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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- APPRENTICESHIP PROGRAMS IN
TRADE AND INDUSTRY

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 27, 2014

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-45-9, 28-45-13 and 28-45-17 of the General Laws in Chapter
2 28-45 entitled "Apprenticeship Programs in Trade and Industry" are hereby amended to read as
3 follows:

4 **28-45-9. Standards of apprenticeship programs.** -- An apprenticeship program, to be
5 eligible for approval and registration with the department of labor and training, shall conform to
6 regulations issued by the department of labor and training and 29 C.F.R. 29 and 29 C.F.R. 30 and
7 shall conform to the following standards:

8 (1) The program is an organized, written plan embodying the terms and conditions of
9 employment, training, and supervision of one or more apprentices in the apprenticeable
10 occupation, as defined in this chapter and subscribed to by a sponsor who has undertaken to carry
11 out the apprentice training program.

12 (2) The program standards contain the equal opportunity pledge prescribed in 29 CFR
13 30.3(b) and, when applicable, an affirmative action plan in accordance with 29 CFR 30.4, a
14 selection method authorized in 29 CFR 30.5, or similar requirements expressed in a state plan for
15 equal employment opportunity in apprenticeship adopted pursuant to 29 CFR Part 30 and
16 approved by the U.S. department of labor, and provisions concerning the following:

17 (i) The employment and training of the apprentice in a skilled occupation;

18 (ii) A term of apprenticeship not less than two thousand (2,000) hours of work

1 experience, consistent with training requirements as established by industry practice, which for an
2 individual apprentice may be measured either through the completion of the industry standard for
3 on-the-job learning (at least two thousand (2,000) hours) (time-based approach), the attainment of
4 competency (competency-based approach), or a blend of the time-based and competency-based
5 approaches (hybrid approach):

6 (A) The time-based approach measures skill acquisition through the individual
7 apprentice's completion of at least two thousand (2,000) hours of on-the-job learning as described
8 in a work process schedule;

9 (B) The competency-based approach measures skill acquisition through the individual
10 apprentice's successful demonstration of acquired skills and knowledge, as verified by the
11 program sponsor. Programs utilizing this approach must still require apprentices to complete an
12 on-the-job learning component of registered apprenticeship. The program standards must address
13 how on-the-job learning will be integrated into the program, describe competencies, and identify
14 an appropriate means of testing and evaluation for such competencies;

15 (C) The hybrid approach measures the individual apprentice's skill acquisition through a
16 combination of specified minimum number of hours of on-the-job learning and the successful
17 demonstration of competency as described in a work process schedule; and

18 (D) The determination of the appropriate approach for the program standards is made by
19 the program sponsor, subject to approval by the registration agency of the determination as
20 appropriate to the apprenticeable occupation for which the program standards are registered.

21 (iii) An outline of the work processes in which the apprentice will receive supervised
22 work experience and training on the job, and the allocation of the approximate time to be spent in
23 each major process;

24 (iv) Provision for organized, related, and supplemental instruction in technical subjects
25 related to the trade. A minimum of one hundred forty-four (144) hours for each year of
26 apprenticeship is recommended. This instruction in technical subjects may be accomplished
27 through media, such as classroom, occupational or industry courses, electronic media, or other
28 instruction approved by the department of labor and training; every apprenticeship instructor
29 must:

30 (A) Meet the Rhode Island department of elementary and secondary education
31 requirements for a vocational-technical instructor, or be a subject matter expert, which is an
32 individual, such as a journey worker, who is recognized within an industry as having expertise in
33 a specific occupation; and

34 (B) Have training in teaching techniques and adult learning styles, which may occur

1 before or after the apprenticeship instructor has started to provide the related technical instruction.

2 (v) A statement of the progressively increasing scale of wages to be paid the apprentice
3 consistent with the skill acquired, the entry wage to be not less than the minimum wage
4 prescribed by the federal and state labor standards act, where applicable, unless a higher wage is
5 required by other applicable federal law, state law, respective regulations, or by collective
6 bargaining agreement; or by collective bargaining agreement, and any terms, conditions, basic
7 rates or pay or fringe benefits applicable to apprentices;

8 (vi) A provision for periodic review and evaluation of the apprentice's progress in job
9 performance and related instruction, and the maintenance of appropriate progress records;

10 (vii) The numeric ratio of apprentices to journeypersons consistent with proper
11 supervision, training, safety, and continuity of employment, and applicable provisions in
12 collective bargaining agreements, except where the ratios are expressly prohibited by the
13 collective bargaining agreement. The ratio language shall be specific and clear as to application in
14 terms of jobsite, work force, department or plant;

15 (viii) A probationary period reasonable in relation to the full apprenticeship term, with
16 full credit given for the period toward completion of apprenticeship the probationary period shall
17 not exceed twenty-five percent (25%) of the length of the program or one year, whichever is
18 shorter;

19 (ix) Adequate and safe equipment and facilities for training and supervision, and safety
20 training for apprentices on the job and in related instruction;

21 (x) The minimum qualifications required by a sponsor for persons entering the
22 apprenticeship program, with an eligible starting age not less than sixteen (16) years;

23 (xi) The placement of an apprentice under a written apprenticeship agreement that
24 conforms to the requirements of this chapter. The agreement shall directly, or by reference,
25 incorporate the standards of the program as part of the agreement;

26 (xii) The granting of advanced standing or credit for demonstrated competency
27 previously acquired experience, training, or skills for all applicants equally, with commensurate
28 wages for any progression step so granted;

29 (xiii) The transfer of an apprentice between apprenticeship programs and within an
30 apprenticeship program must be based on agreement between the apprentice and the affected
31 apprenticeship committees or program sponsors, and must comply with the following
32 requirements:

33 (A) The transferring apprentice must be provided a transcript of related instruction and
34 on-the-job learning by the committee or program sponsor;

- 1 (B) Transfer must be to the same occupation; and
- 2 (C) A new apprenticeship agreement must be executed when the transfer occurs between
3 program sponsors.
- 4 (xiv) Assurance of qualified training personnel and adequate supervision on the job;
- 5 (xv) Recognition for successful completion of apprenticeship evidenced by an
6 appropriate certificate issued by the department of labor and training;
- 7 (xvi) Program standards that utilize the competency-based or hybrid approach for
8 progression through an apprenticeship and that choose to issue interim credentials must clearly
9 identify the interim credentials, demonstrate how these credentials link to the components of the
10 apprenticeable occupation, and establish the process for assessing an individual apprentice's
11 demonstration of competency associated with the particular interim credential; further, interim
12 credentials must only be issued for recognized components of an apprenticeable occupation,
13 thereby linking interim credentials specifically to the knowledge, skills, and abilities associated
14 with those components of the apprenticeable occupation.
- 15 (xvii) Identification of the department of labor and training as the registration agency;
- 16 (xviii) Provision for the registration, cancellation, and deregistration of the program, and
17 requirement for the prompt submission of any modification or amendment to the department of
18 labor and training for approval;
- 19 (xix) Provision for registration of apprenticeship agreements, modifications, and
20 amendments; notice to the department of labor and training of persons who have successfully
21 completed apprenticeship programs; and notice of transfers, cancellations, suspensions, and
22 terminations of apprenticeship agreements and a statement of the reasons therefore;
- 23 (xx) Authority for the cancellation of an apprenticeship agreement during the
24 probationary period by either party without stated cause. Cancellation during the probationary
25 period will not have an adverse impact on the sponsor's completion rate;
- 26 (xxi) Compliance with 29 CFR 30, including the equal opportunity pledge prescribed in
27 29 CFR 30.3(b); an affirmative action plan complying with 29 CFR 30.4; and a method for the
28 selection of apprentices authorized by 29 CFR 30.5, or compliance with parallel requirements
29 contained in a state plan for equal opportunity in apprenticeship adopted under 29 CFR part 30
30 and approved by the department. The apprenticeship standards must also include a statement that
31 the program will be conducted, operated and administered in conformity with applicable
32 provisions of 29 CFR part 30, as amended, or if applicable, an approved state plan for equal
33 opportunity in apprenticeship;
- 34 (xxii) Name and address, telephone number and e-mail address (if applicable) of the

1 appropriate authority under the program to receive, process, and make disposition of complaints;
2 (xxiii) Recording and maintenance of all records concerning apprenticeship as may be
3 required by the office of apprenticeship or the department of labor and training and other
4 applicable law.

5 **28-45-13. Standards of apprenticeship agreements.** -- All apprenticeship agreements
6 submitted for approval and registration with the department of labor and training shall contain
7 explicitly or by reference standards adopted by the council, including:

8 (1) Names and signatures of the contracting parties (apprentice and the program sponsor
9 or employer), and the signature of a parent or guardian if the apprentice is a minor.

10 (2) The date of birth of apprentice and on a voluntary basis the social security number of
11 the apprentice.

12 (3) Name and address of the program sponsor and the registration agency.

13 (4) A statement of the occupation, trade or craft in which the apprentice is to be trained,
14 and the beginning date and term (duration) of apprenticeship.

15 (5) A statement showing:

16 (i) The number of hours to be spent by the apprentice in work on the job in a time-based
17 program or a description of the skill sets to be attained by completion of a competency-based
18 program, including the on-the-job learning component; or the minimum number of hours to be
19 spent by the apprentice and a description of the skill sets to be attained by completion of a hybrid
20 program.

21 (ii) The number of hours to be spent in related and supplemental instruction in technical
22 subjects related to the occupation which is recommended to be not less than one hundred forty-
23 four (144) hours per year.

24 (6) A statement setting forth a schedule of the work processes in the occupation or
25 industry divisions in which the apprentice is to be trained and the approximate time to be spent at
26 each process.

27 (7) A statement of the graduated scale of wages to be paid the apprentice and whether or
28 not the required related instruction shall be compensated, [including: terms and conditions, basic
29 rates of pay, and fringe benefits applicable to apprentices.](#)

30 (8) Statements providing:

31 (i) For a specific period of probation during which time the apprenticeship agreement
32 may be terminated by either party to the agreement upon written notice to the department of labor
33 and training, without adverse impact on the sponsor; and

34 (ii) That, after the probationary period, the agreement may be cancelled at the request of

1 the apprentice, or may be suspended, or terminated by the sponsor, for good cause, with due
2 notice to the apprentice and a reasonable opportunity for corrective action, and with written
3 notice to the apprentice and to the department of labor and training of the final action taken.

4 (9) A reference incorporating as part of the agreement the standards of the apprenticeship
5 program as it exists on the date of the agreement and as it may be amended during the period of
6 the agreement.

7 (10) A statement that the apprentice will be accorded equal opportunity in all phases of
8 apprenticeship employment, and training, without discrimination because of race, color, religion,
9 national origin, or sex.

10 (11) Name and address, phone and e-mail (if applicable) of the appropriate authority, if
11 any, designated under the program to receive, process and make disposition of controversies or
12 differences arising out of the apprenticeship agreement when the controversies or differences
13 cannot be adjusted locally or resolved in accordance with the established procedure or applicable
14 collective bargaining provisions.

15 **28-45-17. Union participation.** – (a) Under a program proposed for registration by an
16 employer or employers' association, and where the standards, collective bargaining agreement, or
17 other instrument provides for participation by a union in any manner in the operation of the
18 substantive matters of the apprenticeship program, and that participation is exercised, written
19 acknowledgement of union agreement or "no objection" to the registration is required. Where no
20 participation is evidenced and practiced, the employer or employers' association shall
21 simultaneously furnish to the union, if any, which is the collective bargaining agent of the
22 employees to be trained, a copy of its application for registration and of the apprenticeship
23 program. The department of labor and training shall provide a reasonable time period of not less
24 than thirty (30) days nor more than forty-five (45) days for receipt of union comments, if any,
25 before final action on the application for registration and/or approval.

26 (b) Any and all apprentices who are listed in a collective bargaining agreement shall be
27 paid the basic rate of pay, and fringe benefits, in accordance with the respective collective
28 bargaining agreement.

29 SECTION 2. Section 37-13-8 of the General Laws in Chapter 37-13 entitled "Labor and
30 Payment of Debts by Contractors" is hereby amended to read as follows:

31 **37-13-8. Investigation and determination of prevailing wages -- Filing of schedule. --**

32 The director of labor and training shall investigate and determine the prevailing wages and
33 payments made to or on behalf of employees, as set forth in section 37-13-7, paid in the trade or
34 occupation in the city, town, village, or other appropriate political subdivision of the state and

1 keep a schedule on file in his or her office of the customary prevailing rate of wages and
2 payments made to or on behalf of the employees which shall be open to public inspection. In
3 making a determination, the director of labor may adopt and use such appropriate and applicable
4 prevailing wage rate determinations as have been made by the secretary of labor of the United
5 States of America in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. section 276a;
6 [as further amended by 40 U.S.C. § 3141 CFR Part 5, including, but not limited to, § 5.5 \(4\)\(i\) as](#)
7 [it applies to "apprentices and trainees"](#); provided, however, that each contractor awarded a public
8 works contract after July 1, 2007 shall contact the department of labor and training on or before
9 July first of each year, for the duration of such contract to ascertain the prevailing wage rate of
10 wages on ~~a~~ [an](#) hourly basis and the amount of payment or contributions paid or payable on behalf
11 of each mechanic, laborer or worker employed upon the work contracted to be done each year
12 and shall make any necessary adjustments to such prevailing rate of wages and such payment or
13 contributions paid or payable on behalf of each such employee every July first.

14 SECTION 3. This act shall take effect upon passage and shall apply retroactively to all
15 collective bargaining agreements in effect on said date relating to apprentices' pay and fringe
16 benefits.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- APPRENTICESHIP PROGRAMS IN
TRADE AND INDUSTRY

1 This act would require that apprentices listed in a collective bargaining agreement be paid
2 the same basic rate of pay and fringe benefits in accordance with the respective collective
3 bargaining agreement.

4 This act would take effect upon passage and would apply retroactively to all collective
5 bargaining agreements in effect on said date relating to apprentices' pay and fringe benefits.

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