

Regular Session, 2014

SENATE BILL NO. 155

BY SENATOR NEVERS

WORKFORCE COMMISSION. Provides relative to apprenticeship. (gov sig)

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:382(B), 384(A), the introductory paragraph of 384(B) and (B)(2),
9 (3), and (4) and (C), 385(B), 386, the introductory paragraph of 387 and 387(9), 388, 389,
10 390 and 391 are hereby amended and reenacted to read as follows:

11 §382. Apprenticeship council

12 * * *

13 B. The apprenticeship council shall meet at the call of the executive director
14 or the director of apprenticeship and shall aid in formulating policies for the effective
15 administration of this Chapter. Subject to the approval of the executive director, the
16 apprenticeship council may recommend standards and procedures for registration
17 and de-registration of apprenticeship programs in conformity with established

1 programs approved by the ~~Office of Apprenticeship~~, United States Department of
 2 Labor, **Office of Apprenticeship** and for approval of apprenticeship agreements
 3 which in no case shall be lower than those prescribed by this Chapter and by the
 4 ~~Office of Apprenticeship~~, United States Department of Labor, **Office of**
 5 **Apprenticeship** or lower than approved national standards; shall issue such rules
 6 and regulations as may be necessary to carry out the intent and purposes thereof, and
 7 shall perform such other functions as the executive director may direct. Not less than
 8 once a year the apprenticeship council shall make a report, through the executive
 9 director, of its activities and findings to the legislature and to the public.

10 * * *

11 §384. Powers and duties of director

12 A. The director, under the supervision of the executive director and with the
 13 advice and guidance of the apprenticeship council, is authorized to administer the
 14 provisions of this Chapter. The director shall, in cooperation with the apprenticeship
 15 council, set up conditions and training standards for apprentice agreements, which
 16 shall in no case be lower than those prescribed by this Chapter and by the ~~Office of~~
 17 ~~Apprenticeship~~, United States Department of Labor, **Office of Apprenticeship** or
 18 lower than approved national standards.

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

20 * * *

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

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

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

27 * * *

28 C. The administration and supervision of related and supplemental instruction
 29 for apprentices, coordination of instruction with job experiences, and the selection

1 and training of teachers and coordinators for such instruction shall be the
 2 responsibility of local programs, acting under guidelines established by the ~~Office~~
 3 ~~of Apprenticeship, U. S.~~ **United States** Department of Labor, **Office of**
 4 **Apprenticeship.**

5 §385. Apprenticeship programs; registration and function

6 * * *

7 B. An apprenticeship program shall be registered in any trade or group of
 8 trades in accordance with this Chapter and with the standards of ~~the Office of~~
 9 ~~Apprenticeship, United States Department of Labor,~~ **Office of Apprenticeship.** An
 10 apprenticeship program shall cooperate with educational authorities in regard to the
 11 education of apprentices; shall establish a schedule of operations; shall establish
 12 wage rates and working conditions for apprentices; shall specify the ratio of
 13 apprentices to journey workers employed in any trade in accordance with this
 14 Chapter and the ~~Office of Apprenticeship, United States Department of Labor,~~
 15 **Office of Apprenticeship;** and shall adjust apprenticeship disputes.

16 * * *

17 §386. Apprentice defined

18 The term "apprentice" as used in this Chapter is defined as a worker at least
 19 sixteen years of age, **except where a higher minimum age standard is otherwise**
 20 **fixed by law,** who is employed to learn an apprenticeable occupation **under**
 21 **standards of apprenticeship as provided for in the Louisiana Administrative**
 22 **Code, Title 40, Part 4, §317 in order to fulfill the requirements of the Louisiana**
 23 **Administrative Code, Title 40, Part 4, §301,** and who has entered into a written
 24 apprentice agreement with an employer, an association of employers, or an
 25 organization of employees, providing for not less than two thousand hours of
 26 reasonably continuous employment, and for participation in an approved program
 27 of training through employment and through education in related and supplemental
 28 subjects.

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

1 Every ~~apprentice~~ **apprenticeship** agreement entered into under this Chapter
2 shall contain all of the following:

3 * * *

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

8 §388. Approval of ~~apprentice~~ **apprenticeship** agreements; signature

9 A. Every ~~apprentice~~ **apprenticeship** agreement under this Chapter shall be
10 approved and the apprentice ~~indentured~~ **registered** by the director **of apprenticeship**
11 within fifteen days of being properly submitted and found to be in conformity with
12 29 C.F.R. **Part** 30, the federal guidelines for equal opportunity in apprenticeship and
13 training; or the applicant, employer, and sponsor shall be notified immediately in
14 writing as to the reason for the agreement not being approved.

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

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

22 §389. Rotation of employment

23 For the purpose of providing greater diversity of training or continuity of
24 employment, any ~~apprentice~~ **apprenticeship** agreement made under this Chapter
25 may, ~~at the discretion of the director of apprenticeship~~, be signed by an association
26 ~~of employers or an organization of employees~~ **a joint or non-joint committee**
27 instead of by an individual employer. In such a case, apprenticeship program
28 standards shall expressly provide that the ~~association of employers or organization~~
29 ~~of employees~~ **apprenticeship committee** does not assume the obligation of an

1 employer but agrees to use its best endeavors to procure employment and training
2 for the apprentice with one or more employers who will accept full responsibility for
3 all the terms and conditions of employment and training set forth in the agreement
4 between the apprentice and ~~employer association or employee organization~~ **the**
5 **apprenticeship committee** during the period of each employment. ~~The~~
6 ~~apprenticeship program standards in such a case shall also expressly provide for the~~
7 ~~transfer of the apprentice, subject to the approval of the director, to such employer~~
8 ~~or employers who shall sign a written agreement with the apprentice, and, if the~~
9 ~~apprentice is a minor, with his parent or legal guardian, as specified in R.S. 23:388~~
10 ~~contracting to employ the apprentice for the whole or a definite part of the total~~
11 ~~period of apprenticeship under the terms and conditions of employment and training~~
12 ~~set forth in the agreement entered into between the apprentice and employer~~
13 ~~association or employee organization.~~

14 §390. Settlement of controversies or complaints

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

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

28 **(2) Matters covered by a collective bargaining agreement are not to be**
29 **reviewed pursuant to this Section. Complaint procedures for the settlement of**

1 **complaints shall be conducted in accordance with the Louisiana Administrative**
2 **Code, Title 40, Part 4, §309.**

3 C. Upon the complaint of any interested person or upon his own initiative,
4 the director **of apprenticeship** may investigate to determine if there has been a
5 violation of the terms of an ~~apprentice~~ **apprenticeship** agreement made under this
6 Chapter and hold hearings, inquiries, and other proceedings necessary to such
7 investigations and determination. The director shall investigate programs only as
8 necessary to establish compliance, and then only upon proper notice. The parties to
9 such agreement shall be given a fair and impartial hearing, after reasonable notice
10 thereof. All hearings, investigations, and determinations shall be made under
11 authority of reasonable rules and procedure prescribed by the apprenticeship council,
12 subject to the approval of the executive director.

13 ~~B.D.~~ The determination of the director **of apprenticeship** shall be filed with
14 the executive director. If no appeal therefrom is filed with the executive director
15 within twenty days after the date thereof, such determination shall become the order
16 of the executive director. Any person aggrieved by any determination or action of the
17 director may appeal therefrom to the executive director who shall hold a hearing
18 thereon, after due notice to the interested parties. Orders and decisions of the
19 executive director shall be prima facie lawful and reasonable if supported by
20 reasonable and competent evidence. Any party to an ~~apprentice~~ **apprenticeship**
21 agreement aggrieved by an order or decision of the executive director may appeal to
22 the courts on questions of law. The decision of the executive director shall be
23 conclusive if no appeal therefrom is filed within thirty days after the date of the order
24 or decision.

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

28 **F. The provisions of this Section shall not be construed to preclude an**
29 **apprentice from pursuing any remedy to address prohibited discrimination in**

1 employment which is otherwise available in any other Chapter of this Title, in
 2 any other Title of the Louisiana Revised Statutes of 1950, in federal law, or in
 3 any local ordinance.

4 §391. Limitation

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

9 (1) An apprenticeship provision in any collective bargaining agreement
 10 between employers and employees establishing higher apprenticeship
 11 standards.

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

15 Section 1. This Act shall become effective upon signature by the governor or, if not
 16 signed by the governor, upon expiration of the time for bills to become law without signature
 17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 19 effective on the day following such approval.

The original instrument was prepared by Carla S. Roberts. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Nancy Vicknair.

DIGEST

Nevers (SB 155)

Present law provides that the director shall, in cooperation with the apprenticeship council, set up conditions and training standards for apprentice agreements, which shall in no case be lower than those prescribed by the Office of Apprenticeship, United States Department of Labor, or lower than approved national standards.

Proposed law retains present law but makes technical changes.

Present law provides that "apprentice" is defined as a worker at least 16 years of age, who is employed to learn an apprenticeable occupation.

Proposed law retains present law but provides that "apprentice" shall mean a worker older than 16 years of age where a higher minimum age standard is otherwise fixed by law or

rules and regulations.

Present law provides that, upon the complaint of any interested person or upon his own initiative, the director of apprenticeship may investigate to determine if there has been a violation of the terms of an apprentice agreement and hold hearings, inquiries, and other proceedings necessary to such investigations and determination. Present law provides that the director shall investigate programs only as necessary to establish compliance, and then only upon proper notice. Present law provides that the parties to such agreement shall be given a fair and impartial hearing, after reasonable notice thereof.

Proposed law retains present law but provides that the director of apprenticeship may not investigate or conduct hearings regarding prohibited discrimination (e.g. age, disability, veteran status, race, color, religion, sex, national origin, pregnancy, childbirth, sickle cell traits, protected genetic information).

Proposed law provides that, except in cases of prohibited discrimination, any disagreement arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice, or by the apprentices authorized representative, within 60 days of the final local decision, to the Director of Apprenticeship, Louisiana Workforce Commission-Apprenticeship Division.

Proposed law provides that proposed law shall not be construed to preclude an apprentice from pursuing any remedy to address prohibited discrimination in employment which is otherwise available in any other part of the labor code, in any part of La. law, in federal law, or in local ordinance.

Proposed law provides that proposed law shall invalidate any of the following:

- (1) An apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards.
- (2) Any provisions of prohibited discrimination in employment which are contained in any other part of the labor code, in any part of La. law, in federal law, or in any local ordinance.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 23:382(B), 384(A), 384(B)(intro para) and (B)(2), (3), and (4) and (C), 385(B), 386, 387(intro para) and 387(9), 388, 389, 390, and 391)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.