

S.B. 413

SENATE BILL NO. 413—COMMITTEE ON FINANCE

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

APRIL 16, 2009

Referred to Committee on Finance

SUMMARY—Eliminates the duty of the Labor Commissioner to oversee private apprenticeship programs. (BDR 53-1200)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to apprenticeships; eliminating the duty of the Labor Commissioner to oversee private apprenticeship programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 9** of this bill repeals chapter 610 of NRS, which has the effect of
2 eliminating the duty of the Labor Commissioner to oversee private apprenticeship
3 programs and transfers the oversight of such programs to the United States
4 Department of Labor. **Sections 1-8** of this bill revise references to private
5 apprenticeship programs to clarify oversight by the United States Department of
6 Labor. (NRS 612.607, 616A.215, 338.080, 361.106, 372.3261, 374.3306, 483.330,
7 624.260)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 612.607 is hereby amended to read as follows:
2 612.607 1. All payments collected pursuant to NRS 612.606
3 must be deposited in the Unemployment Compensation
4 Administration Fund. At the end of each fiscal year, the State
5 Controller shall transfer to the Clearing Account in the
6 Unemployment Compensation Fund the amount by which
7 the unencumbered balance of the money deposited in the



1 Unemployment Compensation Administration Fund pursuant to this
2 subsection exceeds the amount of that money which the Legislature
3 has authorized for expenditure during the first 90 days of the
4 succeeding fiscal year.

5 2. Except for money transferred from the Unemployment
6 Compensation Administration Fund pursuant to subsection 1, the
7 Administrator may only expend the money collected for the
8 employment and training of unemployed persons and persons
9 employed in this State to:

10 (a) Establish and administer an employment training program
11 which must foster job creation, minimize unemployment costs of
12 employers and meet the needs of employers for skilled workers by
13 providing training to unemployed persons;

14 (b) Establish or provide support for job training programs in the
15 public and private sectors for training, retraining or improving the
16 skills of persons employed in this State; and

17 (c) Pay the costs of the collection of payments required pursuant
18 to NRS 612.606.

19 3. The money used for the program for the employment and
20 training of unemployed persons and persons employed in this State
21 must supplement and not displace money available through existing
22 employment training programs conducted by any employer or
23 public agency and must not replace, parallel, supplant, compete with
24 or duplicate in any way existing apprenticeship programs approved
25 ~~[by the State Apprenticeship Council.]~~ pursuant to 29 C.F.R.
26 *Part 29.*

27 **Sec. 2.** NRS 616A.215 is hereby amended to read as follows:

28 616A.215 1. Except as otherwise provided in subsection 3,
29 any person who is an apprentice or trainee shall be deemed for the
30 purposes of chapters 616A to 616D, inclusive, of NRS to be an
31 employee of an apprenticeship committee registered ~~[with the State~~
32 ~~Apprenticeship Council.]~~ pursuant to 29 C.F.R. *Part 29* at a wage of
33 \$150 per month while he is:

34 (a) Attending a class for vocational training; or

35 (b) Receiving bona fide instruction as an apprentice or trainee,
36 ➤ under the direction of the apprenticeship committee. Such an
37 apprentice or trainee is entitled to the benefits of chapters 616A to
38 616D, inclusive, of NRS.

39 2. A person who is an apprentice or trainee shall be deemed for
40 the purposes of chapters 616A to 616D, inclusive, of NRS to be an
41 employee of an employer who is participating in a program of
42 training and instruction as an apprentice or trainee approved
43 pursuant to ~~[chapter 610 of NRS]~~ 29 C.F.R. *Part 29* while:

44 (a) The apprentice or trainee is performing work for that
45 employer; and



(b) The employer is paying the apprentice or trainee a wage for the work performed.

➔ The apprentice or trainee shall be deemed to be an employee at a wage equal to his average monthly wage as determined pursuant to the regulations adopted by the Administrator pursuant to NRS 616C.420 and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS.

3. If an apprentice or trainee who is employed by an employer participating in a program of training and instruction is injured while he is deemed to be an employee of the apprenticeship committee pursuant to subsection 1 and the apprentice or trainee is unable to work for an employer participating in the program solely because of that injury, the apprentice or trainee shall be deemed to be an employee of the apprenticeship committee at a wage of \$150 per month or at his average monthly wage as determined pursuant to the regulations adopted by the Administrator pursuant to NRS 616C.420, whichever is greater.

4. As used in this section, "trainee" means a person who is under the direction of an apprenticeship committee specified in subsection 1 and, for that purpose, is described by that apprenticeship committee as a "journeyworker trainee."

Sec. 3. NRS 338.080 is hereby amended to read as follows:

338.080 None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices ~~recorded~~ *registered* under the provisions of ~~chapter 610 of NRS.~~ *29 C.F.R. Part 29.*

3. Any contract for a public work whose cost is less than \$100,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below \$100,000.

Sec. 4. NRS 361.106 is hereby amended to read as follows:

361.106 1. Except as otherwise provided in subsection 2, the real and personal property of an apprenticeship program is exempt from taxation if the property is:

(a) Held in a trust created pursuant to 29 U.S.C. § 186; or

(b) Owned by ~~a local or state~~ *an* apprenticeship committee and the apprenticeship program is:

(1) Operated by an organization which is qualified pursuant to 26 U.S.C. § 501(c)(3) or (5); and



(2) Registered and approved ~~[by the State Apprenticeship Council pursuant to chapter 610 of NRS.]~~ *pursuant to 29 C.F.R. Part 29.*

2. If any property exempt from taxation pursuant to subsection 1 is used for a purpose other than that of the apprenticeship program required in subsection 1, and a rent or other valuable consideration is received for its use, the property must be taxed, unless the rent or other valuable consideration is paid or given by an organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

Sec. 5. NRS 372.3261 is hereby amended to read as follows:

372.3261 1. For the purposes of NRS 372.326, an organization is created for religious, charitable or educational purposes if it complies with the provisions of this section.

2. An organization is created for religious purposes if:

(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men's, women's or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.

3. An organization is created for charitable purposes if:

(a) It complies with the requirements set forth in subsection 5;

(b) The sole or primary purpose of the organization is to:

(1) Advance a public purpose, donate or render gratuitously or at a reduced rate a substantial portion of its services to the persons who are the subjects of its charitable services, and benefit a substantial and indefinite class of persons who are the legitimate subjects of charity;

(2) Provide services that are otherwise required to be provided by a local government, this State or the Federal Government; or

(3) Operate a hospital or medical facility licensed pursuant to chapter 449 or 450 of NRS; and

(c) The organization is operating in this State.

4. An organization is created for educational purposes if:

(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is to:

(1) Provide athletic, cultural or social activities for children;



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(2) Provide displays or performances of the visual or performing arts to members of the general public;

(3) Provide instruction and disseminate information on subjects beneficial to the community;

(4) Operate a school, college or university located in this State that conducts regular classes and provides courses of study required for accreditation or licensing by the State Board of Education or the Commission on Postsecondary Education, or for membership in the Northwest ~~[Association of Schools and of]~~ *Commission on* Colleges and Universities;

(5) Serve as ~~[a local or state]~~ *an* apprenticeship committee to advance programs of apprenticeship in this State; or

(6) Sponsor programs of apprenticeship in this State through a trust created pursuant to 29 U.S.C. § 186.

5. In addition to the requirements set forth in subsection 2, 3 or 4, an organization is created for religious, charitable or educational purposes if:

(a) No part of the net earnings of any such organization inures to the benefit of a private shareholder, individual or entity;

(b) The business of the organization is not conducted for profit;

(c) No substantial part of the business of the organization is devoted to the advocacy of any political principle or the defeat or passage of any state or federal legislation;

(d) The organization does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and

(e) Any property sold to the organization for which an exemption is claimed is used by the organization in this State in furtherance of the religious, charitable or educational purposes of the organization.

Sec. 6. NRS 374.3306 is hereby amended to read as follows:

374.3306 1. For the purposes of NRS 374.3305, an organization is created for religious, charitable or educational purposes if it complies with the provisions of this section.

2. An organization is created for religious purposes if:

(a) It complies with the requirements set forth in subsection 5; and

(b) The sole or primary purpose of the organization is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men's, women's or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.



- 1 3. An organization is created for charitable purposes if:
- 2 (a) It complies with the requirements set forth in subsection 5;
- 3 (b) The sole or primary purpose of the organization is to:
- 4 (1) Advance a public purpose, donate or render gratuitously
- 5 or at a reduced rate a substantial portion of its services to the
- 6 persons who are the subjects of its charitable services, and benefit a
- 7 substantial and indefinite class of persons who are the legitimate
- 8 subjects of charity;
- 9 (2) Provide services that are otherwise required to be
- 10 provided by a local government, this State or the Federal
- 11 Government; or
- 12 (3) Operate a hospital or medical facility licensed pursuant to
- 13 chapter 449 or 450 of NRS; and
- 14 (c) The organization is operating in this State.
- 15 4. An organization is created for educational purposes if:
- 16 (a) It complies with the requirements set forth in subsection 5;
- 17 and
- 18 (b) The sole or primary purpose of the organization is to:
- 19 (1) Provide athletic, cultural or social activities for children;
- 20 (2) Provide displays or performances of the visual or
- 21 performing arts to members of the general public;
- 22 (3) Provide instruction and disseminate information on
- 23 subjects beneficial to the community;
- 24 (4) Operate a school, college or university located in this
- 25 State that conducts regular classes and provides courses of study
- 26 required for accreditation or licensing by the State Board of
- 27 Education or the Commission on Postsecondary Education, or for
- 28 membership in the Northwest ~~[Association of Schools and of]~~
- 29 ~~Commission on~~ Colleges and Universities;
- 30 (5) Serve as ~~[a local or state]~~ *an* apprenticeship committee to
- 31 advance programs of apprenticeship in this State; or
- 32 (6) Sponsor programs of apprenticeship in this State through
- 33 a trust created pursuant to 29 U.S.C. § 186.
- 34 5. In addition to the requirements set forth in subsection 2, 3 or
- 35 4, an organization is created for religious, charitable or educational
- 36 purposes if:
- 37 (a) No part of the net earnings of any such organization inures to
- 38 the benefit of a private shareholder, individual or entity;
- 39 (b) The business of the organization is not conducted for profit;
- 40 (c) No substantial part of the business of the organization is
- 41 devoted to the advocacy of any political principle or the defeat or
- 42 passage of any state or federal legislation;
- 43 (d) The organization does not participate or intervene in any
- 44 political campaign on behalf of or in opposition to any candidate for
- 45 public office; and



(e) Any property sold to the organization for which an exemption is claimed is used by the organization in this State in furtherance of the religious, charitable or educational purposes of the organization.

Sec. 7. NRS 483.330 is hereby amended to read as follows:

483.330 1. The Department may require every applicant for a driver's license, including a commercial driver's license issued pursuant to NRS 483.900 to 483.940, inclusive, to submit to an examination. The examination may include:

(a) A test of the applicant's ability to understand official devices used to control traffic;

(b) A test of his knowledge of practices for safe driving and the traffic laws of this State;

(c) Except as otherwise provided in subsection 2, a test of his eyesight; and

(d) Except as otherwise provided in subsection 3, an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or class of vehicle for which he is to be licensed.

➤ The examination may also include such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to drive a motor vehicle safely upon the highways.

2. The Department may provide by regulation for the acceptance of a report from an ophthalmologist, optician or optometrist in lieu of an eye test by a driver's license examiner.

3. If the Department establishes a type or classification of driver's license to operate a motor vehicle of a type which is not normally available to examine an applicant's ability to exercise ordinary and reasonable control of such a vehicle, the Department may, by regulation, provide for the acceptance of an affidavit from a:

(a) Past, present or prospective employer of the applicant; or

(b) ~~Local joint~~ **Joint** apprenticeship committee which had jurisdiction over the training or testing, or both, of the applicant, ➤ in lieu of an actual demonstration.

4. The Department may waive an examination pursuant to subsection 1 for a person applying for a Nevada driver's license who possesses a valid driver's license of the same type or class issued by another jurisdiction unless that person:

(a) Has not attained 25 years of age;

(b) Has had his license or privilege to drive a motor vehicle suspended, revoked or cancelled or has been otherwise disqualified from driving during the immediately preceding 4 years;



(c) Has been convicted of a violation of NRS 484.37955 or, during the immediately preceding 7 years, of a violation of NRS 484.379, 484.3795 or 484.379778 or a law of any other jurisdiction that prohibits the same or similar conduct;

(d) Has restrictions to his driver's license which the Department must reevaluate to ensure the safe driving of a motor vehicle by that person;

(e) Has had three or more convictions of moving traffic violations on his driving record during the immediately preceding 4 years; or

(f) Has been convicted of any of the offenses related to the use or operation of a motor vehicle which must be reported pursuant to the provisions of Parts 1327 et seq. of Title 23 of the Code of Federal Regulations relating to the National Driver Register Problem Driver Pointer System during the immediately preceding 4 years.

Sec. 8. NRS 624.260 is hereby amended to read as follows:

624.260 1. The Board shall require an applicant or licensee to show such a degree of experience, financial responsibility and such general knowledge of the building, safety, health and lien laws of the State of Nevada and the administrative principles of the contracting business as the Board deems necessary for the safety and protection of the public.

2. An applicant or licensee may qualify in regard to his experience and knowledge in the following ways:

(a) If a natural person, he may qualify by personal appearance or by the appearance of his responsible managing employee.

(b) If a copartnership, a corporation or any other combination or organization, it may qualify by the appearance of the responsible managing officer or member of the personnel of the applicant firm.

➤ If an applicant or licensee intends to qualify pursuant to this subsection by the appearance of another person, the applicant or licensee shall submit to the Board such information as the Board determines is necessary to demonstrate the duties and responsibilities of the other person so appearing with respect to the supervision and control of the operations of the applicant or licensee relating to construction.

3. The natural person qualifying on behalf of another natural person or firm under paragraphs (a) and (b) of subsection 2 must prove that he is a bona fide member or employee of that person or firm and when his principal or employer is actively engaged as a contractor shall exercise authority in connection with his principal or employer's contracting business in the following manner:

(a) To make technical and administrative decisions;



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(b) To hire, superintend, promote, transfer, lay off, discipline or discharge other employees and to direct them, either by himself or through others, or effectively to recommend such action on behalf of his principal or employer; and

(c) To devote himself solely to his principal or employer's business and not to take any other employment which would conflict with his duties under this subsection.

4. A natural person may not qualify on behalf of another for more than one active license unless:

(a) One person owns at least 25 percent of each licensee for which he qualifies; or

(b) One licensee owns at least 25 percent of the other licensee.

5. Except as otherwise provided in subsection 6, in addition to the other requirements set forth in this section, each applicant for licensure as a contractor must have had, within the 10 years immediately preceding the filing of his application for licensure, at least 4 years of experience as a journeyman, foreman, supervising employee or contractor in the specific classification in which he is applying for licensure. Training received in a program offered at an accredited college or university or an equivalent program accepted by the Board may be used to satisfy not more than 3 years of experience required pursuant to this subsection.

6. If the applicant who is applying for licensure has previously qualified for a contractor's license in the same classification in which he is applying for licensure, the experience required pursuant to subsection 5 need not be accrued within the 10 years immediately preceding the application.

7. As used in this section, "journeyman" means a person who:

(a) Is fully qualified to perform, without supervision, work in the classification in which he is applying for licensure; or

(b) Has successfully completed:

(1) A program of apprenticeship for the classification in which he is applying for licensure that has been approved ~~by the State Apprenticeship Council;~~ pursuant to 29 C.F.R. Part 29; or

(2) An equivalent program accepted by the Board.

Sec. 9. NRS 610.010, 610.020, 610.030, 610.040, 610.050, 610.060, 610.070, 610.080, 610.090, 610.095, 610.100, 610.110, 610.120, 610.140, 610.144, 610.146, 610.150, 610.160, 610.170, 610.180, 610.185 and 610.190 are hereby repealed.

Sec. 10. This act becomes effective upon passage and approval.



LEADLINES OF REPEALED SECTIONS

- 610.010 Definitions.
- 610.020 Purposes.
- 610.030 Creation; members.
- 610.040 Terms of office of members.
- 610.050 Vacancies.
- 610.060 Officers.
- 610.070 Meetings.
- 610.080 Compensation of members and employees.
- 610.090 Duties.
- 610.095 Additional duties.
- 610.100 Report to Legislature and public.
- 610.110 Labor Commissioner to be State Director of Apprenticeship.
- 610.120 Powers of State Director of Apprenticeship.
- 610.140 Duties of local or state joint apprenticeship committees.
- 610.144 Requirements for program to be eligible for registration and approval by State Apprenticeship Council.
- 610.146 Representation of employees and apprentices in management of program with more than one employer.
- 610.150 Required contents of agreement.
- 610.160 Approval of agreement; signatures; training extending into majority.
- 610.170 Agreement signed by association of employers or organization of employees.
- 610.180 Violations of programs or agreements: Investigations; hearings; appeals; exhaustion of administrative remedies.
- 610.185 Suspension of right to participate in program if discrimination practiced.
- 610.190 Effect of chapter on collective bargaining agreement establishing higher standards.

