

ARGENTUM LAW

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Re: Apprenticeship Utilization Act – SB 207 (2019)

Dear Nevada Builders Alliance Members:

This letter is to better inform you of Senate Bill 207 that the 2019 Nevada Legislature passed, aka the **Apprenticeship Utilization Act** (the “AUA” or “SB 207”).¹ While these changes are numerous, rest assured that the changes do not affect jobs that were bid on and awarded prior to **January 1, 2020**.

Background

In 2017, Governor Sandoval signed into law SB 516, which created OWINN (the Governor’s Office of Workforce Innovation for the New Nevada). This bill transferred the responsibility and accountability for apprenticeship from the Office of Labor Commissioner to OWINN. NRS 223.800. Currently, Craig von Collenberg serves as the Executive Director of OWINN.

Additionally, OWINN oversees the State Apprenticeship Council, as the State Apprenticeship Director reports to the Executive Director of OWINN. NRS 610.110(2)(a). The State Apprenticeship Council regulates and establishes standards for the training of apprentices in approved apprentice programs. NRS 610.020(4) & (5). The current chair of the State Apprenticeship Council is Nanette Quitt. The State Apprenticeship Director is Richard J. Williams.

Examples of approved apprentice programs include: the Northern Nevada Electrical Training Center (NNETC), which is a Joint Apprenticeship Training Program (JATC) between the National Electrical Contractors Association (NECA) and the International Brotherhood of Electrical Workers (IBEW) that brings together companies like Briggs Electric and labor (IBEW Local 401) to help train and place students in the electrical construction industry.

¹ This is to be used for informational purposes only and not to be considered legal advice. Please consult your own legal counsel to seek legal advice.

Currently, Nevada has registered apprenticeship programs for crafts like: Bricklayer, Carpenter, Cement Mason, Drywall Applicator, Glazier, Laborer, Machinist, Painter, Plumber, Roofer, and many more.

To see all the state approved and registered apprenticeship programs please go to the following: <http://owinn.nv.gov/Apprenticeship/RegisteredApprenticeshipPrograms/>

Apprenticeship Utilization Act or SB 207

The new minimum apprenticeship requirements of SB 207 can be broken down to two different types of construction on a public work project: vertical and horizontal construction.

I. Minimum Requirements

A. Vertical Construction

SB 207 requires contractors and subcontractors engaged in **vertical** construction to use one or more apprentices for at least **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 3 workers are employed).

B. Horizontal Construction

SB 207 requires contractors and subcontractors engaged in **horizontal** construction to use one or more apprentices for at least **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 3 workers are employed).

II. Modification or Waiver Request from the Minimum Hour Requirements

A contractor or subcontractor **may** request that a public body submit a modification or waiver for the requirements of SB 207 to the Office of Labor Commissioner. Upon request by the contractor or subcontractor, the Public Body has the option, **but not the obligation** to submit such a request to the Nevada Labor Commissioner. Therefore, a contractor or subcontractor should work with the Public Body to determine what will be required to Bid on Projects after January 1, 2020, and what documentation will be needed by the Public Body to submit a Request For Waiver to the Labor Commissioner.

Once the Nevada Labor Commissioner has received the waiver request, the Labor Commissioner may only grant such a request if “Good Cause” exists and such a determination must be made within 15 days of receiving the request from the Public Body.

III. Request for Apprentices Availability

To help satisfy the new law, the Office of Labor Commissioner has created a form that may be used to obtain and request the appropriate number of apprentices required. You can file a REQUEST FOR APPRENTICE AVAILABILITY ON A PUBLIC WORK form and send the form to a Registered Apprenticeship Program. The form is available [here](#).

If the form is submitted to a registered apprenticeship program and the request has been denied or the request for apprentices has not been approved within 5 business days then such a request would be deemed “Good Cause” under SB 207, and the Public Body’s request for modification or waiver would then be granted by the Labor Commissioner. Furthermore, if the Labor Commissioner does deny the application for waiver or medication, then the contractor or subcontractor does have standing to appeal that decision.

Additionally, if the State Apprenticeship Council determines that there are **no apprentices** in a certain type of craft or type of work to be performed in a *specific jurisdiction*, then a contractor or subcontractor engaged on a public work is **not required** to use an apprentice in that jurisdiction.

General Comments:

Please be sure to document everything and keep good records. This will help ensure compliance with the regulators and the awarding body. For example, do not call a registered apprenticeship program requesting apprentices. Instead, please submit your request in writing so that you can show written proof of your request.

Additionally, please make sure to properly document if a situation arises that is out of your control. For example, if the apprentices do not show up on the day they are supposed to, please document that with either an internal memorandum or send a written notification to the registered apprenticeship program, like an email or letter, that the apprentices did not show up to the job. Furthermore, if for some reason the apprenticeship hour programs are not being met, please notify, in writing, the awarding body of the situation as soon as possible.

Also, the Labor Commissioner has published an advisory opinion on SB 207, available [here](#). Among other things, the Labor Commissioner has interpreted that for jurisdictional purposes are the prevailing wages “regions” (there are 4 regions). Additionally, the Labor Commissioner has outlined the crafts and type of work that do not have a registered apprenticeship program, so for those areas of crafts, the contractor would be exempt from

the hourly apprenticeship requirements. Please read through that advisory opinion in detail and make sure to reference which crafts do not have registered apprenticeship programs.

Finally, if you have any follow up questions please email me at chase@argentumnv.com.

Very truly yours,



J. Chase Whittemore, Esq.
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