

SENATE BILL NO. 46

INTRODUCED BY G. VUCKOVICH

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING TERMINOLOGY USED FOR REGISTERED APPRENTICESHIPS; AND AMENDING SECTIONS 39-6-101, 39-6-102, 39-6-104, 39-6-106, 39-6-107, AND 39-6-108, MCA."

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

Section 1. Section 39-6-101, MCA, is amended to read:

"39-6-101. Duties of department -- definitions. (1) The department of labor and industry shall:

(a) encourage and promote the making of apprenticeship agreements conforming to the standards established by or in accordance with this chapter;

(b) register apprenticeship agreements that are in the best interests of the apprenticeship and conform to the standards established by or in accordance with this chapter;

(c) keep a record of apprenticeship agreements and, taking into consideration performance of the agreement, issue certificates of completion of apprenticeship;

(d) terminate or cancel any apprenticeship agreements in accordance with the provisions of the agreements;

(e) provide assistance for the development of on-the-job training programs in nonapprenticeable occupations;

(f) establish standards for apprenticeship agreements in conformity with the provisions of this chapter;

(g) use the standard prevailing wage rate for construction services, as defined in 18-2-401, for a prevailing wage rate district as provided in 18-2-411 as a base on which an apprenticeship wage is calculated pursuant to 39-6-108 for apprentices;

(h) adopt rules necessary to carry out the intent and purposes of this chapter; and

(i) perform other duties that may be required by federal regulations, provided that the federal regulations are not in conflict with this chapter.

(2) ~~Not less often than~~ At least once every 2 years, the department shall ~~make a report of~~ on its activities



1 and findings to the governor and, as provided in 5-11-210, to the legislature. The department shall also make the
2 report available to the public.

3 (3) For the purposes of this chapter, the following definitions apply:

4 (a) "Apprentice" means a worker employed to learn a skilled occupation under a written apprenticeship
5 agreement registered with the department.

6 (b) "Department" means the department of labor and industry."

7

8 **Section 2.** Section 39-6-102, MCA, is amended to read:

9 **"39-6-102. Powers of department.** (1) ~~The department of labor and industry~~ may accept from the
10 federal government or any agency ~~thereof~~ of the federal government or from any state agency any funds made
11 available to carry out ~~purposes within the scope of~~ the activities and purposes of the department under this
12 chapter ~~and to~~. ~~The department may use such the funds as said department may direct~~ for the purposes for which
13 ~~said the~~ funds are made available.

14 (2) The department may act to bring about the settlement of differences arising out of the apprenticeship
15 agreement ~~where such~~ if the differences cannot be adjusted locally or in accordance with the established ~~trade~~
16 occupational procedure."

17

18 **Section 3.** Section 39-6-104, MCA, is amended to read:

19 **"39-6-104. Local and state joint apprenticeship committees.** (1) ~~Local and~~ The department may
20 approve local or state joint apprenticeship committees ~~may be approved~~ in any trade or group of trades
21 occupation or group of occupations in cities or trade areas ~~by the department of labor and industry~~ whenever the
22 apprentice training needs of ~~such trade or group of trades~~ the occupation or group of occupations justifies ~~such~~
23 establishment of a committee.

24 (2) ~~Such~~ The local or state joint apprenticeship committees ~~shall~~ must be composed of an equal number
25 of employer and employee representatives chosen from names submitted by the respective local or state
26 employer and employee organizations in ~~such trade or group of trades~~. In a trade or group of trades the
27 occupation or group of occupations. For an occupation or group of occupations in which there is no bona fide
28 employer or employee organization, the joint committee ~~shall~~ must be composed of persons known to represent
29 the interests of employers and of persons known to represent the interests of employees, ~~respectively~~, or the
30 department may approve a state joint apprenticeship committee ~~may be approved as or the department may act~~

1 itself as the joint committee ~~in such trade or group of trades~~ for the occupation or group of occupations.

2 (3) Subject to the review of the department and in accordance with the standards established by this
3 chapter and by the department, ~~such a~~ committee shall devise standards for apprenticeship agreements and ~~give~~
4 ~~such aid as may be~~ provide the assistance necessary ~~in~~ for their operation in ~~their~~ the respective ~~trades~~
5 occupations and localities."
6

7 **Section 4.** Section 39-6-106, MCA, is amended to read:

8 **"39-6-106. Contents of apprenticeship agreements -- credit for prior training or experience. (1)**

9 Apprenticeship agreements must contain:

10 (a) a statement of the ~~trade or craft~~ occupation to be taught and the required hours for completion of
11 apprenticeship, which must be ~~not less than~~ at least 2,000 hours of reasonably continuous employment;

12 (b) a statement of the processes in the ~~trade or craft~~ occupational divisions in which the apprentice is
13 to be taught and the approximate amount of time to be spent at each process;

14 (c) a statement of the number of hours to be spent by the apprentice in related and supplemental
15 instruction, ~~which is.~~ The recommended to be number of hours is at least 144 hours ~~per a year;~~

16 (d) a statement that apprentices must be ~~not less than~~ at least 16 years of age;

17 (e) a statement of the progressively increasing scale of wages to be paid the apprentice using the criteria
18 established in 39-6-108;

19 (f) provision for a period of probation during which the department ~~of labor and industry must~~ shall
20 terminate an apprenticeship agreement at the written request ~~in writing~~ of any participating party. After the
21 probationary period, the department may terminate the registration of an apprentice upon agreement of the
22 parties.

23 (g) provision that the services of the department may be used for consultation regarding the settlement
24 of differences arising out of the apprenticeship agreement if the differences cannot be adjusted locally or in
25 accordance with the established ~~trade~~ occupational procedure;

26 (h) provision that, if an employer is unable to fulfill an obligation under the apprenticeship agreement,
27 the employer may transfer the obligation to another employer if the other employer has been approved as a
28 training facility;

29 (i) provision for the specification of the ratio of apprentices to journeymen. The department shall continue
30 to honor and recognize ratio provisions as established in existing labor/management bargaining agreements or

1 as established by an industry practice.

2 (j) additional standards as may be prescribed in accordance with this chapter.

3 (2) An apprentice who, prior to entering into an agreement, has had training or experience in the ~~trade~~
4 ~~or craft~~ occupation in which the apprentice is employed as an apprentice may be granted full or partial credit for
5 the training or experience on the recommendation of the employer or the joint apprenticeship committee and with
6 the approval of the department."

7

8 **Section 5.** Section 39-6-107, MCA, is amended to read:

9 **"39-6-107. Provisions of chapter voluntary.** The provisions of this chapter ~~shall~~ apply to a person, firm,
10 corporation, or ~~craft~~ occupation only after ~~such~~ the person, firm, corporation, or ~~craft~~ occupation has voluntarily
11 elected to conform with its provisions."

12

13 **Section 6.** Section 39-6-108, MCA, is amended to read:

14 **"39-6-108. Apprentice wage rate.** (1) Except as provided in subsection (3), a wage paid to an
15 apprentice employed for construction services, as defined in 18-2-401, under Title 18, chapter 2, part 4, must:

16 (a) be based on the standard prevailing rate of wages for construction services, as defined in 18-2-401,
17 for a prevailing wage rate district as provided in 18-2-411; and

18 (b) increase progressively to no more than the employer's lowest journeyman hourly wage from a starting
19 wage of no less than 40% of the hourly wage paid to a journeyman in the same ~~craft~~ occupation and working in
20 the same area or region. A higher wage must be paid if required by federal law, by other state law, or by contract.
21 If the apprentice performs labor in more than one locality, the apprentice must be paid based on the progressive
22 wage schedule for the journeyman wage rate in the area in which the apprentice is working.

23 (2) The wage does not include a travel allowance or benefits. Benefits must be paid to an apprentice if
24 work is being performed on a project that is covered by requirements to pay the Montana prevailing wage or a
25 project covered by the federal Davis-Bacon Act, pursuant to 29 CFR, parts 1, 3, and 5.

26 (3) Wages paid under an individual's written apprenticeship agreement registered with the department
27 ~~of labor and industry~~ as of October 1, 2006, are excluded from the rate set in subsection (1).

28 ~~(4) For purposes of this section, "apprentice" means a worker employed to learn a skilled trade under~~
29 ~~a written apprenticeship agreement registered with the department of labor and industry."~~

30

- END -