

## **PROPOSED TEXT OF REGULATION**

### **Title 8. INDUSTRIAL RELATIONS**

#### **Division 1. DEPARTMENT OF INDUSTRIAL RELATIONS**

#### **Chapter 2. CALIFORNIA APPRENTICESHIP COUNCIL**

#### **Subchapter 1. APPRENTICESHIP**

#### **Article 10. REQUIRED APPRENTICES ON PUBLIC WORKS CONTRACT**

#### **§230.1. Employment of Apprentices on Public Works.**

(a) Contractors, as defined in Section 228 to include general, prime, specialty or subcontractor, shall employ registered apprentice(s), as defined by Labor Code Section 3077, during the performance of a public work project in accordance with the required one hour of work performed by an apprentice for every five hours of labor performed by a journeyman, unless covered by one of the exemptions enumerated in Labor Code Section 1777.5 or this subchapter. Unless an exemption has been granted, the contractor shall employ apprentices for the number of hours computed above before the end of the contract. Contractors who are not already employing sufficient registered apprentices (as defined by Labor Code Section 3077) to comply with the one-to-five ratio must request the dispatch of required apprentices from the apprenticeship committees providing training in the applicable craft or trade and whose geographic area of operation includes the site of the public work by giving the committee written notice of at least 72 hours (excluding Saturdays, Sundays and holidays) before the date on which one or more apprentices are required. If the apprenticeship committee from which apprentice dispatch(es) are requested does not dispatch apprentices as requested, the contractor must request apprentice dispatch(es) from another committee providing training in the applicable craft or trade in the geographic area of the site of the public work, and must request apprentice dispatch(es) from each such committee, either consecutively or simultaneously, until the contractor has requested apprentice dispatches from each such committee in the geographic area. All requests for dispatch of apprentices shall be in writing, sent by first class mail, facsimile or email. Except for projects with less than 40 hours of journeyman work, each request for apprentice dispatch shall be for not less than an 8 hour day per each apprentice, or 20% of the estimated apprentice hours to be worked for an employer in a particular craft or trade on a project, whichever is greater, unless an employer can provide written evidence, upon request of the committee dispatching the apprentice or the Division of Apprenticeship Standards, that circumstances beyond the employer's control prevent this from occurring. If a non-signatory contractor declines to abide by and comply with the terms of a local committee's standards, the apprenticeship committee shall not be required to dispatch apprentices to such contractor. Conversely, if in response to a written request no apprenticeship committee dispatches, or agrees to dispatch during the period of the public works project any apprentice to a contractor who has agreed to employ and train apprentices in accordance with either the apprenticeship committee's standards or these regulations within 72 hours of such request (excluding Saturdays, Sundays and holidays) the contractor shall not be considered in violation of this section as a result of failure to employ apprentices for the

remainder of the project, provided that the contractor made the request in enough time to meet the above-stated ratio. If an apprenticeship committee dispatches fewer apprentices than the contractor requested, the contractor shall be considered in compliance if the contractor employs those apprentices who are dispatched, provided that, where there is more than one apprenticeship committee able and willing to unconditionally dispatch apprentices, the contractor has requested dispatch from all committees providing training in the applicable craft or trade whose geographic area of operation include the site of the public work.

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 written notice shall include the following information, but shall not require information not enumerated in Section 230.1:

- 1) Date of the Request;
- 2) Name, Address, Telephone number and Facsimile number or Email address for the applicable apprenticeship committee;
- 3) Name, Address, CSLB License #, Telephone number and Facsimile number or Email address for Contractor requesting dispatch;
- 4) Project Information: Name of the Project, Address;
- 5) PWC Project Number, Contract Number, Total Contract Amount, Sub-Contract Amount for projects which have been registered with the Department of Industrial Relations in accordance with Labor Code section 1773.3;
- 6) Dispatch Request Information: Number of Apprentice(s) Needed, Craft or Trade, Date Apprentice(s) to Report (72 hrs. notice required), Time to Report, Name of Person to Report to, Address to Report to;

The DAS Form 142 (Rev. 6/24), hereby incorporated by reference, is an optional form to provide the foregoing information.

Nothing in this section shall affect the right of a Contractor who participates in and employs registered apprentices from programs approved under Labor Code Section 3075 outside the geographic area of the public work from employing said apprentice(s) on the site of the public work in order to meet the ratio requirement of Labor Code Section 1777.5.

(b) Apprentices employed on public works shall be paid the applicable apprentice prevailing per diem wage rate, available from DAS, and derived from the Director's survey of wages paid on public works in the geographic area of the craft or trade. DAS shall refer complaints alleging any contractor's failure to pay the proper apprentice prevailing wage rate on a public works project to the Division of Labor Standards Enforcement for investigation and appropriate action.

(c) Apprentices employed pursuant to Labor Code section 1777.5 shall be registered apprentices who are training under apprenticeship standards that include the work processes that the contractor will perform on the project. Contractors must assign apprentices work that is included in the apprenticeship standards under which the apprentices are training.

Apprentices on public works cannot be assigned work other than that which is stated in the work processes of the apprenticeship standards under which the apprentices are training.

Where an employer employs apprentices under the rules and regulations of the California Apprenticeship Council, as set forth in Labor Code Section 1777.5(c)(2), apprentices employed on public works must at all times work with or under the direct supervision of a journeyworker. The on-the-job training shall be in accordance with the apprenticeship standards and apprenticeship agreement under which the apprentice is training, provided that a contractor shall not be subject to any financial or administrative obligations to a trust fund or employee benefit plan unless the contractor has so agreed.

(d) The provisions of this regulation shall not apply to contractors on public works projects that were bid prior to July 1, 2009. Such contractors shall comply with the version of this regulation that was in effect prior to July 1, 2009.

Note: Authority cited: Section 1777.7, Labor Code. Reference: Section 1777.5, Labor Code.