

S.B. NO. 2835

JAN 25 2012

A BILL FOR AN ACT

RELATING TO APPRENTICESHIP.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 372-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§372-1 Application of chapter.** This chapter shall apply
4 to a person, [~~firm, corporation, or craft~~] employer,
5 association, committee, or organization only after such person,
6 [~~firm, corporation, or craft~~] employer, association, committee,
7 or organization has voluntarily elected to conform with its
8 provisions."

9 SECTION 2. Section 372-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§372-2 Definitions.** As used in this chapter:

12 "Apprentice" means a [~~person participating, through~~
13 ~~employment, in an approved schedule of work experience~~
14 ~~supplemented by related instruction and who is a party to an~~
15 ~~apprenticeship agreement registered with the department in~~
16 ~~accordance with this chapter.~~] worker at least sixteen years of
17 age, except where a higher minimum age standard is otherwise
18 fixed by law, who is employed to learn an apprenticeable

1 occupation in accordance with the standards of apprenticeship
2 established by this chapter.

3 "Apprenticeship agreement" [~~means~~] is a written agreement
4 [~~which conforms to standards established under this chapter and~~
5 ~~is entered into~~] between an apprentice and [~~(1) an employer, (2)~~
6 ~~an association of employers, (3) an organization of employees,~~
7 ~~or (4) a joint committee representing employers and employees.]~~
8 either the apprentice's program sponsors or an apprenticeship
9 committee acting as agent for the program sponsors. The
10 apprenticeship agreement shall be approved by the director.

11 "Department" means the department of labor and industrial
12 relations.

13 "Director" means the director of labor and industrial
14 relations.

15 "Sponsor" means any person, employer, association,
16 committee, or organization operating an apprenticeship program
17 and in whose name the program is, or is to be, registered and
18 approved."

19 SECTION 3. Section 372-3, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§372-3 Standards** [~~for agreements.~~ "~~Standards for~~
22 ~~apprenticeship agreements~~" are as follows:

1 ~~(1) A statement of the trade or craft to be taught and the~~
2 ~~required months or hours for completion of~~
3 ~~apprenticeship which shall not be less than twelve~~
4 ~~months or two thousand hours of reasonably continuous~~
5 ~~employment;~~

6 ~~(2) A statement of the processes in the trade or craft~~
7 ~~divisions in which the apprentice is to be taught and~~
8 ~~the approximate amount of time to be spent at each~~
9 ~~process;~~

10 ~~(3) A statement of the number of hours to be spent in~~
11 ~~related instruction which shall not be less than one~~
12 ~~hundred and forty-four hours per year; provided that~~
13 ~~the department of labor and industrial relations may,~~
14 ~~in the best interest of apprenticeship, reduce the~~
15 ~~hours of related instruction;~~

16 ~~(4) A statement that apprentices shall be not less than~~
17 ~~sixteen years of age;~~

18 ~~(5) A statement of the progressively increasing scale of~~
19 ~~wages to be paid the apprentice;~~

20 ~~(6) Provision for a period of probation during which the~~
21 ~~director of labor and industrial relations shall be~~
22 ~~directed to terminate an apprenticeship agreement at~~
23 ~~the request in writing of any party thereto;~~

- 1 ~~(7) Provision that after the probationary period the~~
2 ~~director may terminate an apprenticeship agreement~~
3 ~~upon agreement of the parties thereto;~~
- 4 ~~(8) Provision that the services of the department may be~~
5 ~~utilized for consultation regarding the settlement of~~
6 ~~differences arising out of the apprenticeship~~
7 ~~agreement where the differences cannot be adjusted~~
8 ~~locally or in accordance with the established trade~~
9 ~~procedure;~~
- 10 ~~(9) Provision to specify the ratio of apprentice to~~
11 ~~journey worker;~~
- 12 ~~(10) Provision that if an employer is unable to fulfill the~~
13 ~~employer's obligation under the apprenticeship~~
14 ~~agreement, the employer may transfer the obligation to~~
15 ~~another employer;~~
- 16 ~~(11) Such additional standards as may be prescribed in~~
17 ~~accordance with this chapter.~~

18 ~~An apprentice who, prior to entering an~~
19 ~~agreement, has had training or experience or both in~~
20 ~~the trade or craft in which the apprentice is employed~~
21 ~~as an apprentice may be granted full or partial credit~~
22 ~~for the training or experience on the recommendation~~
23 ~~of the employer or the joint apprenticeship committee~~

1 ~~with the approval of the director.]~~ of
2 apprenticeship. Standards of apprenticeship that
3 conform to the federal regulations shall be
4 established by the director. Apprenticeship program
5 sponsors that meet the standards of apprenticeship may
6 seek approval and registration by the director."

7 SECTION 4. Section 372-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§372-4~~ ~~[Apprenticeship]~~ State apprenticeship council.

10 The director ~~[of labor and industrial relations may]~~ shall
11 establish within the department ~~[of labor and industrial~~
12 ~~relations a committee to be known as]~~ the state apprenticeship
13 council which shall ~~[sit]~~ serve in an advisory capacity to the
14 director on matters within the jurisdiction of the department
15 relating to apprenticeship programs. The membership and
16 organization of the council shall be determined by the director.
17 The council shall be composed of persons familiar with
18 apprenticeable occupations, and shall include an equal number of
19 representatives of employers and of employee organizations and
20 include public members who shall not number in excess of the
21 number named to represent either employer or employee
22 organization. The members of the council shall be appointed and
23 removed at the pleasure of the director. ~~[The director or the~~

1 ~~director's subordinate officer in charge of the apprenticeship~~
2 ~~program shall act as secretary of the council.]"~~

3 SECTION 5. Section 372-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§372-5 Powers and duties of director.** The director [~~of~~
6 ~~labor and industrial relations]~~ shall:

- 7 (1) Establish standards of apprenticeship and for
8 apprenticeship agreements in conformity with this
9 chapter;
- 10 (2) Provide assistance for the development of on-the-job
11 training programs in nonapprenticeable occupations;
- 12 (3) Encourage and promote [~~the making of]~~ apprenticeship
13 [~~agreements conforming to the standards established by~~
14 ~~this chapter;~~] in apprenticeable occupations,
15 including occupations in high growth and high demand
16 industries;
- 17 (4) [~~Register such apprenticeship agreements as are in the~~
18 ~~best interest of apprenticeship and]~~ Approve and
19 register apprenticeship programs and apprenticeship
20 agreements which conform to the standards established
21 by this chapter;

- 1 (5) Keep [~~a record~~] records of apprenticeship agreements
2 and upon performance thereof issue certificates of
3 completion of apprenticeship;
- 4 (6) Terminate or cancel [~~any~~] apprenticeship agreements in
5 accordance with the agreements[~~+~~], and deregister
6 apprenticeship programs;
- 7 (7) Bring about the settlement of differences arising out
8 of the apprenticeship agreement where the differences
9 cannot be otherwise adjusted locally;
- 10 (8) Issue such rules and regulations as may be necessary
11 to carry out the intent and purpose of this chapter;
- 12 (9) Appoint personnel as are necessary in the execution of
13 the functions required under this chapter; [~~and~~]
- 14 (10) Perform other duties as are necessary to carry out the
15 intent and purpose of this chapter[~~+~~] or rules
16 pertaining to apprenticeship; and
- 17 (11) Accord reciprocal approval to apprenticeship programs
18 and agreements that are registered in other states by
19 the federal Office of Apprenticeship or a recognized
20 agency of a state if such reciprocity is requested by
21 the apprenticeship program sponsor. Program sponsors
22 seeking reciprocal approval must meet the wage and

1 hour provisions and apprentice ratio standards of this
2 state."

3 SECTION 6. Section 372-6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§372-6 Related instruction** [~~and coordination of~~
6 ~~instruction~~]. Related instruction for apprentices [~~7~~
7 ~~coordination of instruction with job experiences, and the~~
8 ~~selection~~] and training of teachers and coordinators for the
9 instruction shall be the responsibility of the community
10 [~~college colleges~~ division] of the University of Hawaii [~~7~~]
11 system."

12 SECTION 7. Section 372-7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§372-7** [~~Joint apprenticeship committees.~~] **Apprenticeship**
15 **committee.** [~~Local joint apprenticeship committees may be~~
16 ~~approved by the director of labor and industrial relations in~~
17 ~~any trade, group of trades, or in trade areas, whenever the~~
18 ~~apprentice training needs of the trade or group of trades~~
19 ~~justifies the establishment of the committees. The joint~~
20 ~~apprenticeship committees shall be composed of an equal number~~
21 ~~of persons known to represent the interest of the employers and~~
22 ~~employees, respectively.] An apprenticeship committee is a
23 group of persons designated by the sponsors to administer its~~

1 apprenticeship program. An apprenticeship committee may either
2 be a joint committee which is composed of an equal number of
3 representatives of the employers and of the employees
4 represented by bona fide collective bargaining agents, or a non-
5 joint committee, also known as unilateral or group non-joint
6 committee (which may also include employees), which has employer
7 representatives but does not have a bona fide collective
8 bargaining agent as a participant. Subject to the review of the
9 director and in accordance with the standards established by
10 this chapter and rules adopted by the director, the committees
11 shall [~~devise standards for apprenticeship agreements and~~] give
12 assistance to the operation and further development of
13 apprenticeship in their respective [~~trade~~] occupation and
14 localities."

15 SECTION 8. Section 372-8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§372-8 State-federal cooperation.** The department [~~of~~
18 ~~labor and industrial relations~~] may promote the administration
19 of this chapter by accepting and utilizing information,
20 services, and facilities made available to it by the federal
21 [~~committee on apprenticeship;~~] Advisory Committee on
22 Apprenticeship; and the department shall cooperate with the
23 federal [~~committee on apprenticeship~~] Advisory Committee on

S.B. NO. 2835

1 Apprenticeship to the fullest extent consistent with this
2 chapter."

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval.

6

7

INTRODUCED BY:

G.S.T.

8

BY REQUEST

9

Report Title:

Apprenticeship

Description:

Amends the state apprenticeship law to conform to new federal regulations on apprenticeship in 29 Code of Federal Regulations part 29.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO APPRENTICESHIP.

PURPOSE: To amend the state apprenticeship law to conform to the new federal regulations on apprenticeship in title 29 Code of Federal Regulations, part 29.

MEANS: Amend sections 372-1, 372-2, 372-3, 372-4, 372-5, 372-6, 372-7, and 372-8, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii is currently recognized as a State Apprenticeship Agency (SAA) by the United States Department of Labor, Office of Apprenticeship, to register and oversee apprenticeship programs.

On October 28, 2008, the U.S. Department of Labor published in the federal register a final rule to modernize the National Apprenticeship System. The revised regulations took effect on December 29, 2008, and provided SAAs with two years, with extensions as needed, from the effective date to implement necessary changes. The department's request for extension until December 31, 2012, was approved by the federal Office of Apprenticeship. By that date, changes in state law, Hawaii Administrative Rules, and state policy must be completed to conform to federal regulations.

The proposed amendments will make chapter 372 conform to new federal regulations.

Impact on the public: The impact on the public should be positive because it will enable over 7,000 apprentices who are registered in over 40 state apprenticeship programs to continue their apprenticeships.

Impact on the department and other agencies:

The impact on the department will be positive because it will enable the department to continue carrying out its responsibilities for apprenticeship programs. Other departments of the executive branch that conduct procurements for public works projects also will be positively affected because the department's continued responsibility for apprenticeship programs will be consistent with section 103-55.6 (Act 17, Session Laws Hawaii 2009) which specifies that the department will verify a bidder's participation in apprenticeship programs to qualify for a bidder's preference.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR 111.

OTHER AFFECTED
AGENCIES: Departments of Executive Branch.

EFFECTIVE DATE: Upon approval.