The proposed regulation provides that based on current market conditions a special circumstance exists within the meaning of section 3075(b) justifies the approval of new programs, providing that the programs meet the requirements of Regulations 212 and 212.2. The Council will promulgate section 212.5 pursuant to its general rule-making authority under Labor Code section 3071. Section 212.5 also provides that the Council will review this determination at its quarterly meeting in 2006 and biennially thereafter. The purpose of Reg. 212.5 is to determine that a special circumstance exists that justifies the approval of qualified new programs whether or not there are existing programs in the same geographic area and same craft or trade that have the capacity or are willing to dispatch qualified apprentices. The special circumstance is an expanding workforce and employment opportunities that require increasing numbers of trained apprentices.

The determination will eliminate case-by-case disputes concerning whether otherwise qualified applications for the establishment of a new program should be approved. The elimination of such disputes will reduce the cost and expense of obtaining program approval and will enable prospective program sponsors to understand with more certainty the requirements for approval. The requirement in Reg. 212.5 for a biennial review ensure that the determination does not remain in effect after the special circumstance has ceased to exist.

2. 8 C.C.R. Section 230.2(d)

Labor Code section 1777.5(m) provides that a public works contractor who employs journeyman or apprentices in an apprenticeable craft shall contribute to the Council the same amount that the Director of Industrial Relations has determined is the prevailing amount of apprenticeship training contributions in the area of the public works site. At the end of each fiscal year the Council shall make a grant of the funds so received, less expenses, to approved apprenticeship programs. If there is an approved multiemployer apprenticeship program in the same geographic area in the same craft or trade a grant shall be made to that program. If there are two or more such multiemployer programs, a grant shall be made to each program in proportion to the number of apprentices enrolled in each program. All training contributions not so distributed shall be used to defray future expenses of the Division of Apprenticeship Standards (“DAS”). All training contributions shall be deposited in the Apprenticeship Training Contribution Fund in the State Treasury. Notwithstanding Government Code Section 13340, all money in the Apprenticeship Training Contribution Fund is continuously appropriated for the purpose of carrying out this subdivision and to pay DAS expenses.

Reg. 230.2(d) provides that training contributions received pursuant to Labor Code section 1777.5(m) shall be distributed within 90 days of the end of the fiscal year in which they are received. Only programs that have been approved for the entire fiscal year and are in existence at the time of distribution are entitled to participate in the distribution. Training contributions shall be distributed as follows: (1) to DAS to defray the expenses of the administration of Labor Code section 1777.5; (2) if there is only one applicable program in the same geographic area of operation as defined by 8 C.C.R. § 205(n), to that program less the pro rata share of expenses paid to DAS; and (3) if there are two or more such programs, to each program in proportion to the total number of apprentices as of June 30 of the fiscal year in which the contributions were received less the pro rate share of expenses paid to DAS. “Pro rata share of expenses” means the share of DAS expenses that bears the same ratio to the contributions to be distributed as the total DAS expenses bear to the total contributions received during the fiscal year. The regulation adds specificity to the statute and uses language that is commonly understood in the apprenticeship community.

The purpose of Reg. 230.2(d) is to establish the priority of distributions of training fund contributions received from contractors on public works, to define the amount of DAS expenses that are deducted from grants of contributions to approved programs and to define the manner in which the number of apprentices in a program is determined.

Neither regulation mandates the use of specific technologies or equipment.

Neither regulation is based on any technical, theoretical or empirical study.

The Council has determined there are no reasonable alternatives that would be more effective or would be as effective and less burdensome to small businesses in carrying out the purpose of the proposed regulations.

Neither regulation will have an adverse impact on businesses because neither regulation imposes requirements on businesses.