

LCB File No. R142-01**PROPOSED REGULATION OF THE
STATE APPRENTICESHIP COUNCIL****NOTICE OF INTENT TO ACT UPON A REGULATION**
Notice of Hearing for the Adoption of Regulations of the

Nevada State Apprenticeship Council

The Nevada State Apprenticeship Council will hold a public hearing at 10:00AM, or upon the adjournment of the regularly scheduled quarterly meeting of the State Apprenticeship Council, on the 8th day of November, 2001 at the Grant Sawyer State Building, 555 E. Washington Avenue, Room # 4412, Las Vegas, Nevada, 89101 with video conferencing to the Nevada Legislative Building, 401 S. Carson Street, Room #4100, Carson City, Nevada, 89701. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 610 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

Regulations are needed to implement the provisions of Assembly Bill No. 149 as enacted by the 2001 Nevada Legislature. As well, additional "housekeeping" items are to be addressed as part of the council fulfilling its statutory requirement as set forth in NRS 233B.050(1)(e) to review its regulations periodically.

2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.

The council will consider regulations that clarify the circumstances under which it may deny an application for approval of a program, suspend, terminate, cancel, or place conditions upon any approved program, or place an approved program on probation. Additionally, the council will consider administrative matters related to the review, revision, and submission of standards of apprenticeship. As well, the council will codify into regulation the minimum amount to be paid to an apprentice in the construction industry.

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.

There is expected to be minimal additional economic effects as a result of the proposed regulations. Adverse effects include the requirement to submit to a review of apprenticeship standards by the council within a 5-year period of time. Beneficial effects

include better clarification of the expectations of the council with regards to potential and existing programs of apprenticeship.

Immediate effects may be found in the ability of the council to determine whether an existing program has violated specific provisions of Title 53 of the Nevada Revised Statutes. (Any such determinations will be limited to violations occurring after the adoption of regulations by the council.) Long term economic effects of an adverse nature are not expected as a result of the proposed regulations.

4. The estimated cost to the agency for enforcement of the proposed regulation.

It is expected that no additional costs will be experienced as a result of the proposed regulations.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no regulations of other federal, state or local governmental agencies that the proposed regulation overlaps or duplicates.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulation does not include provisions that are more stringent than a federal regulation that regulates the same activity.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulation does not establish a new fee or increases an existing fee.

Persons wishing to comment upon the proposed action of the Nevada State Apprenticeship Council may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to:

**Nevada State Apprenticeship Council
c/o Office of the Nevada Labor Commissioner
555 E. Washington Avenue Suite 4100
Las Vegas, Nevada 89101**

Written submissions must be received by the Nevada State Apprenticeship Council on or before November 1, 2001. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Apprenticeship Council may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the offices of the Labor Commissioner, 555 E. Washington Avenue, Suite 4100, Las Vegas, Nevada and 675 Fairview Drive, Suite 226, Carson City, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available online at <http://labor.state.nv.us> and in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the council, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Office of the Labor Commissioner
555 E. Washington Avenue Suite 4100
Las Vegas, Nevada

Office of the Labor Commissioner
675 Fairview Drive Suite 226
Carson City, Nevada

Legislative Building
401 S. Carson Street
Carson City, Nevada

Carson City District Courthouse
885 E. Musser Street
Carson City, Nevada

Grant Sawyer State Building (Lobby)
555 E. Washington Avenue
Las Vegas, Nevada

Bradley State Building
2501 E. Sahara Avenue
Las Vegas, Nevada

October 9, 2001

LCB File No. R142-01

**PROPOSED REGULATION OF THE
STATE APPRENTICESHIP COUNCIL**

(Proposed changes are in *bold italics*)

CHAPTER 610 - APPRENTICESHIPS

AUTHORITY: §§1, 3-9, NRS 610.090; § 2, NRS 610.095

Section 1. Chapter 610 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 9 of this regulation.

Sec. 2 Chapter 610 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The council may deny an application for approval of a program, suspend, terminate, cancel or place conditions upon any approved program, or place an approved program on probation due to the failure of an applicant or program to:

(a) Respond to a subpoena of the labor commissioner issued pursuant to NRS 607.170(2) or 607.210(2);

(b) Pay an employee wages for each hour of work pursuant to NRS 607.016;

(c) Pay a lower wage or salary or compensation to employees that is less than that agreed upon through a collective bargaining agreement or to pay a lower wage, salary or compensation than the amount that the employer is required to pay to his employees by virtue of any existing statute of this state or by contract between the employer and the employee, pursuant to NRS 608.100;

(d) Maintain records of wages as required pursuant to NRS 608.115

(e) Assume liability for the indebtedness of a subcontractor pursuant to NRS 608.150;

(f) Provide for compensation of the minimum wage pursuant to NRS 608.250 and any regulation adopted pursuant thereto by the labor commissioner;

(g) Employ a minor in adherence to the provisions of Chapter 609 of NRS and any regulation adopted pursuant thereto by the labor commissioner;

(h) Comply with any of the provisions of Chapter 610 of NRS or any regulation adopted pursuant thereto by the council;

(i) Pay the contributions for unemployment compensation required pursuant to Chapter 612 of NRS;

(j) Provide and secure compensation for employees required pursuant to Chapters 616A to 617, inclusive or NRS; or

(k) Cooperate and comply with the Division of Industrial Relations pursuant to the provisions of Chapter 618 of NRS

2. In determining a course of action pursuant to subsection 1, the council may consider, without limitation:

- (a) The seriousness of any infractions committed by the applicant or approved program;*
- (b) Whether there appears to be a pattern of violations;*
- (c) The degree to which corrective remedies have been implemented to address any previous violations; and*
- (d) The responsiveness of a program sponsor to violations committed by a member entity.*

Sec. 3 Chapter 610 of NAC is hereby amended by adding thereto a new section to read as follows:

Probationary periods for apprentices. The period of probation for a registered apprentice shall not exceed 25 percent of the total training period.

Sec. 4 Chapter 610 of NAC is hereby amended by adding thereto a new section to read as follows:

Designation of Acting Chairman. In instances of the absence or recusal of the chairman, the labor commissioner shall appoint an individual to preside over the proceedings of the council.

Sec. 5 Chapter 610 of NAC is hereby amended by adding thereto a new section to read as follows:

Cancellation of inactive programs or occupations. The council may cancel any approved program, or any occupation within an approved program, in instances where there has been no activity for a period of 1 or more years. The sponsor of a program, or occupation within a program, identified for cancellation must be served notice, via certified mail service at the last known address, of the council's intent not less than 30 days prior to the action of the council.

Sec. 6 Chapter 610 of NAC is hereby amended by adding thereto a new section to read as follows:

Submission of standards. A registered program of apprenticeship submitting standards to the council, for review or revision, shall submit the standards in their entirety for the consideration of and possible action by the council.

Sec. 7 NAC 610.438 is hereby amended to read as follows:

1. Except as otherwise provided in subsection 2, if an employer uses apprentices on a project, the ratio of apprentices to journeymen at a job site must be:

(a) In all programs of apprenticeship in the construction industry, not more than one apprentice for the first journeyman at the job site and not more than one apprentice for every three additional journeymen; or

(b) In all other programs of apprenticeship, not more than one apprentice for every one journeyman.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the registered program.

2. The council may increase or decrease the ratio set forth in subsection 1 on its own initiative or at the request of a sponsor if the council determines that a different ratio is consistent with the proper supervision, training, safety and continuity of employment of an apprentice, and, if applicable, with any provisions of a collective bargaining agreement.

3. A program must report any proposed change in the ratio set forth in subsection 1 to the council for its approval or denial.

4. If the council denies a proposed change in the ratio, it will inform the applicant of the reasons for its denial and state the necessary corrections to the program that must be made before the change will be approved.

5. Except as otherwise provided in subsection 6, the applicant may resubmit the proposed change in the ratio to the council for approval only if:

(a) All of the corrections to the program required by the council have been made; and

(b) The director determines that the proposed change in the ratio is suitable for resubmission to the council.

6. If the director determines that a proposed change in the ratio is unsuitable for resubmission to the council, the proposed change may be placed on the agenda of the council upon the affirmative vote of three or more members of the council.

Sec. 8 NAC 610.485 is hereby amended to read as follows:

NAC 610.485 Minimum reasonable and profitable wage for apprentice in construction industry. (NRS 610.090) The minimum reasonable and profitable wage for an apprentice in the construction industry is:

1. On a public work as defined in NRS 338.010, not less than the percentage set forth in the standards approved by the council of the prevailing wage for a journeyman established by the labor commissioner.

2. On a federal public works project, not less than the percentage set forth in the standards approved by the council of the prevailing wage for a journeyman established by the United States Department of Labor.

3. On a project which is paid for with federal and state money, the higher of the percentages set forth in subsections 1 and 2.

4. On a project other than a public work, not less than \$~~8~~ **9.10** per hour. The wages must be in cash and must not include any benefits.

(Added to NAC by Apprenticeship Council, eff. 11?14?97)

Sec. 9 NAC 610.495 is hereby amended to read as follows:

NAC 610.495 ~~[Staff of labor commissioner:]~~ *Review of programs of apprenticeship; accounting of benefits.* (NRS 610.090) The staff of the labor commissioner may:

1. Review the compliance of an employer and program of apprenticeship with the standards approved by the council, including, without limitation, verification of all benefits provided to an apprentice; and

2. Require the employer to guarantee in writing a current accounting of the benefits for apprentices in each program of apprenticeship and submit such a guarantee to the sponsor of the program. At the written request of the labor commissioner or the council, a sponsor, its fiduciary or the fiduciary of the apprentices shall submit a current accounting of the benefits for apprentices in each program of apprenticeship.

Upon its own initiative, the recommendation of staff of the labor commissioner, or by request of a registered program, the council will review the standards of each registered program for apprenticeship not less than once every 5 years.