

Amendment No. 828

Assembly Amendment to Senate Bill No. 207 First Reprint	(BDR 28-740)
Proposed by: Assembly Committee on Government Affairs	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: Yes Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 207—SENATORS BROOKS, DENIS, CANNIZZARO; CANCELA,
DONDERO LOOP, D. HARRIS, OHRENSCHALL, PARKS, RATTI, SCHEIBLE,
SPEARMAN AND WOODHOUSE

FEBRUARY 18, 2019

JOINT SPONSORS: ASSEMBLYMEN CARRILLO, DURAN, MARTINEZ AND SMITH

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing apprentices. (BDR 28-740)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 apprentices; requiring a contractor or subcontractor to comply with certain requirements relating to the use of apprentices on public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the State Apprenticeship Council and requires the Council to establish standards for programs of apprenticeship. (NRS 610.030, 610.090, 610.095) The purposes of such programs include, without limitation: (1) creating of the opportunity for persons to obtain training that will equip those persons to obtain profitable employment and citizenship; and (2) establishing an organized program for the voluntary training of those persons by providing facilities for training and guidance in the arts and crafts of industry and trade. (NRS 610.020) Existing law sets forth the requirements for a public body which sponsors or finances a public work to award a contract to a contractor for the construction of the public work. (Chapter 338 of NRS) Such requirements include, without limitation: (1) the payment of the prevailing wage in the county in which the public work is located; and (2) the establishment of certain fair employment practices for contractors in connection with the performance of work under the contract awarded by the public body. (NRS 338.020, 338.125)

Section ~~HH~~ 1.7 of this bill requires a contractor or subcontractor engaged on a public work to employ one or more apprentices for a certain percentage of the total hours of labor performed on a public work, depending on the type of work performed. **Section ~~HH~~ 1.7** authorizes the Labor Commissioner to adjust the percentage of total hours of labor required to be performed by an apprentice beginning on January 1, ~~2022~~ 2021. **Section ~~HH~~ 1.7** also authorizes the Labor Commissioner to grant a modification or waiver from the requirements if the Labor Commissioner finds that there is good cause to do so. **Section ~~HH~~ 1.7** further requires that an apprentice who graduates from an apprenticeship program while employed on a public work be deemed: (1) an apprentice for certain purposes; and (2) a journeyman for certain other purposes, including, without limitation, the payment of wages. **Section 1.7 also requires a contractor or subcontractor to enter into an apprenticeship agreement for all apprentices required to be used in the construction of a public work.**

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. *The Legislature hereby finds and declares that:*

1. A skilled workforce in construction is essential to the economic well-being of this State;

2. Apprenticeship programs are a proven method of training a skilled workforce in construction; and

3. Requiring the use of apprentices on the construction of public works will ensure the availability of a skilled workforce in construction in the future for this State.

Sec. 1.7. 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, a contractor or subcontractor engaged in vertical construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least ~~15~~ 10 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work ~~for which more than three workers are employed.~~

2. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, a contractor or subcontractor engaged in horizontal construction who employs a worker on a public work pursuant to NRS 338.040 shall use one or more apprentices for at least ~~15~~ 3 percent of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work ~~for which more than three workers are employed.~~

3. On or after January 1, ~~2022~~ 2021, the Labor Commissioner, in collaboration with the State Apprenticeship Council, may adopt regulations to ~~modify~~ increase the percentage of total hours of labor required to be performed by an apprentice pursuant to subsection 1 or 2 by not more than 2 percentage points.

4. An apprentice who graduates from an apprenticeship program while employed on a public work shall:

(a) Be deemed an apprentice on the public work for the purposes of subsections 1 and 2.

(b) Be deemed a journeyman for all other purposes, including, without limitation, the payment of wages or the payment of wages and benefits to a journeyman covered by a collective bargaining agreement.

5. A contractor or subcontractor engaged on a public work is not required to use an apprentice in a craft or type of work ~~that is not an apprenticed~~ performed in a jurisdiction recognized by the State Apprenticeship Council as not having apprentices in that craft or type of work.

6. A public body may, upon the request of a contractor or subcontractor, submit a request to the Labor Commissioner to modify or waive the percentage of hours of labor provided by one or more apprentices required pursuant to subsection 1 or 2 for good cause. A public body must submit such a request, ~~including, without limitation, any supporting documentation, within 15 days after~~ before an advertisement for bids has been placed, the opening of bids or the award of a contract for a public work ~~for~~ or after the public body has commenced work on the public work. Such a request must include any supporting documentation, including, without limitation, proof of denial of or failure to

approve a request for apprentices pursuant to subparagraph (3) of paragraph (d) of subsection 10.

7. The Labor Commissioner shall issue a determination of whether to grant a modification or waiver requested pursuant to subsection 6 within 15 days after the receipt of such request. The Labor Commissioner may grant such a request if he or she makes a finding that there is good cause to modify or waive the percentage of hours of labor provided by one or more apprentices required pursuant to subsection 1 or 2.

8. A public body, contractor or subcontractor may request a hearing on the determination of the Labor Commissioner within 10 days after receipt of the determination of the Labor Commissioner. The hearing must be conducted in accordance with regulations adopted by the Labor Commissioner. If the Labor Commissioner does not receive a request for a hearing pursuant to this subsection, the determination of the Labor Commissioner is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.

9. A contractor or subcontractor engaged on a public work shall enter into an apprenticeship agreement for all apprentices required to be used in the construction of a public work. If the Labor Commissioner granted a modification or waiver pursuant to subsection 7 because the Labor Commissioner finds that a request for apprentices was denied or the request was not approved within 5 business days as described in subparagraph (3) of paragraph (d) of subsection 10 and apprentices are later provided, then the contractor or subcontractor shall enter into an apprenticeship agreement for all apprentices later provided.

10. As used in this section:

(a) "Apprentice" means a person enrolled in an apprenticeship program recognized by the State Apprenticeship Council.

(b) "Apprenticed craft or type of work" means a craft or type of work for which there is an existing apprenticeship program recognized by the State Apprenticeship Council.

(c) "Apprenticeship program" means an apprenticeship program recognized by the State Apprenticeship Council.

(d) "Good cause" means:

(1) There are no apprentices available from an apprenticeship program within the jurisdiction where the public work is to be completed as recognized by the State Apprenticeship Council;

(2) The contractor or subcontractor is required to perform uniquely complex or hazardous tasks on the public work that require the skill and expertise of a greater percentage of journeymen; or

(3) The contractor or subcontractor has requested apprentices from an apprenticeship program and the request has been denied or the request has not been approved within 5 business days.

The term does not include the refusal of a contractor or subcontractor to enter into an apprenticeship agreement pursuant to subsection 9.

(e) "Journeyman" has the meaning ascribed to it in NRS 624.260.

(f) "State Apprenticeship Council" means the State Apprenticeship Council created by NRS 610.030.

Sec. 2. NRS 338.015 is hereby amended to read as follows:

338.015 1. The Labor Commissioner shall enforce the provisions of NRS 338.010 to 338.130, inclusive, ~~and~~ and section ~~1.7~~ 1.7 of this act.

2. In addition to any other remedy or penalty provided in this chapter, if any person, including, without limitation, a public body, violates any provision of NRS 338.010 to 338.130, inclusive, ~~and~~ and section ~~1.7~~ 1.7 of this act, or any regulation adopted pursuant thereto, the Labor Commissioner may, after providing the person

1 with notice and an opportunity for a hearing, impose against the person an
2 administrative penalty of not more than \$5,000 for each such violation.

3 3. The Labor Commissioner may, by regulation, establish a sliding scale
4 based on the severity of the violation to determine the amount of the administrative
5 penalty to be imposed against the person pursuant to this section.

6 4. The Labor Commissioner shall report the violation to the Attorney General,
7 and the Attorney General may prosecute the person in accordance with law.

8 **Sec. 3.** (Deleted by amendment.)

9 **Sec. 4.** (Deleted by amendment.)

10 **Sec. 5.** (Deleted by amendment.)

11 **Sec. 6.** (Deleted by amendment.)

12 **Sec. 7.** (Deleted by amendment.)

13 **Sec. 7.5.** The amendatory provisions of this act do not apply to a contract for
14 a public work for which bids have been submitted before January 1, 2020.

15 **Sec. 8.** This act becomes effective on January 1, 2020.