



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 291
[2009 Senate Bill 586]

Apprenticeships

2009 Wisconsin Act 291 makes changes to laws relating to apprenticeships. The major provisions of the Act are summarized below.

WISCONSIN APPRENTICESHIP COUNCIL

Prior law provides for the creation of a Wisconsin Apprenticeship Council appointed by the Labor and Industry Review Commission.

The Act specifies the membership of the Council, changes who appoints members of the Council, and requires that all members of the Council be familiar with apprenticeable occupations. Consequently, under the Act, the Council consists of the following members: (1) nine representatives of employers, appointed by the Secretary of the Department of Workforce Development (DWD); (2) nine representatives of employees, appointed by the DWD Secretary; (3) one representative of the Wisconsin Technical College System (WTCS), appointed by the WTCS director; (4) one representative of the Department of Public Instruction, appointed by the State Superintendent of Public Instruction; (5) two members who represent the public interest, appointed by the DWD Secretary; and (6) one permanent classified employee of DWD to serve as nonvoting chairperson, appointed by the DWD Secretary.

DEFINITIONS

Prior law defines “apprentice,” “indenture,” and “organization” for purposes of apprentice programs. *The Act* modifies the definition of “apprentice”; replaces the term “indenture” with “apprentice contract” and modifies the definition; and replaces the term “organization” with “sponsor” and modifies the definition. The Act also defines “apprenticeship committee,” “apprenticeship program,” “employer,” “joint apprenticeship committee,” and “nonjoint apprenticeship committee.”

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

FORMATION OF APPRENTICE CONTRACT

Prior law provides that an indenture must be in writing and executed in triplicate. One of the triplicate originals must be delivered to the apprentice, one must be retained by the employer, and one must be filed with DWD. *The Act* repeals these provisions.

Prior law provides that an indenture must be signed by the apprentice and employer. *The Act* provides that an apprentice contract must be in writing and signed by the apprentice, DWD, and the sponsor or an apprenticeship committee acting as the sponsor's agent.

Prior law specifies the information that an indenture must contain. *The Act* provides, instead, that DWD must specify, by rule, the provisions that must be included in an apprentice contract.

ASSIGNMENT OF APPRENTICE CONTRACT

The Act replaces several prior law provisions regarding assignment of apprentice contracts with the provisions described in the following three paragraphs.

First, the Act provides that upon entering into an apprentice contract, a sponsor that is not the proposed employer of the apprentice, or an apprenticeship committee acting as the sponsor's agent, must, with the acceptance of the apprentice contract by the proposed employer, assign the apprentice contract to the employer. The employer and apprentice named in the assignment are bound by the terms of the apprentice contract.

Second, the Act provides that DWD must furnish a copy of an acceptance to each party that has signed the apprentice contract. A sponsor or apprenticeship committee that enters into an apprentice contract has the exclusive right to assign or reassign the apprentice contract to another sponsor, and the apprentice may not be permitted to enter into any other apprentice contract. The period transpiring before assignment to an employer or reassignment to another employer may not be credited toward the term of apprenticeship. DWD approval is required in each transaction.

Third, the Act provides that a sponsor or apprenticeship committee that enters into an apprentice contract may reassign the apprentice contract to a different employer, but the apprentice may not be bound by a reassignment unless that employer accepts the terms of the apprentice contract and agrees to perform the unperformed obligations of the apprentice contract. After a reassignment, the new employer must perform the unperformed obligations of the apprentice contract. DWD must continue to have jurisdiction over an apprentice contract reassigned and the parties bound after the reassignment.

TERMINATION OF APPRENTICE CONTRACT

Prior law provides that DWD may, *after due notice and a hearing*, make findings and issue orders declaring any indenture at an end if an apprentice, employer, or organization that is a party to the indenture is unable to continue with the obligations under the indenture or has breached the indenture.

The Act provides that DWD may, *after due notice, investigation, and, if requested by the apprentice, employer, or sponsor, a hearing*, make findings and issue an order terminating an apprentice contract if an apprentice, employer, or sponsor that is a party to the apprentice contract is unable to continue with the obligations under the apprentice contract or has breached the apprentice contract.

RELATED INSTRUCTION

Prior law provides that an indenture must contain an agreement stating the number of hours to be spent in work and in instruction. During the first two years of an apprenticeship, the apprentice's instruction must be not less than four hours per week or the equivalent. If the apprenticeship is longer than two years, the total hours of instruction must be not less than 400 hours. The total number of hours of instruction and work may not exceed 55 per week.

The Act provides that during the first two years of an apprenticeship, the sponsor must provide for the apprentice not less than 144 hours per year of related instruction. If the apprenticeship is longer than two years, the sponsor must provide for the apprentice not less than a total of 400 hours of related instruction over the term of the apprenticeship. If the apprentice receives classroom instruction, the sponsor must provide for the apprentice not less than four hours of related instruction or the equivalent during each week that the school providing the classroom instruction is in session. The total number of hours of related instruction and work that a sponsor may assign to an apprentice may not exceed 55 per week.

Prior law provides that an employer must pay an apprentice for the time an apprentice is receiving related instruction for not less than the number of hours required by statute at the same rate per hour as for services. *The Act* provides that an employer must pay an apprentice for not less than the number of hours of related instruction required by statute *or the number of hours of related instruction specified in the apprentice contract, whichever is greater*, at the same rate per hour as the employer pays the apprentice for services performed.

Prior law provides that attendance at school must be certified by the teacher in charge. *The Act* provides that the provider of related instruction must submit reports on the apprentice's attendance and grades to DWD and the sponsor in accordance with standards set by DWD.

Prior law requires that school officers and public school teachers cooperate with DWD and employers of apprentices to furnish, in a public school or any school supported in whole or in part by public moneys, any instruction that may be required to be given to apprentices. *The Act* requires that school officers and public school teachers also cooperate with sponsors.

NONPERFORMANCE OF APPRENTICE CONTRACT

Prior law provides that if either party to an indenture fails to perform any of the stipulations of the indenture, the nonperforming party must forfeit not less than one dollar nor more than \$100. *The Act* increases the forfeiture to not less than \$100 nor more than \$1,000 and applies the penalty to an apprentice, sponsor, or assignee employer.

RULES

The Act requires that DWD promulgate rules regarding the provisions that are required to be included in an apprentice contract; and the procedures for approving and for rescinding approval of apprenticeship programs.

Effective date: The Act took effect on May 27, 2010.

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