

STATEMENT OF SCOPE

Department of Administration

Rule No.: Chapter Adm 21

Relating to: Apprenticeship programs

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to encourage the further development of apprenticeship programs in the construction industry in Wisconsin as a means of ensuring a well-qualified workforce.

Apprenticeship training is an important part of the construction industry. According to the Wisconsin Technical College System, apprenticeship completers recently reported an annual median salary of \$77,753.¹ Compare this to \$54,700,² which is the median earnings of a 25-to 34-year-old with a bachelor's degree. And because registered apprentices are able to earn while they learn, they accrue less debt compared to traditional college students.

Not only do apprenticeship programs benefit employees, but they benefit employers. Despite record low unemployment numbers, the construction industry is reporting a shortage of candidates with the skills and abilities necessary for the job. Employers benefit from apprenticeship programs by gaining a pipeline of skilled employees, reduced turnover, and improved recruitment.³ Apprenticeship programs can help employers institutionalize training, providing a stable supply of skilled workers.

A recent study⁴ evaluating the impact of registered apprenticeship programs in neighboring Illinois also showed the potential for significant statewide benefit. Registered apprenticeship programs in construction have the potential to increase tax revenues, along with taxpayer savings through reduction in expenses for a variety of state-supported welfare programs. The same study found that registered apprenticeship programs in Illinois created or saved nearly 5,000 additional jobs and provided a \$408.7 million boost to their state economy. A 2012 study by Mathematica⁵ of 5 states found that for each dollar invested in apprenticeship the average total return on investment exceeded \$35.

Here, the State is uniquely positioned to support the apprenticeship program model as a means of addressing workforce stability issues and contributing to the wholistic financial stability of this state.

¹ https://dpi.wi.gov/sites/default/files/imce/acp/pdf/2020_01_09_WTCS_Apprentice_Completer_Report_2016-17.pdf

² <https://nces.ed.gov/programs/coe/indicator/cba>

³ <https://www.commerce.gov/sites/default/files/migrated/reports/the-benefits-and-costs-of-apprenticeships-a-business-perspective.pdf>

⁴ https://illinoisepi.org/site/wp-content/themes/hollow/docs/wages-labor-standards/pcmr-ilepi-impactofapprenticeshipprograms_newcover.pdf

⁵ https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf

Possible provisions related to contractor⁶ participation in an apprenticeship program that is registered with the Department of Workforce Development (DWD) or United States Department of Labor (DOL) could include:

- a. A contract term requirement that on projects in excess of \$25 million, a contractor be required to ensure that for each craft for which work is to be performed by the contractor at least 10% of its employees are active participants in the contractor's registered apprenticeship program.
- b. A contract term requirement that on projects of \$25 million or less, the contractor be required to ensure that at least 10% of its employees, in the aggregate, are active participants in the contractor's registered apprenticeship program, section (c) below notwithstanding.
- c. A contract term requirement that on projects of \$25 million or less, any mechanical, electrical, plumbing, and fire protection contractor be required to ensure that for each craft for which work is to be performed by the contractor, at least 10% of their employees are active participants in the contractor's registered apprenticeship program.
- d. A rule which specifies that a contractor would not be required to have the registered apprentices performing work on the jobsite of the project.
- e. A rule which specifies that any contractual requirements related to apprenticeship program registration would not apply to work that is supplementary to the specifications of the contract unless the contractor employs more than five employees in the craft or trade that is required to perform such supplementary work.
- f. DOA would be required to provide notice of contractual requirements in all invitations to bid on construction projects.
- g. DOA would be required to confirm with BAS or DOL that a successful bidder has the requisite registered apprenticeship program(s) and requisite number of apprentices prior to the bidder's first payment request.
- h. A contract term requirement that a contractor provide periodic certifications of continued compliance with the apprenticeship program requirements to the opposite contracting party.
- i. A rule which specifies that any contractor or subcontractor who enters into a contract on a state construction project assumes an obligation to comply with requirements related to apprenticeship program participation.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

DOA does not have an existing policy regarding apprenticeship programs for state construction projects. DOA proposes policies that would encourage the construction industry in this state to invest in its future workforce development by conditioning participation in state construction projects on contractors' willingness to develop and maintain apprenticeship programs.

4. Detailed explanation of statutory authority for the rule (including statutory citation and language):

DOA has authority under Wis. Stats. § 16.855(15) to "promulgate rules to implement the advertising and award of contracts." DOA also has authority under Wis. Stats. § 227.11(2) to "promulgate rules

⁶ "Contractor" refers to prime contractor and subcontractor, unless otherwise noted.

interpreting the provisions of any statute enforce or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

DOA estimates that its employees will spend approximately 250 hours developing the rule, and that no other significant resources will be needed to develop the rule.

6. List with description of all entities that may be affected by the proposed rule:

- DOA
- DWD
- The Board of Regents of the University of Wisconsin
- Construction general contractors, subcontractors, and any construction-related trade for which DWD or DOL issues a registration of an apprenticeship program

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

At the federal level apprenticeship in the construction industry is governed by the Fitzgerald Act (50 Stats. 664; 29 U.S.C. 50), which authorizes the Secretary of Labor to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the National Youth Administration and with the Office of Education of the Department of the Interior. Under this authority the Department of Labor has promulgated Labor Standards for the Registration of Apprenticeship Programs (Title 29, CFR 29), as well as Equal Employment Opportunity (EEO) in Apprenticeship (Title 29, CFR Part 30). The regulations provide a framework for the following:

- Promoting apprenticeship programs and advancing the National Apprenticeship System
- Protecting the welfare of apprentices
- Providing consistency and accountability across the system to enhance program quality and performance
- Creating flexibility within the apprenticeship model and aligning it with the needs of a new generation of workers and a broad range of employers.

While existing federal regulations are designed to promote apprenticeship, they do not require contractors engaged in federal construction projects to participate in apprenticeship programs.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

Many larger general contractors that bid on state construction projects already have apprenticeship programs. While these larger companies may have to modify their programs to meet the specific requirements that arise from DOA's rulemaking, they will have already factored the cost of an apprenticeship program into their business model.

In developing any rule, DOA will pursue ways to reduce the impact of any rule on small businesses in a manner to ensure that small businesses can continue to compete for state construction contracts pursuant to Wis. Stat. § 227.114(2).

Additionally, expansion of apprenticeship programs so that there is a greater presence among small business will in turn ensure that small businesses are better positioned to enjoy the benefits of such a model, including the creation of a more stable workforce, reduced turnover, and improved recruitment.

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