

SENATE BILL NO. 537

BY SENATOR NEVERS

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AN ACT

To amend and reenact R.S. 23:381(1), 382, 383, 384(A), (B)(2), and (C), 385, 386, 387, 388(B), 389, 390, and 392(B) and (D), relative to apprentices; to provide for representation on the apprenticeship council; to provide for terms of those serving on the council; to provide relative to the apprenticeship council and its recommendations; to provide for the appointment of a director of apprenticeship who is not subject to council approval; to provide relative to powers and duties of the director of the council; to provide relative to apprenticeship programs; to provide for apprenticeship committees; to provide for definition of an apprentice; to provide as to the content of apprentice agreements; to provide for the approval of apprentice agreements; to provide with respect to a rotation of employers; to provide with respect to controversies and complaints; to provide for civil penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:381(1), 382, 383, 384(A), (B)(2), and (C), 385, 386, 387, 388(B), 389, 390, and 392(B) and (D) are hereby amended and reenacted to read as follows:

§381. Purposes

The purposes of this Chapter are:

(1) To open to ~~young~~ people the opportunity to obtain training that will equip them for profitable employment and citizenship;

* * *

1 §382. Apprenticeship council

2 A. The executive director shall appoint an apprenticeship council, composed
 3 of three representatives each from employer and employee organizations
 4 respectively, and of two representatives of the general public. The three employer
 5 representatives shall be selected from lists supplied by employer organizations which
 6 are participating in bona fide apprenticeship programs. **The three employee**
 7 **representatives may be representatives of labor organizations, who have been**
 8 **nominated by state labor federations.** The state official in charge of trade and
 9 industrial education shall, ex officio, be a member of the said council. ~~The terms of~~
 10 ~~office of the members of the apprenticeship council first appointed by the executive~~
 11 ~~director shall expire as designated by the executive director at the time of making the~~
 12 ~~appointment: one representative each of employers, employees, and the public being~~
 13 ~~appointed for one year; one representative each of employers, employees, and the~~
 14 ~~public being appointed for two years; and one representative each of employers and~~
 15 ~~employees for three years. Thereafter, each **Each** member shall be appointed for a~~
 16 term of three years. Any member appointed to fill a vacancy occurring prior to the
 17 expiration of the term of his predecessor shall be appointed for the remainder of the
 18 said term. Each member of the council not otherwise compensated by public
 19 monies, shall be reimbursed for transportation and shall be paid thirty-five dollars
 20 per day for each day spent in attendance at meetings of the apprenticeship council.

21 B. The apprenticeship council shall meet at the call of the executive director
 22 **or the director of apprenticeship** and shall aid in formulating policies for the
 23 effective administration of this Chapter. Subject to the approval of the executive
 24 director, the apprenticeship council ~~shall establish~~ **may recommend** standards and
 25 procedures for registration and de-registration of apprenticeship programs in
 26 conformity with established programs approved by the ~~Bureau of Apprenticeship~~
 27 ~~Training~~ **Office of Apprenticeship**, United States Department of Labor, and for
 28 approval of apprenticeship agreements which in no case shall be lower than those
 29 prescribed by this Chapter and by the ~~Bureau of Apprenticeship Training~~ **Office of**
 30 **Apprenticeship**, United States Department of Labor, or lower than approved

1 national standards; shall issue such rules and regulations as may be necessary to
2 carry out the intent and purposes thereof, and shall perform such other functions as
3 the executive director may direct. Not less than once a year the apprenticeship
4 council shall make a report, through the executive director, of its activities and
5 findings to the legislature and to the public.

6 §383. Director of apprenticeship

7 The ~~secretary~~ **executive director or his designee** shall appoint a director of
8 apprenticeship, ~~which appointment shall be subject to the confirmation of the state~~
9 ~~apprenticeship council by a majority vote.~~ The ~~secretary~~ **executive director** is
10 further authorized to appoint and employ such clerical, technical, and professional
11 help as shall be necessary to effectuate the purposes of this Chapter.

12 §384. Powers and duties of director

13 A. The director, under the supervision of the executive director and with the
14 advice and guidance of the apprenticeship council, is authorized to administer the
15 provisions of this Chapter. ~~He~~ **The director** shall, in cooperation with the
16 apprenticeship council, set up conditions and training standards for apprentice
17 agreements, which shall in no case be lower than those prescribed by this Chapter
18 and by the ~~Bureau of Apprenticeship Training~~ **Office of Apprenticeship**, United
19 States Department of Labor, or lower than approved national standards.

20 B. The director is authorized:

21 * * *

22 (2) To approve, if ~~in his opinion approval is for~~ **it is in** the best interest of the
23 apprentice, any apprentice agreement which meets the standards established under
24 this Chapter;

25 * * *

26 C. The administration and supervision of related and supplemental
27 instruction for apprentices, coordination of instruction with job experiences, and the
28 selection and training of teachers and coordinators for such instruction shall be the
29 responsibility of local programs, acting under guidelines established by the **Office**
30 **of Apprenticeship**, U. S. Department of Labor, ~~Bureau of Apprenticeship and~~

1 Training.

2 §385. Apprenticeship programs; registration and function

3 **A. An apprenticeship program is defined as a plan containing all terms**
 4 **and conditions for the qualification, recruitment, selection, employment, and**
 5 **training of apprentices that includes such matters as the requirement for a**
 6 **written apprenticeship agreement.**

7 ~~A~~ **B.** An apprenticeship program shall be registered in any trade or group of
 8 trades in accordance with this Chapter and with the standards of the ~~Bureau of~~
 9 ~~Apprenticeship Training~~ **Office of Apprenticeship**, United States Department of
 10 Labor. An apprenticeship program shall cooperate with ~~school~~ **educational**
 11 authorities in regard to the education of apprentices; shall establish a schedule of
 12 operations; shall establish wage rates and working conditions for apprentices; ~~and~~
 13 shall specify the ratio of apprentices to ~~journeymen~~ **journey workers** employed in
 14 any trade in accordance with this Chapter and the ~~Bureau of Apprenticeship Training~~
 15 **Office of Apprenticeship**, United States Department of Labor; and shall adjust
 16 apprenticeship disputes.

17 ~~B. An apprenticeship program may be "joint", meaning it is composed of an~~
 18 ~~equal number of representatives of the employers and of the employees represented~~
 19 ~~by bona fide collective bargaining agencies and has been established to conduct,~~
 20 ~~operate, or administer an apprenticeship program and enter into apprenticeship~~
 21 ~~agreements with apprentices. "Unilateral" or "nonjoint" shall mean a program~~
 22 ~~sponsor in which a bona fide collective bargaining agent is not a participant.~~

23 **C. An apprenticeship committee is defined as those persons designated**
 24 **by the sponsor to administer the program. A committee may be joint or**
 25 **nonjoint, as follows:**

26 **(1) A joint committee is composed of an equal number of representatives**
 27 **of the employer or employers and of the employees represented by a bona fide**
 28 **collective bargaining agent or agents.**

29 **(2) A nonjoint committee, which may also be known as a unilateral or**
 30 **group nonjoint committee, has employer representatives and may include**

1 employees, but does not have a bona fide collective bargaining agent as a
 2 participant.

3 §386. Apprentice defined

4 The term "apprentice" as used in this Chapter means is defined as a person
 5 worker at least sixteen years of age, who is employed to learn an apprenticeable
 6 occupation and who has entered into a written apprentice agreement with an
 7 employer, an association of employers, or an organization of employees, providing
 8 for not less than two thousand hours of reasonably continuous employment, and for
 9 participation in an approved program of training through employment and through
 10 education in related and supplemental subjects.

11 §387. Contents of apprentice agreements

12 Every apprentice agreement entered into under this Chapter shall contain all
 13 of the following:

14 (1) ~~The names of the contracting parties;~~ Names and signatures of the
 15 contracting parties, including the apprentice and the program sponsor or
 16 employer, and the signature of a parent or legal guardian, if the apprentice is
 17 a minor.

18 (2) ~~The date of birth of the apprentice;~~ The date of birth and, on a
 19 voluntary basis, the Social Security Number of the apprentice.

20 (3) ~~A statement of the trade, craft, or business which the apprentice is to be~~
 21 ~~taught, and the time at which the apprenticeship will begin and end;~~ Contact
 22 information of the program sponsor and the registration agency.

23 (4) ~~A statement showing the number of hours to be spent by the apprentice~~
 24 ~~in work and the number of hours to be spent in related and supplemental instruction,~~
 25 ~~which instruction shall not be less than 144 hours per year. Provided that in no case~~
 26 ~~shall the combined weekly hours of work and of required related and supplemental~~
 27 ~~instruction of the apprentice exceed the maximum number of hours of work~~
 28 ~~prescribed by law for a person of the age of the apprentice;~~ A statement of the
 29 occupation in which the apprentice is to be trained, the beginning date, and the
 30 term or duration of the apprenticeship.

1 ~~(5) A statement setting forth a schedule of the processes in the trade or~~
2 ~~industry divisions in which the apprentice is to be taught and the approximate time~~
3 ~~to be spent at each process; A statement setting forth all of the following:~~

4 ~~(a) The number of hours to be spent by the apprentice in work on the~~
5 ~~job in a time-based program, or a description of the skill sets to be attained by~~
6 ~~completion of a competency-based program, including the on-the-job learning~~
7 ~~component, or the minimum number of hours to be spent by the apprentice and~~
8 ~~a description of the skill sets to be attained by completion of a hybrid program.~~

9 ~~(b) The number of hours to be spent in related instruction in technical~~
10 ~~subjects related to the occupation, which shall not be less than one hundred~~
11 ~~forty-four hours per year.~~

12 ~~(6) A statement of the graduated scale of wages to be paid the apprentice and~~
13 ~~whether the required school time shall be compensated; A statement setting forth~~
14 ~~a schedule of work processes in the occupation or industry division in which the~~
15 ~~apprentice is to be trained and the approximate time to be spent at each process.~~

16 ~~(7) A statement providing for a period of probation of not more than 500~~
17 ~~hours of employment and instruction extending over not more than four months,~~
18 ~~during which time the apprentice agreement shall be terminated by the director at the~~
19 ~~request in writing of either party, and providing that after such probationary period~~
20 ~~the apprentice agreement may be terminated by the director by mutual agreement of~~
21 ~~all parties thereto, or cancelled by the director for good and sufficient reason; A~~
22 ~~statement of the graduated scale of wages to be paid to the apprentice and~~
23 ~~whether or not the required related instruction is compensated.~~

24 ~~(8) A provision that all controversies or differences concerning the apprentice~~
25 ~~agreement which cannot be adjusted in accordance with R.S. 23:385 shall be~~
26 ~~submitted to the director for determination, as provided for in R.S. 23:390;~~
27 ~~Statements providing all of the following:~~

28 ~~(a) For a specific period of probation during which the apprenticeship~~
29 ~~agreement may be cancelled by either party to the agreement upon written~~
30 ~~notice to the registration agency, without adverse impact on the sponsor.~~

1 (b) That, after the probationary period, either of the following may
2 occur regarding the agreement:

3 (i) It may be cancelled at the request of the apprentice.

4 (ii) It may be suspended or cancelled by the sponsor, for good cause
5 only, with due notice to the apprentice and a reasonable opportunity for
6 corrective action, and with written notice to the apprentice and to the
7 registration agency of the final action taken.

8 (9) ~~A provision that an employer who is unable to fulfill his obligation under~~
9 ~~the apprentice agreement may, with the approval of the director, transfer such~~
10 ~~contract to any other employer, provided that the apprentice consents and that such~~
11 ~~other employer agrees to assume the obligations of the apprentice agreement;~~

12 ~~(10)-(9)~~ Such additional terms and conditions as may be prescribed or
13 approved by the director, not inconsistent with the provisions of this Chapter and
14 those established by the Bureau of Apprenticeship Training Office of
15 Apprenticeship, United States Department of Labor.

16 §388. Approval of apprentice agreements; signature

17 * * *

18 B. Every apprentice agreement shall ~~be signed by the employer, by an~~
19 ~~association of employers, or an organization of employees~~ include the names and
20 signatures of the contracting parties, as provided in R.S. 23:389, ~~and by the~~
21 ~~apprentice~~, and if the apprentice is a minor, the name and signature of a parent or
22 legal guardian ~~by the minor's father~~, however, ~~if the father is dead or legally~~
23 ~~incapable of giving consent or has abandoned his family, then by the minor's mother;~~
24 ~~if both father and mother are dead or legally incapable of giving consent, then by the~~
25 ~~tutor of the minor. If the minor is without a tutor, a tutor ad hoc may be appointed,~~
26 ~~in the manner provided by Article 313* of the Civil Code, who shall have the~~
27 ~~authority to consent to and sign the apprentice agreement.~~

28 * * *

29 §389. Rotation of employment

30 For the purpose of providing greater diversity of training or continuity of

1 employment, any apprentice agreement made under this Chapter may, ~~in~~ **at** the
 2 discretion of the director of apprenticeship, be signed by an association of employers
 3 or an organization of employees instead of by an individual employer. In such a
 4 case, ~~the apprentice agreement~~ **apprenticeship program standards** shall expressly
 5 provide that the association of employers or organization of employees does not
 6 assume the obligation of an employer but agrees to use its best endeavors to procure
 7 employment and training for the apprentice with one or more employers who will
 8 accept full responsibility for all the terms and conditions of employment and training
 9 set forth in the agreement between the apprentice and employer association or
 10 employee organization during the period of each employment. The ~~apprentice~~
 11 ~~agreement~~ **apprenticeship program standards** in such a case shall also expressly
 12 provide for the transfer of the apprentice, subject to the approval of the director, to
 13 such employer or employers who shall sign a written agreement with the apprentice,
 14 and, if the apprentice is a minor, with his parent or ~~tutor~~ **legal guardian**, as specified
 15 in R.S. 23:388 contracting to employ the apprentice for the whole or a definite part
 16 of the total period of apprenticeship under the terms and conditions of employment
 17 and training set forth in the agreement entered into between the apprentice and
 18 employer association or employee organization.

19 §390. Settlement of controversies or complaints

20 A. Upon the complaint of any interested person or upon his own initiative,
 21 the director may investigate to determine if there has been a violation of the terms
 22 of an apprentice agreement made under this Chapter; ~~he may also~~ **and** hold hearings,
 23 inquiries, and other proceedings necessary to such investigations and determination.
 24 The director shall investigate programs only as necessary to establish compliance,
 25 and then only upon proper notice. The parties to such agreement shall be given a fair
 26 and impartial hearing, after reasonable notice thereof. All hearings, investigations,
 27 and determinations shall be made under authority of reasonable rules and procedure
 28 prescribed by the apprenticeship council, subject to the approval of the ~~secretary~~
 29 **executive director**.

30 B. The determination of the director shall be filed with the ~~secretary~~

1 **executive director**. If no appeal therefrom is filed with the ~~secretary~~ **executive**
 2 **director** within twenty days after the date thereof, such determination shall become
 3 the order of the ~~secretary~~ **executive director**. Any person aggrieved by any
 4 determination or action of the director may appeal therefrom to the ~~secretary~~
 5 **executive director** who shall hold a hearing thereon, after due notice to the
 6 interested parties. Orders and decisions of the ~~secretary~~ **executive director** shall be
 7 prima facie lawful and reasonable if supported by reasonable and competent
 8 evidence. Any party to an apprentice agreement aggrieved by an order or decision
 9 of the ~~secretary~~ **executive director** may appeal to the courts on questions of law.
 10 The decision of the ~~secretary~~ **executive director** shall be conclusive if no appeal
 11 therefrom is filed within thirty days after the date of the order or decision.

12 C. No person shall institute any action for the enforcement of any apprentice
 13 agreement, or for damages for the breach thereof, unless ~~he has first exhausted~~ all
 14 the administrative remedies provided in this Section **have first been exhausted**.

15 * * *

16 §392. Civil penalties

17 * * *

18 B. Civil penalties may be imposed only by a ruling of the ~~assistant secretary~~
 19 ~~of the office of unemployment insurance administration~~ **director of the office of**
 20 **workforce development** pursuant to an adjudicatory hearing held in accordance
 21 with the Administrative Procedure Act.

22 * * *

23 D. The ~~assistant secretary of the office of unemployment insurance~~
 24 ~~administration~~ **director of the office of workforce development** may institute civil
 25 proceedings in the appropriate district court for the principal place of business of the
 26 employer to enforce his rulings or seek injunctive relief to restrain and prevent
 27 violations of the provisions of this Chapter or of the rules and regulations adopted
 28 under the provisions of this Chapter. The court shall award attorney fees and court
 29 costs to the prevailing party. In the event judgment is rendered in said court
 30 affirming the civil penalties assessed, the court shall also award to the office of

1 unemployment insurance administration judicial interest on said penalties from the
2 date of such judgment until paid.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____