

SENATE BILL NO. 155

BY SENATOR NEVERS

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AN ACT

To amend and reenact R.S. 23:382(B), 384(A), the introductory paragraph of 384(B) and (B)(2), (3), and (4) and (C), 385(B), 386, the introductory paragraph of 387 and 387(9), 388, 389, 390, and 391, relative to apprenticeship; to provide for prohibited discrimination in employment; to provide collective bargaining contracts; to make technical changes; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:382(B), 384(A), the introductory paragraph of 384(B) and (B)(2), (3), and (4) and (C), 385(B), 386, the introductory paragraph of 387 and 387(9), 388, 389, 390 and 391 are hereby amended and reenacted to read as follows:

§382. Apprenticeship council

* * *

B. The apprenticeship council shall meet at the call of the executive director or the director of apprenticeship and shall aid in formulating policies for the effective administration of this Chapter. Subject to the approval of the executive director, the apprenticeship council may recommend standards and procedures for registration and de-registration of apprenticeship programs in conformity with established programs approved by the ~~Office of Apprenticeship~~, United States Department of Labor, **Office of Apprenticeship** and for approval of apprenticeship agreements which in no case shall be lower than those prescribed by this Chapter and by the ~~Office of Apprenticeship~~, United States Department of Labor, **Office of Apprenticeship** or lower than approved national standards; shall issue such rules and regulations as may be necessary to carry out the intent and purposes thereof, and shall perform such other functions as the executive director may direct. Not less than once a year the apprenticeship council shall make a report, through the executive director, of its activities and findings to the legislature and to the public.

* * *

1 §384. Powers and duties of director

2 A. The director, under the supervision of the executive director and with the
3 advice and guidance of the apprenticeship council, is authorized to administer the
4 provisions of this Chapter. The director shall, in cooperation with the apprenticeship
5 council, set up conditions and training standards for apprentice agreements, which
6 shall in no case be lower than those prescribed by this Chapter and by the ~~Office of~~
7 ~~Apprenticeship~~, United States Department of Labor, **Office of Apprenticeship** or
8 lower than approved national standards.

9 B. The director **of apprenticeship** is authorized:

10 * * *

11 (2) To approve, if it is in the best interest of the apprentice, any ~~apprentice~~
12 **apprenticeship** agreement which meets the standards established under this Chapter;

13 (3) To terminate or cancel any ~~apprentice~~ **apprenticeship** agreement in
14 accordance with the provisions of such agreement;

15 (4) To keep a record of ~~apprentice~~ **apprenticeship** agreements and their
16 disposition;

17 * * *

18 C. The administration and supervision of related and supplemental instruction
19 for apprentices, coordination of instruction with job experiences, and the selection
20 and training of teachers and coordinators for such instruction shall be the
21 responsibility of local programs, acting under guidelines established by the ~~Office~~
22 ~~of Apprenticeship, U. S.~~ **United States** Department of Labor, **Office of**
23 **Apprenticeship**.

24 §385. Apprenticeship programs; registration and function

25 * * *

26 B. An apprenticeship program shall be registered in any trade or group of
27 trades in accordance with this Chapter and with the standards of ~~the Office of~~
28 ~~Apprenticeship~~, United States Department of Labor, **Office of Apprenticeship**. An
29 apprenticeship program shall cooperate with educational authorities in regard to the
30 education of apprentices; shall establish a schedule of operations; shall establish

1 wage rates and working conditions for apprentices; shall specify the ratio of
2 apprentices to journey workers employed in any trade in accordance with this
3 Chapter and the ~~Office of Apprenticeship~~, United States Department of Labor,
4 **Office of Apprenticeship**; and shall adjust apprenticeship disputes.

5 * * *

6 §386. Apprentice defined

7 The term "apprentice" as used in this Chapter is defined as a worker at least
8 sixteen years of age, **except where a higher minimum age standard is otherwise**
9 **fixed by law**, who is employed to learn an apprenticeable occupation **pursuant to**
10 **the standards of apprenticeship as provided for in the Louisiana Administrative**
11 **Code, Title 40, Part 4, §317 in order to fulfill the requirements of the Louisiana**
12 **Administrative Code, Title 40, Part 4, §301**, and who has entered into a written
13 apprentice agreement with an employer, an association of employers, or an
14 organization of employees, providing for not less than two thousand hours of
15 reasonably continuous employment, and for participation in an approved program
16 of training through employment and through education in related and supplemental
17 subjects.

18 §387. Contents of apprentice **apprenticeship** agreements

19 Every apprentice **apprenticeship** agreement entered into under this Chapter
20 shall contain all of the following:

21 * * *

22 (9) Such additional terms and conditions as may be prescribed or approved
23 by the director, not inconsistent with the provisions of this Chapter and those
24 established by the ~~Office of Apprenticeship~~, United States Department of Labor ,
25 **Office of Apprenticeship**.

26 §388. Approval of apprentice **apprenticeship** agreements; signature

27 A. Every apprentice **apprenticeship** agreement under this Chapter shall be
28 approved and the apprentice ~~indentured~~ **registered** by the director **of apprenticeship**
29 within fifteen days of being properly submitted and found to be in conformity with
30 29 C.F.R. **Part** 30, the federal guidelines for equal opportunity in apprenticeship and

1 training; or the applicant, employer, and sponsor shall be notified immediately in
2 writing as to the reason for the agreement not being approved.

3 B. Every ~~apprentice~~ **apprenticeship** agreement shall include the names and
4 signatures of the contracting parties, as provided in R.S. 23:389, and if the apprentice
5 is a minor, the name and signature of a parent or legal guardian.

6 C. When a minor enters into an ~~apprentice~~ **apprenticeship** agreement under
7 this Chapter for a period of training extending into his majority, the ~~apprentice~~
8 **apprenticeship** agreement shall likewise be binding for such a period as may be
9 covered during the apprentice's majority.

10 §389. Rotation of employment

11 For the purpose of providing greater diversity of training or continuity of
12 employment, any ~~apprentice~~ **apprenticeship** agreement made under this Chapter
13 may, ~~at the discretion of the director of apprenticeship,~~ be signed by ~~an association~~
14 ~~of employers or an organization of employees~~ **a joint or non-joint committee**
15 instead of by an individual employer. In such a case, apprenticeship program
16 standards shall expressly provide that the ~~association of employers or organization~~
17 ~~of employees~~ **apprenticeship committee** does not assume the obligation of an
18 employer but agrees to use its best endeavors to procure employment and training
19 for the apprentice with one or more employers who will accept full responsibility for
20 all the terms and conditions of employment and training set forth in the agreement
21 between the apprentice and ~~employer association or employee organization~~ **the**
22 **apprenticeship committee** during the period of each employment. ~~The~~
23 ~~apprenticeship program standards in such a case shall also expressly provide for the~~
24 ~~transfer of the apprentice, subject to the approval of the director, to such employer~~
25 ~~or employers who shall sign a written agreement with the apprentice, and, if the~~
26 ~~apprentice is a minor, with his parent or legal guardian, as specified in R.S. 23:388~~
27 ~~contracting to employ the apprentice for the whole or a definite part of the total~~
28 ~~period of apprenticeship under the terms and conditions of employment and training~~
29 ~~set forth in the agreement entered into between the apprentice and employer~~
30 ~~association or employee organization.~~

1 §390. Settlement of controversies or complaints

2 A. The provisions of this Chapter shall not be applicable to resolving any
 3 disputes regarding any category of prohibited discrimination provided for in
 4 Chapter 3-A of this Title, the "Louisiana Employment Discrimination Law".
 5 Any cause of action related to prohibited discrimination shall be filed in the
 6 manner set forth in 29 C.F.R. Part 30 or applicable provisions of a State Plan
 7 for Equal Employment Opportunity in Apprenticeship adopted pursuant to 29
 8 C.F.R. Part 30 and approved by the United States Department of Labor.

9 B.(1) Except for matters described in Subsection A of this Section, any
 10 disagreement arising under an apprenticeship agreement which cannot be
 11 adjusted locally and which is not covered by a collective bargaining agreement,
 12 may be submitted by an apprentice, or by the apprentice's authorized
 13 representative, within sixty days of the final local decision, to the Director of
 14 Apprenticeship, Louisiana Workforce Commission-Apprenticeship Division.

15 (2) Matters covered by a collective bargaining agreement are not to be
 16 reviewed pursuant to this Section. Complaint procedures for the settlement of
 17 complaints shall be conducted in accordance with the Louisiana Administrative
 18 Code, Title 40, Part 4, §309.

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

29 ~~B.D.~~ The determination of the director **of apprenticeship** shall be filed with
 30 the executive director. If no appeal therefrom is filed with the executive director

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

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

14 **F. The provisions of this Section shall not be construed to preclude an**
 15 **apprentice from pursuing any remedy to address prohibited discrimination in**
 16 **employment which is otherwise available in any other Chapter of this Title, in**
 17 **any other Title of the Louisiana Revised Statutes of 1950, in federal law, or in**
 18 **any local ordinance.**

19 §391. Limitation

20 Nothing in this Chapter or in any ~~apprentice~~ **apprenticeship** agreement
 21 approved under this Chapter shall operate to invalidate **any of the following:** any
 22 ~~apprenticeship provision in any collective agreement between employers and~~
 23 ~~employees, setting up higher apprenticeship standards.~~

24 **(1) An apprenticeship provision in any collective bargaining agreement**
 25 **between employers and employees establishing higher apprenticeship**
 26 **standards.**

27 **(2) Any provisions of prohibited discrimination in employment which**
 28 **are contained in any other Chapter of this Title, in any other Title of the**
 29 **Louisiana Revised Statutes of 1950, in federal law, or in any local ordinance.**

30 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
4 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____