

# Enrolled House Bill 2261

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Dan Gardner)

CHAPTER .....

AN ACT

Relating to apprenticeship program; amending ORS 660.002, 660.010, 660.020, 660.060, 660.110, 660.126, 660.135, 660.137, 660.142, 660.145, 660.155 and 660.190.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 660.002 is amended to read:

660.002. It is the policy of the State of Oregon:

(1) To encourage the development of an apprenticeship and training system through the voluntary cooperation of management, labor and interested state agencies, and in cooperation with other states and the federal government.

(2) To provide for the establishment and [furtherance] **promotion** of standards of apprenticeship and training to safeguard the welfare of apprentices and trainees and [assure] **ensure** proper training of an adequate, skilled labor force.

(3) To encourage the preparation of persons with skills that will enable them to find gainful employment in an ever-changing society and [insure] **ensure** the continued growth and development of the economy of Oregon by contributing to the maintenance of an adequate supply of skilled workers.

**SECTION 2.** ORS 660.010 is amended to read:

660.010. As used in ORS 660.002 to 660.210, unless the context requires otherwise:

(1) "Apprentice" means a worker **who is** at least 16 years of age, except [where] **when** a higher minimum age is otherwise required by law, **and** who is employed to learn an apprenticeable occupation under standards of apprenticeship approved by the State Apprenticeship and Training Council **and under an apprenticeship agreement recognized by the council.**

[(2) "Apprenticeship agreement" means a written agreement between an apprentice and either the employer or the local joint committee which shall contain the minimum terms and conditions of the employment and training of the apprentice.]

[(3)] (2) "Apprenticeable occupation" means a skilled trade [which] **that**:

(a) Is customarily learned in a practical way through a structured, systematic program of on-the-job supervised training;

(b) Is clearly identified and commonly recognized throughout an industry;

(c) Involves manual, mechanical or technical skills and knowledge [which] **that** require a minimum of 2,000 hours of on-the-job supervised training; and

(d) Requires related instruction to supplement the on-the-job training.

(3) **“Apprenticeship agreement” means a written agreement between an apprentice and either the training agent or the local joint committee that contains the minimum terms and conditions of the employment and training of the apprentice.**

[ (4) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.]

[ (5) “Council” means the State Apprenticeship and Training Council.]

[ (6) (4) “Course of study” means a course of study for the instruction of apprentices or trainees established in accordance with ORS 660.157.

[ (7) “Director” means the State Director of Apprenticeship and Training.]

[ (8) (5) “District school board” includes the boards of community college service districts, education service districts, common school districts and community college districts.

[ (9) (6) “Employer” means any person employing the services of an apprentice, regardless of whether [such] **the** person is a party to an apprenticeship agreement with [that] **the** apprentice.

[ (10) (7) “Local joint committee” includes local joint apprenticeship committees, local joint training committees and trade committees.

[ (11) (8) “Program” means the total system of apprenticeship as operated by a particular local joint committee, including the committee’s registered standards and all other terms and conditions for the qualification, recruitment, selection, employment and training of apprentices in that apprenticeable occupation.

[ (12) (9) “Trainee” means a worker **who is** at least 16 years of age, except [where] **when** a higher minimum age is otherwise required by law, **and** who is to receive, in part consideration for services, complete instruction in an occupation [which] **that** meets all the requirements of an apprenticeable occupation, except that such occupation requires, in the opinion of the council, less than 2,000 but not less than 1,000 hours of on-the-job supervised training.

(10) **“Training agent” means an employer that is registered with a local joint committee and the Apprenticeship and Training Division of the Bureau of Labor and Industries.**

**SECTION 3.** ORS 660.020 is amended to read:

660.020. (1) Every apprentice and **either** the apprentice’s [employer or the agent of the apprentice’s employer,] **training agent or the** local joint committee shall sign a written apprenticeship agreement on a form approved by the State Apprenticeship and Training Council or on a form to which the council chairperson may grant interim approval. The agreement shall be signed and registered with the council as soon as practicable, but [within a period of time not to exceed] **not later than 90 days after the start of the apprenticeship.**

(2) When [the original employer has been] **a training agent is** unable or unwilling to fulfill its obligations under [the] **an** apprenticeship agreement, the local joint committee may approve the transfer of the [employer’s] **training agent’s** obligation **under the program standards** to a subsequent approved [employer or employers] **training agent** under the same program, with the consent of the apprentice. In such cases, it [will not be] **is not** necessary to sign and register a new apprenticeship agreement, notwithstanding the requirements of subsection (1) of this section.

**SECTION 4.** ORS 660.060 is amended to read:

660.060. [In order] To be registered **with the State Apprenticeship and Training Council,** every apprenticeship or training agreement [made after November 1, 1981,] shall contain:

(1) The names and signatures of the [parties] **apprentice or trainee** and of a parent or [a] guardian if the apprentice or trainee is a minor;

(2) The names and addresses of the appropriate local joint committee and of the [State Apprenticeship and Training] council;

(3) The date of birth of the apprentice or trainee;

(4) The beginning date and duration of the apprenticeship or training and the apprenticeable or trainable occupation in which the apprentice or trainee is to be trained;

(5) A statement that the parties [thereto] **to the agreement** shall abide by the applicable standards existing as of the date of the agreement, and as amended during the duration of the agreement, and a provision incorporating the standards[,] explicitly or by reference as part of the agreement;

(6) A statement that there is a probationary period during which the apprenticeship agreement may be terminated by either party to the agreement upon written notice to the Apprenticeship **and Training** Division of the Bureau of Labor and Industries;

(7) A statement that after the probationary period the apprenticeship agreement may be canceled at the request of the apprentice or may be suspended, canceled or terminated by the committee for good cause, which includes but is not limited to failure to report to work, nonattendance at related training, failure to submit work progress reports and lack of response to committee citations, with *[due]* **prior written** notice to the apprentice, *[and a reasonable opportunity for correction]* and with written notice to the apprentice and to the Apprenticeship **and Training** Division of the Bureau of Labor and Industries of the final action taken by the committee;

(8) Such additional provisions as the council may deem necessary or advisable to effectuate the policies and duties prescribed and imposed by ORS 660.002 to 660.210, provided such provisions are customarily subject to agreement between *[employers]* **training agents** and apprentices or trainees; and

(9) A waiver by the apprentice granting permission for **the** release of related training school records to the appropriate joint apprenticeship committee for the purpose of evaluation.

**SECTION 5.** ORS 660.110 is amended to read:

660.110. (1) The State Apprenticeship and Training Council shall consist of *[11]* **nine** members, including the Commissioner of the Bureau of Labor and Industries[,] and *[10]* **eight** members appointed by the Governor[,] as follows:

*[(a) Two members representing employees from the apprenticeable crafts or trades for which programs are approved and registered with the council;]*

*[(b) Two members representing employees from the industrial occupations for which programs are approved and registered with the council;]*

*[(c) Two members representing industrial employers whose programs are approved and registered with the council;]*

*[(d) Two members representing employers from the apprenticeable crafts or trades whose programs are approved and registered with the council; and]*

*[(e) Two members representing the public.]*

**(a) Four members from apprenticeable building and construction crafts or trades that have programs approved and registered with the council, including two members representing employers and two members representing employees;**

**(b) Two members from other apprenticeable occupations that have programs approved and registered with the council, including one member representing employers and one member representing employees; and**

**(c) Two members representing the public.**

**(2) To qualify to be a member of the council, an individual shall provide the Governor with documentation showing that the individual meets at least one of the following requirements:**

**(a) Active participation on an apprenticeship governing body for a minimum of four years; or**

**(b) A minimum of four years of experience in workforce development or investment activities, vocational training or education, apprenticeship program administration or a related discipline.**

*[(2)]* **(3)(a)** Each member shall be appointed for a term of four years and shall hold office until a successor has been appointed and has qualified. When the term of a member expires, the Governor shall appoint a successor within 90 days *[of]* **after** the term expiration date. A member *[shall]* **may** not automatically be removed from the council in midterm should the member's industry withdraw from the program for economic reasons.

*[(3)]* **(b)** Any vacancy occurring among the appointed members shall be filled by appointment, as provided in this section, for the unexpired portion of the term.

[(4)] (c) All appointments of members of the council by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution.

[(5)] (4) The Commissioner of the Bureau of Labor and Industries shall serve as the chairperson of the council with the power to cast the deciding vote in case of a tie. The council shall choose from among its members a vice chairperson to preside at meetings and perform other functions of the chairperson when the commissioner is absent.

[(6)] (5) Each member of the council is entitled to compensation and expenses as provided in ORS 292.495.

**SECTION 6.** ORS 660.126 is amended to read:

660.126. (1) Apprenticeship standards shall contain statements of:

(a) The apprenticeable occupation to be taught and a designation of the geographical area or areas in which the standards [*shall be applicable*] **will apply**;

(b) The qualifications required of apprentice applicants and the minimum eligible starting age, which [*shall be*] **is** at least 16 years unless a higher age is required by law;

(c) The outline of work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

(d) The term required for completion of apprenticeship, which shall be consistent with requirements established by industry practice for the development of requisite skills, but in no event shall be less than 2,000 hours of reasonably continuous work experience;

(e) The approximate number of hours to be spent by the apprentice at work and the approximate number of hours to be spent in related and supplemental instruction;

(f) The minimum numeric ratio of journeymen to apprentices consistent with proper supervision, training, safety and continuity of employment, which shall be specifically and clearly stated as to application in terms of job site, workforce, department or plant;

(g) A probationary period reasonable in relation to the full apprenticeship term, with full credit given for [*such*] **the probationary** period toward completion of apprenticeship and with provision that during the probationary period, the apprenticeship agreement may be terminated without cause;

(h) A progressively increasing schedule, showing the percentages of the journeyman hourly wage to be paid the apprentice at each level of apprenticeship achieved;

(i) Such additional provisions as the State Apprenticeship and Training Council may, by rule, deem necessary or advisable to effectuate the policies and duties prescribed and imposed by ORS 660.002 to 660.210; and

(j) The content of related training with training objectives.

(2) Notwithstanding subsection (1) of this section, the council may approve the inclusion of standards of additional provisions, or of provisions that depart from the requirements of subsection (1) of this section, when such standards or provisions have been submitted by joint employer and employee groups, or may be part of legitimate bargaining agreements between an employer and employees. [*The council,*] In making its decision, [*shall take into consideration*] **the council shall consider** the following factors:

(a) The possibility that the provision might result in curtailment of opportunities for apprentices to receive training or continuity of employment;

(b) The possibility that the provision might result in the diversion of needed qualified applicants for apprenticeship, and particularly of qualified applicants of protected classes, into unskilled or semiskilled jobs for which an adequate supply of labor already exists;

(c) The possibility that the provision might result in disputes among the participants in the programs [*such as*] **that** might curtail the cooperation necessary to build an adequate, skilled labor force in the State of Oregon;

(d) The need to safeguard the health, safety, continuity of employment and welfare of the apprentices and to ensure the public welfare;

(e) The need to raise the level of skill in each apprenticeable occupation to provide to the public quality goods and services at a fair price and an adequate and skilled workforce for the defense of the nation; and

(f) The need *[for providing]* **to provide** training in the licensed occupations for the protection of the apprentices and of the general public.

(3) The council shall adopt rules to allow a local committee to determine the circumstances under which an apprentice **electrician, who is** working under ORS 479.510 to 479.945 *[who]* **and** has completed 6,500 hours of apprenticeship training, may work without direct supervision during the remainder of the apprenticeship.

**SECTION 7.** ORS 660.135 is amended to read:

660.135. (1) In each locality where apprentices are employed, *[there shall be formed]* **the State Apprenticeship and Training Council may approve** as many local joint committees as are necessary to serve the needs of the various apprenticeable occupations. **Local joint committees in building and construction trades occupations may be approved by the council only as group programs serving multiple employers.**

(2) Each local joint committee shall have no more than eight **principal** members, all actively participating in apprenticeship programs, and shall consist of an equal number of representatives of employers and employees. *[The principal]* **One alternate member may be selected for each principal committee member.** Committee members and the alternate members, *one alternate for each of the principal members,* shall be selected pursuant to procedures established by the *[State Apprenticeship and Training]* council. The alternate members may attend all committee meetings, participate in discussions and perform such duties as may be delegated to them by the committee, but may not vote at committee meetings except when actually *[serving to substitute]* **substituting** for an absent principal committee member for their respective employer or employee.

(3) **To qualify as a local joint committee member representing employees, a prospective employee representative must be a member of the collective bargaining unit if a collective bargaining agreement exists for the trade or occupation that is the subject of the apprenticeship or training program administered by the committee. If no collective bargaining agreement exists, the prospective employee representative must be, or have been, a skilled practitioner of the particular trade or occupation that is the subject of the apprenticeship or training program administered by the committee.**

*[(3)]* (4) Each local joint committee shall select a chairperson and a secretary, for such terms and with such powers and duties necessary for the performance of the functions of *[such]* **those** offices as the committee determines. *[The secretary shall maintain an accurate record of all proceedings of the committee, which shall be made available for public inspection at any reasonable time upon request. A copy of the minutes of each meeting shall be sent to the Commissioner of the Bureau of Labor and Industries.]* A quorum for the transaction of committee business *[shall consist]* **consists** of two representatives of employers and two representatives of employees. Each local joint committee shall meet as often as is necessary to transact business. Meetings may be called by the chairperson[,] or at the request of the majority of the members of the committee.

*[(4)]* (5) When an individual is employed by a joint industry group, association or trust to assist local joint apprenticeship or training committees, trade committees or state joint committees in the performance of their statutory duties, *[such]* **the** individual is authorized to perform any clerical, ministerial or other functions as the committees may direct.

*[(5)]* *For purposes of membership as an employee representative on a local joint committee the prospective employee representative must be a member of the collective bargaining unit when a collective bargaining agreement exists which covers the trade or occupation that is the subject of the apprenticeship or training program administered by the local joint committee. When no collective bargaining agreement exists, the prospective employee representative must be, or have been, a skilled practitioner of the particular trade or occupation that is the subject of the apprenticeship or training program administered by the local joint committee.]*

**SECTION 8.** ORS 660.137 is amended to read:

660.137. Every local apprenticeship or training program administered by a local joint committee, or by a trade committee functioning as a local joint committee, shall:

(1) Propose to the State Apprenticeship and Training Council standards for the local program [which] **that** are in substantial conformity with ORS 660.126 and with the uniform standards, if any, adopted by the state joint committee for that occupation, and recommend to the council modifications of the standards.

(2) Administer its program in conformity with its approved standards, with the provisions of ORS 660.002 to 660.210, and with the rules and policies of the council. Particularly, the local **joint** committee shall:

(a) Maintain records of all apprentices in its program, with respect to work experience, instruction on the job, attendance at related instruction and progress, and such other records as may be appropriate or required, and shall submit such reports as the council or appropriate governmental agencies may require;

(b) Submit to the state joint committee appropriate requests for changes in courses of study for the instruction of apprentices; and

(c) Be responsible for apprentices receiving necessary on-the-job and related instruction, and for all apprenticeship agreements being promptly registered with the council.

(3) Be responsible for the recruitment, qualification, selection, approval and registration of apprentices entering the program, including the evaluation of previous creditable work experience, education and training for which advanced credit must be given[;], provided[, however,] that advanced credit may be given for such creditable experience, education and training.

(4) Review and evaluate, at least semiannually, the progress of each apprentice, as to job performance and related instruction, and consistent with the skill acquired, accordingly advance the apprentice to the next level of apprenticeship or hold the apprentice at the same level for a reasonable period, and with reasonable opportunity for corrective action, or terminate the apprentice from the program for serious or continued inadequate progress and notify the Apprenticeship **and Training** Division of the Bureau of Labor and Industries of the action taken. The council and the appropriate [employer or employers] **training agent** shall also be notified of each rerating and of the apprentice's new level on the wage schedule. Recognition for successful completion of apprenticeship shall be evidenced by an appropriate certificate issued by the council.

(5)(a) Determine the qualifications, minimum facilities and training conditions required of an employer to serve as an approved training agent, and approve training agents accordingly;

(b) Make periodic checks of approved training agents to [assure] **ensure** that there are qualified training personnel and that there is adequate supervision on the job, adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction; and

(c) Withdraw approval of training agents when the qualifications are no longer met or when it appears to the committee that the [employer] **training agent** is in violation of the terms of an apprenticeship agreement, standards, provisions of ORS 660.002 to 660.210 or the rules and policies of the council.

(6) Determine and redetermine at least annually the average journeyman hourly rate of wage for the purposes of ORS 660.142 and submit [such] **the** rate to the State Director of Apprenticeship and Training, along with a statement explaining how [such] **the** determination was made. [Employers who] **Training agents that** fail or refuse to provide their [committee] **committees** with information shall be terminated as approved training agents. The council may withhold approval of a new program or terminate an existing program for failure or refusal by the committee or its [employers] **training agents** to keep the established journeyman hourly rate of wage current and correct. The committee shall retain all records from which a wage determination was made for inspection by the council, as required by law.

**SECTION 9.** ORS 660.142 is amended to read:

660.142. (1) [No employer shall pay a registered] **A training agent may not pay an** apprentice at a rate less than that obtained by applying the schedule, set forth in the applicable standards, at

the apprentice's level of apprenticeship, to the journeyman hourly rate of wage currently in effect for journeymen in the occupation for which the apprentice is being trained, as determined by the appropriate local joint committee.

(2) The journeyman hourly wage rate shall be the average hourly wage currently being paid by the [employers] **training agents** participating in a program to their skilled workers, that is, to those employees with demonstrated knowledge, experience and proficiency in that trade or occupation who are currently performing the type of work for which the apprentice is to be trained. Upon receipt of a committee's determination of its current journeyman hourly rate of wage, the State Director of Apprenticeship and Training shall cause notice [thereof] **of the determination** to be promptly mailed to all apprentices and [employers] **training agents** participating in the program. [Such] **The** determination shall be in effect from the date set forth [therein] **in the determination** or, lacking such date, from the first of the month following the mailing [thereof; provided, however, that no such] **of the determination. However, neither the** wage determination [or] **nor the** effective date [shall alter] **alters** the terms or effect of an existing collective bargaining agreement.

(3) If a higher journeyman hourly wage rate [shall be] **is** prescribed by federal or state law for work on a particular project, the higher rate so established [shall be] **is** controlling for purposes of determining apprentice wages applicable to that particular project.

(4) Nothing stated in ORS 660.002 to 660.210 shall be construed to supersede the minimum wage or overtime provisions of ORS chapters 652 and 653, or the rules adopted **under ORS chapter 652 or 653**. Anything to the contrary notwithstanding, the entry wage (that wage derived by applying the lowest percentage on the schedule to the current journeyman hourly wage rate) [shall] **may** not be less than the federal or state minimum wage rate, whichever is higher.

(5) The State Apprenticeship and Training Council may make such exceptions to the apprentice wage schedule or journeyman hourly wage rate, and to the minimum numeric ratio of journeymen to apprentices, as it deems necessary or advisable to further the operation of apprenticeship and training programs in Department of Corrections institutions.

**SECTION 10.** ORS 660.145 is amended to read:

660.145. In an area where it is not practicable to establish a local joint apprenticeship committee or a local joint training committee, a trade committee for apprenticeship and training may be formed to administer the standards of various separate programs approved by the State Apprenticeship and Training Council. Members shall consist of one [employer] **training agent** and one employee representing each occupation affected, who shall be selected pursuant to the procedures established by the council. A trade committee for apprenticeship or training shall function in the manner prescribed for a local joint committee as to all occupations affected, except that recommendations to the council for amendments or modifications to the standards of a particular occupation may be made only by the members from that occupation.

**SECTION 11.** ORS 660.155 is amended to read:

660.155. (1) State joint apprenticeship committees may be formed in each apprenticeable occupation for the purpose of promoting and coordinating the apprenticeship goals of that occupation and of developing statewide standards and related instructional material for a course of study in that occupation. If only one joint committee exists for a particular occupation, that local joint committee has the same duties and powers as a state joint committee formed pursuant to this section. This subsection does not apply to training programs.

(2) State joint committees shall be composed of one member representing [employers] **training agents** and one member representing employees from each local joint committee for that occupation. [Employer] **Training agent** members of a local joint committee shall choose the [employer] **training agent** representative to the state joint committee, and employee members shall choose the employee representative. The [employer] **training agent** and employee members of trade committees shall be members of the state joint committee for their respective occupations, but shall be counted in [determinating] **determining** a quorum for the state joint committee only if present. An alternate member for each principal member from a local joint committee shall also be selected in the same manner as the principal members are selected. Each alternate member has full authority to exercise

the powers of the principal member for whom the alternate was selected when that principal member is unable to perform as a committee member.

(3) Each state joint committee shall elect a chairperson and a vice chairperson, one of whom shall represent [employers] **training agents**, the other of whom shall represent employees. The committee may also elect such other officers as it determines appropriate. All officers elected pursuant to this subsection shall serve such terms and have such duties and powers as the committee determines appropriate for the performance of their functions.

(4) Meetings may be called by the chairperson or at the request of the majority of the members of the committee. Each state joint committee may also formulate such rules as it deems necessary for the time, place and orderly conduct of its meetings. Each committee shall transmit to the State Apprenticeship and Training Council a written record of each such meeting.

**SECTION 12.** ORS 660.190 is amended to read:

660.190. Each community college operating a preemployment or trade extension training program in an apprenticeable occupation shall appoint at least one employee member and one [employer] **training agent** member of an appropriate local joint committee to the advisory committee for that training program.

**Passed by House May 3, 2007**

.....  
Chief Clerk of House

.....  
Speaker of House

**Passed by Senate May 31, 2007**

.....  
President of Senate

**Received by Governor:**

.....M.,....., 2007

**Approved:**

.....M.,....., 2007

.....  
Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2007

.....  
Secretary of State