

Introduced by Senator Corbett

February 19, 2010

An act to amend Sections 3070 and 3073.1 of, and to add Sections 3075.5, 3075.6, and 3075.7 to, the Labor Code, relating to apprenticeships.

LEGISLATIVE COUNSEL'S DIGEST

SB 1397, as introduced, Corbett. Apprenticeship oversight.

Existing law creates the California Apprenticeship Council within the Division of Apprenticeship Standards for the purpose of issuing rules and regulations governing the administration of apprenticeship programs. The council is composed, in part, of 6 representatives each from employers or employer organizations and employee organizations.

This bill would provide that no 2 employee representatives may be from the same national or international labor organization, as defined.

Existing law requires the Division of Apprenticeship Standards to randomly audit all apprenticeship programs during each 5-year period commencing January 1, 2000, to ensure compliance with specified requirements, including any industry-specific training criteria established by the California Apprenticeship Council.

This bill would eliminate the requirement that the division conduct random audits during 5-year periods and would instead direct the division to conduct audits of apprenticeship programs generally. The bill would further require the division to audit a new or newly expanded building and construction trades apprenticeship program one year after its approval for creation or expansion, and would require the division to immediately conduct an investigation of an apprenticeship program of this type to determine whether an audit is necessary if the division finds evidence that the program has purposely misstated information

provided to the division. In addition, the bill would require the division to schedule an audit of a program of this type within 3 months if the program has been the subject of 2 or more meritorious apprentice complaints within a 5-year period or if the program's annual apprentice completion rate is below 50% of the average completion rate for the applicable trade.

Existing law authorizes the Chief of the Division of Apprenticeship Standards to approve an apprenticeship program in any trade when specified conditions are met.

This bill would prescribe requirements for an application by a building and construction trades program for approval of a new or expanded apprenticeship program. The bill would require the program to submit a written plan to the chief listing the number of apprentices to be enrolled in a new program, occupation, or geographic area during the subsequent 5 years and evidence of sufficient commitments from employers. The bill would also require that an applicant submit to the chief a plan for selection and recruitment of new apprentices, including information on advertising and outreach programs. If the chief does not approve an application, the chief would be required to provide the applicant, within 90 days, a detailed explanation of the deficiencies in the application, and the applicant would be authorized to submit a new application within 90 days.

This bill would require that each building and construction trades industry apprenticeship program provide a semiannual statement to the apprentice listing the number of hours of training received and the number of hours remaining for graduation from the program.

This bill would also require that every building and construction trades industry apprenticeship program submit monthly specified data relating to apprentices in an electronic format to the Division of Apprenticeship Standards.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3070 of the Labor Code is amended to
- 2 read:
- 3 3070. (a) There is in the Division of Apprenticeship Standards
- 4 the California Apprenticeship Council, which shall be appointed
- 5 by the Governor, composed of six representatives each from

employers or employer organizations and employee organizations, that sponsor apprenticeship programs under this chapter, respectively, geographically selected, and of two representatives of the general public. *No two representatives from employee organizations shall be from the same national or international labor organization.* The Director of Industrial Relations, or his or her permanent and best qualified designee, and the Superintendent of Public Instruction, or his or her permanent and best qualified designee, and the Chancellor of the California Community Colleges, or his or her permanent and best qualified designee, shall also be members of the California Apprenticeship Council. The chairperson shall be elected by vote of the California Apprenticeship Council. Beginning with appointments in 1985, three representatives each of employers and employees, and one public representative shall serve until January 15, 1989. In 1987, three representatives each of the employers and employees, and one public representative shall serve until January 15, 1991. Any member whose term expires on January 15, 1986, shall continue to serve until January 15, 1987. Thereafter each member shall serve for a term of four years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor shall be appointed for the remainder of that term. Each member of the council shall receive the sum of one hundred dollars (\$100) for each day of actual attendance at meetings of the council, for each day of actual attendance at hearings by the council or a committee thereof pursuant to Section 3082, and for each day of actual attendance at meetings of other committees established by the council and approved by the Director of Industrial Relations, together with his or her actual and necessary traveling expenses incurred in connection therewith.

(b) *For purposes of this section, all of the following shall apply:*

(1) *Two representatives are from the same national or international labor organization if they are members, employees, or representatives of the same national or international labor organization.*

(2) *“Representatives of a national or international labor organization” includes members, employees, and representatives of local labor organizations and intermediate bodies affiliated with the national or international labor organization.*

1 (3) “National or international labor organization” does not
2 include a federation of national or international labor
3 organizations.

4 SEC. 2. Section 3073.1 of the Labor Code is amended to read:

5 3073.1. (a) The division shall ~~randomly~~ audit apprenticeship
6 programs ~~approved under this chapter during each five-year period~~
7 ~~commencing January 1, 2000~~, to ensure that the program *audited*
8 is complying with its standards, that all on-the-job training is
9 ~~performed supervised~~ by journeymen, that all related and
10 supplemental instruction required by the apprenticeship standards
11 is being provided, that all work processes in the apprenticeship
12 standards are being covered, and that graduates have completed
13 the apprenticeship program’s requirements. The division shall
14 examine each apprenticeship program to determine whether
15 apprentices are graduating from the program on schedule or
16 dropping out and to determine whether graduates of the program
17 have obtained employment as journeymen. *During the audit, the*
18 *division shall attempt to contact a statistically valid sample of*
19 *apprentices who have dropped out of the program prior to*
20 *completion to determine the apprentices’ reasons for leaving the*
21 *program.* Every apprenticeship program sponsor shall have a duty
22 to cooperate with the division in conducting an audit.

23 (b) Audit reports shall be presented to the California
24 Apprenticeship Council and shall be made public, except that the
25 division shall not make public information ~~which~~ *that* would
26 infringe on the privacy of individual apprentices. The division
27 shall recommend remedial action to correct deficiencies recognized
28 in the audit report, and the failure to *follow division*
29 *recommendations or to* correct deficiencies within a reasonable
30 period of time shall be grounds for withdrawing state approval of
31 a program. Nothing shall prevent the division from conducting
32 more frequent *or random* audits of apprenticeship programs where
33 deficiencies have been identified.

34 (c) The division shall give priority in conducting audits to
35 programs that have been identified as having deficiencies. The
36 division may conduct simplified audits for programs with fewer
37 than five registered apprentices.

38 (d) *For new and newly expanded building and construction*
39 *trades apprenticeship programs, the division shall audit each*

1 *program one year after approval of the creation or expansion of*
2 *the program.*

3 *(e) If the division finds evidence that information provided to*
4 *it by a building and construction trades apprenticeship program*
5 *has been purposefully misstated, the division shall immediately*
6 *investigate and determine whether an audit of the program is*
7 *necessary. The division shall report its investigatory findings to*
8 *the California Apprenticeship Council and make them available*
9 *to the public, except that the division shall not make public*
10 *information that would infringe upon the privacy of individual*
11 *apprentices.*

12 *(f) If the division determines that a building and construction*
13 *trades apprenticeship program has been the subject of two or more*
14 *meritorious complaints that concern the recruitment, training, or*
15 *education of apprentices within a five-year period, the division*
16 *shall schedule the program for an audit within three months of the*
17 *determination.*

18 *(g) If the division determines that a building and construction*
19 *trades apprenticeship program that has had at least two graduating*
20 *classes has an annual apprentice completion rate below 50 percent*
21 *of the average completion rate for the applicable trade, the division*
22 *shall schedule the program for an audit within three months of the*
23 *determination.*

24 SEC. 3. Section 3075.5 is added to the Labor Code, to read:

25 3075.5. (a) This section applies when a building and
26 construction trades industry program applies to the Chief of the
27 Division of Apprenticeship Standards for approval of a new
28 apprenticeship program or for the expansion of an existing
29 apprenticeship program into a new occupation or geographic area.
30 The requirements of this section are in addition to other
31 requirements that may be imposed by statute or regulation.

32 (b) (1) An applicant for a new or expanded apprenticeship
33 program under subdivision (a) shall submit to the chief a written
34 plan that sets out the number of new apprentices the applicant
35 seeks to enroll during the next five years in the new or expanded
36 program, new occupation, or new geographic area. The plan must
37 include the applicant's budget for training the new apprentices and
38 a detailed explanation of how the applicant intends to provide
39 sufficient funding to meet that budget.

(2) The applicant shall submit to the chief a written plan providing a reasonable timetable to obtain sufficient commitments from employers to employ the new apprentices so as to ensure, to the extent feasible, consistent with the rates of employment for existing programs in good standing in the applicable trade, that the new apprentices will be employed continuously throughout the entire term of apprenticeship.

(3) The applicant shall submit to the chief verifiable evidence that the applicant has obtained, or will obtain, suitable and adequate facilities to train the new apprentices. The chief, or his or her representative, shall personally inspect the facilities within six months after the final approval of the program.

(4) The applicant shall submit to the chief a plan for the recruitment and selection of the new apprentices. The plan shall include advertising of the new apprenticeship opportunities within the geographic area and outreach to organizations that promote apprenticeship opportunities to women and underrepresented minorities.

(c) The chief shall not approve an application that fails to meet any of the requirements of this section. If the chief does not approve an application because of its failure to comply with this section, the chief shall within 90 days provide the applicant with a detailed explanation of the deficiencies in the application and recommendations for addressing those deficiencies to obtain program approval. The applicant may submit a new or amended application to the chief within 90 days of receipt of the chief's recommendations. The chief shall provide a detailed response to a new or amended application within 90 days of its receipt.

SEC. 4. Section 3075.6 is added to the Labor Code, to read:

3075.6. Each building and construction trades apprenticeship program shall provide to each apprentice, on at least a semiannual basis, a statement showing the number of hours of on-the-job training and related and supplemental instruction that the apprentice has acquired toward graduation, the total number of hours of on-the-job training and related and supplemental instruction that are necessary for graduation, and the apprentice's expected graduation date.

SEC. 5. Section 3075.7 is added to the Labor Code, to read:

3075.7. Every building and construction trades industry apprenticeship program shall submit apprentice registration, change

- 1 of address, graduation, and termination data to the Division of
- 2 Apprenticeship Standards on a monthly basis in an electronic
- 3 format acceptable to the division.