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Legislative Document

No. 1800

H.P. 1327

House of Representatives, January 31, 2012

An Act To Conform Maine Apprenticeship Program Standards with Federal Apprenticeship Regulations

Submitted by the Department of Labor pursuant to Joint Rule 204.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative TUTTLE of Sanford.

Cosponsored by Representatives: GILBERT of Jay, NEWENDYKE of Litchfield.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 1 MRSA §72, sub-§17-A**, as enacted by PL 1993, c. 630, Pt. B, §1, is
3 amended to read:

4 **17-A. Registered apprenticeship.** "Registered apprenticeship" means an
5 apprenticeship program registered with the ~~State Apprenticeship and Training Council~~
6 under Title 26, chapter 11 Maine Apprenticeship Program in accordance with Title 26,
7 chapter 37.

8 **Sec. 2. 5 MRSA §7072, 2nd ¶**, as amended by PL 1993, c. 630, Pt. B, §2, is
9 further amended to read:

10 The ~~Bureau of Labor Standards~~ Department of Labor, Bureau of Employment
11 Services shall assist the director in determining which classifications are apprenticeable
12 and in encouraging and assisting state agencies to utilize the benefits of registered
13 apprenticeship programs or other training programs.

14 **Sec. 3. 5 MRSA §7072, 3rd ¶**, as enacted by PL 1985, c. 785, Pt. B, §38 and
15 amended by PL 1997, c. 530, Pt. A, §34, is repealed.

16 **Sec. 4. 5 MRSA §7072, sub-§1**, as enacted by PL 1985, c. 785, Pt. B, §38, is
17 repealed.

18 **Sec. 5. 5 MRSA §7072, sub-§2**, as amended by PL 1993, c. 630, Pt. B, §3, is
19 repealed.

20 **Sec. 6. 5 MRSA §7072, sub-§3, ¶B**, as enacted by PL 1985, c. 785, Pt. B, §38, is
21 repealed.

22 **Sec. 7. 5 MRSA §12004-G, sub-§25**, as amended by PL 1989, c. 483, Pt. A, §24
23 and c. 503, Pt. A, §17, is repealed.

24 **Sec. 8. 5 MRSA §12004-I, sub-§54-D** is enacted to read:

25 **54-D.**
26 Labor Maine Expenses Only 26 MRSA §3209
27 Apprenticeship
28 Council

29 **Sec. 9. 26 MRSA §2006, sub-§5-A**, as enacted by PL 1997, c. 683, Pt. D, §9 and
30 amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 545, §5, is
31 repealed.

32 **Sec. 10. 26 MRSA §2006, sub-§7, ¶A**, as amended by PL 1999, c. 6, §1, is
33 further amended to read:

1 A. The council shall create 4 3 standing committees of up to 12 members. Each
2 standing committee may include up to 8 noncouncil members appointed by the
3 council chair and drawn from the same constituency groups as the council's
4 membership. The standing committees shall make recommendations to the full
5 council. The 4 3 standing committees are as follows:

- 6 (1) ~~Apprenticeship, with its membership specified in subsection 5 A, paragraph~~
7 ~~B;~~
8 (2) School-to-work;
9 (3) Employment of people with disabilities; and
10 (4) Women's employment issues.

11 **Sec. 11. 26 MRSA §2172, sub-§4**, as amended by PL 2003, c. 114, §21, is
12 repealed.

13 **Sec. 12. 26 MRSA §2172-A, sub-§2**, as amended by PL 2003, c. 114, §23, is
14 further amended to read:

15 **2. Referral.** When an individual's employability development plan has been
16 developed, the ~~Department of Labor~~ Maine Workforce Investment System service
17 provider shall:

18 A. Determine whether the individual's employment goal includes an apprenticeable
19 occupation ~~by reference to a list of apprenticeable occupations provided by the State~~
20 ~~Apprenticeship and Training Council as defined in section 3201, subsection 2; and~~

21 ~~B. If the occupation appears on the list of apprenticeable occupations under~~
22 ~~paragraph A, contact the State Apprenticeship and Training Council for assistance in~~
23 ~~establishing a registered apprenticeship program as part of or following Maine~~
24 ~~Workforce Investment System training;~~

25 ~~C. Ensure that the State Apprenticeship and Training Council provides to the~~
26 ~~Commissioner of Labor a semiannual and annual list of the number of Maine~~
27 ~~Workforce Investment System referrals received and the number of registered~~
28 ~~apprenticeship positions established from these referrals; and~~

29 ~~D. If a registered apprenticeship program is developed under this subsection, provide~~
30 Provide the trainee with information on educational and training opportunities that
31 may be of assistance for indenturing in the registered apprenticeship program.

32 **Sec. 13. 26 MRSA c. 37** is enacted to read:

33 **CHAPTER 37**

34 **REGISTERED APPRENTICESHIP**

35 **§3201. Definitions**

36 As used in this chapter, unless the context otherwise indicates, the following terms
37 have the following meanings.

1 **1. Apprentice.** "Apprentice" means a person who is at least 16 years of age, except
2 when a higher minimum age standard of 18 years of age is otherwise fixed by law or a
3 sponsor, who is employed to learn an apprenticeable occupation that is approved by the
4 department and who is registered with the Maine Apprenticeship Program.

5 **2. Apprenticeable occupation.** "Apprenticeable occupation" means an occupation
6 that is specified by industry and that:

7 A. Involves skills that are customarily learned in a practical way through a
8 structured, systematic program of on-the-job supervised learning;

9 B. Is clearly identified and commonly recognized throughout an industry;

10 C. Involves manual, mechanical or technical skills and knowledge that, in
11 accordance with the industry standard for the occupation, require the completion of at
12 least 2,000 hours of on-the-job learning to attain; and

13 D. Requires related instruction.

14 **3. Apprenticeship agreement.** "Apprenticeship agreement" means a written
15 agreement between an apprentice and a sponsor or employer that contains the terms and
16 conditions of the employment and training of the apprentice.

17 **4. Apprenticeship committee.** "Apprenticeship committee" means those persons
18 designated by a sponsor to administer an apprenticeship program. An apprenticeship
19 committee may be either a joint committee or a nonjoint committee, as follows.

20 A. A joint committee is composed of an equal number of representatives of the
21 employer and representatives of the employees who are represented by a bona fide
22 collective bargaining agent.

23 B. A nonjoint committee is composed of employer representatives and may include
24 employees but does not have a bona fide collective bargaining agent as a participant.

25 **5. Apprenticeship program.** "Apprenticeship program" means a plan containing all
26 terms and conditions for the qualification, recruitment, selection, employment and
27 training of apprentices, including such matters as the requirement for an apprenticeship
28 agreement, a schedule of work experience outlining the skills to be learned on the job, a
29 schedule of related instruction courses necessary to supplement the on-the-job learning
30 and a schedule of progressively increasing wages to be paid to an apprentice consistent
31 with the skill proficiencies achieved and leading toward a journeyman wage rate.

32 **6. Competency.** "Competency" means the attainment of manual, mechanical or
33 technical skills and knowledge, as specified by an occupational standard and
34 demonstrated by an appropriate written and hands-on proficiency measurement.

35 **7. Completion rate.** "Completion rate" means the percentage of an apprenticeship
36 cohort that receives a certificate of completion of apprenticeship within one year of the
37 projected completion date. As used in this subsection, "apprenticeship cohort" means the
38 group of apprentices registered to a specific apprenticeship program during a one-year
39 time frame, except that "apprenticeship cohort" does not include the apprentices whose

1 apprenticeship agreement has been cancelled during the probationary period as described
2 in section 3205, subsection 8.

3 **8. Department.** "Department" means the Department of Labor.

4 **9. Electronic media.** "Electronic media" means media that use electronics or
5 electromechanical energy for the end user to access content and includes, but is not
6 limited to, electronic storage media, transmission media, the Internet, extranet, lease
7 lines, dial-up lines, private networks and the physical movement of removable or
8 transportable electronic media and interactive distance learning.

9 **10. Employer.** "Employer" means a person or organization employing an
10 apprentice, whether or not the person or organization is a party to an apprenticeship
11 agreement with the apprentice.

12 **11. Federal purposes.** "Federal purposes" includes any federal contract, grant,
13 agreement or arrangement dealing with apprenticeship and any federal financial or other
14 assistance, benefit, privilege, contribution, allowance, exemption, preference or right
15 pertaining to apprenticeship.

16 **12. Interim credential.** "Interim credential" means a credential issued by the
17 department to document attainment of certain benchmarks toward completion of an
18 apprenticeship.

19 **13. Journeyman.** "Journeyman" means a worker who has attained a level of skills,
20 abilities and competencies recognized within an industry as the skills, abilities and
21 competencies required for an occupation. "Journeyman" includes a mentor, technician,
22 specialist or other skilled worker who has documented sufficient skills and knowledge of
23 an occupation, either through formal apprenticeship or through practical on-the-job
24 experience and formal training, as determined by the sponsor.

25 **14. Maine Apprenticeship Council.** "Maine Apprenticeship Council" means the
26 Maine Apprenticeship Council under section 3209.

27 **15. Maine Apprenticeship Program.** "Maine Apprenticeship Program" means the
28 Maine Apprenticeship Program established in section 3202.

29 **16. Provisional registration.** "Provisional registration" means the one-year initial
30 provisional registration of newly registered apprenticeship programs under section 3202,
31 subsection 5.

32 **17. Quality assurance assessment.** "Quality assurance assessment" means a
33 comprehensive review conducted by the department regarding all aspects of an
34 apprenticeship program's performance, including but not limited to determining if
35 apprentices are receiving on-the-job learning in all phases of the apprenticeable
36 occupation, scheduled wage increases consistent with the standards of the program
37 submitted under section 3203 and related instruction through appropriate curricula and
38 delivery systems and determining if the apprenticeship program has provided to the
39 registration agency notification of all new registrations, transfers, suspensions,
40 cancellations and completions as required in this chapter.

1 **18. Registration.** "Registration" means registration with the Maine Apprenticeship
2 Program under section 3202.

3 **19. Registration agency.** "Registration agency" means the state apprenticeship
4 agency, which is responsible for registering apprenticeship programs and apprentices,
5 providing technical assistance and conducting compliance and quality assurance
6 assessments.

7 **20. Related instruction.** "Related instruction" means an organized and systematic
8 form of instruction designed to provide an apprentice with the knowledge of the
9 theoretical and technical subjects related to the apprentice's occupation and given in a
10 classroom, through occupational or industrial courses or by correspondence courses of
11 equivalent value, electronic media or other forms of self-study approved by the
12 department.

13 **21. Sponsor.** "Sponsor" means a person, association, apprenticeship committee or
14 organization operating an apprenticeship program and in whose name the apprenticeship
15 program is or is to be registered or approved.

16 **22. State apprenticeship agency.** "State apprenticeship agency" means the
17 department, which is the state government agency that has responsibility and
18 accountability for apprenticeship in the State and is recognized by the United States
19 Department of Labor, Office of Apprenticeship as an agency that has been properly
20 constituted under state law and authorized by the Office of Apprenticeship to register and
21 oversee apprenticeship programs and apprenticeship agreements for federal purposes.

22 **23. Technical assistance.** "Technical assistance" means guidance provided by the
23 Bureau of Employment Services within the department in the development, revision,
24 amendment or processing of a potential or current sponsor's standards of apprenticeship
25 or apprenticeship agreements or advice or consultation provided by the bureau to a
26 sponsor to further compliance with or remedy nonconformance to state and federal law,
27 regulation or rule.

28 **24. Transfer.** "Transfer" means a shift of registration from one apprenticeship
29 program to another or from one employer within a program to another employer within
30 that same program, in accordance with an agreement between the apprentice and the
31 affected sponsors.

32 **§3202. Maine Apprenticeship Program; eligibility and registration procedure**

33 The Maine Apprenticeship Program is established for the purposes of registration and
34 oversight of apprenticeship programs in the State. The Maine Apprenticeship Program is
35 administered by the department, which is the state apprenticeship agency and registration
36 agency for the purposes of 29 Code of Federal Regulations, Parts 29 and 30.

37 **1. Registration; eligibility.** A sponsor may apply with the Maine Apprenticeship
38 Program for review and approval of an apprenticeship program or apprenticeship
39 agreement. To be eligible for registration, the apprenticeship program or apprenticeship
40 agreement must meet the requirements of this chapter, must involve training in an

1 apprenticeable occupation and must comply with state and federal law regarding equal
2 employment opportunity in apprenticeship and training. An apprenticeship program is
3 registered upon its acceptance and recording by the Maine Apprenticeship Program as
4 meeting the basic standards and requirements for approval of such a program for federal
5 purposes, as evidenced by a certificate of registration or other written indicia. An
6 apprenticeship agreement is registered upon its acceptance and recording by the Maine
7 Apprenticeship Program as evidence of an apprentice's participation in a particular
8 registered apprenticeship program.

9 **2. Apprentices registered.** Except as provided under subsection 3, apprentices must
10 be individually registered under a registered sponsor and in a registered apprenticeship
11 program. Such individual registration may be effected by filing copies of each individual
12 apprenticeship agreement with the Maine Apprenticeship Program.

13 **3. Probationary employment.** A sponsor shall submit the name of a person in a
14 period of probationary employment under section 3203, subsection 1, paragraph H as an
15 apprentice under a registered apprenticeship program within 45 days of employment to
16 the Maine Apprenticeship Program for certification and to establish the apprentice in
17 probationary status.

18 **4. Certificate.** If the Maine Apprenticeship Program approves an apprenticeship
19 program, it shall register that apprenticeship program and issue a sponsor approval
20 certificate.

21 **5. Review.** The Maine Apprenticeship Program shall review an application for
22 registration of an apprenticeship program. An apprenticeship program that meets the
23 standards for registration must be given provisional registration for a period of one year.
24 The Maine Apprenticeship Program shall review an apprenticeship program for quality
25 and conformity with the requirements of this chapter at the end of the first year after
26 registration. A program that conforms to the requirements may have its registration be
27 made permanent or may continue to be provisionally registered through the first full
28 training cycle. An apprenticeship program that is not in operation or does not conform to
29 the requirements must be deregistered pursuant to section 3206.

30 The Maine Apprenticeship Program shall review a provisionally registered apprenticeship
31 program for quality and conformity with the requirements of this chapter at the end of the
32 first full training cycle. If the provisionally registered apprenticeship program receives a
33 satisfactory review, the Maine Apprenticeship Program shall convert the provisional
34 registration to permanent registration. Subsequent reviews must be conducted no less
35 frequently than every 5 years. An apprenticeship program that is not in operation or does
36 not conform to the requirements must be deregistered pursuant to section 3206.

37 **6. Change of program.** A sponsor may not make a change to a registered
38 apprenticeship program unless the change is approved by the Maine Apprenticeship
39 Program. To make a change to a registered apprenticeship program, a sponsor must
40 submit a request to the Maine Apprenticeship Program. The Maine Apprenticeship
41 Program shall approve or disapprove the requested change within 90 days from receipt of
42 the request. If approved, the change must be recorded and acknowledged by the Maine
43 Apprenticeship Program within 90 days of approval. If not approved, the Maine

1 Apprenticeship Program shall notify the sponsor of the disapproval and the reason for the
2 disapproval and provide the appropriate technical assistance.

3 **7. Union participation.** An apprenticeship program may be proposed for
4 registration by an employer or group of employers or an employers association. An
5 employer or employers association with the respect to which there exists a standard or a
6 collective bargaining agreement or other instrument that provides for participation by a
7 union in any aspect of the operation of the substantive matters of an apprenticeship
8 program must, if such participation is exercised, include in the apprenticeship program
9 proposed for registration written acknowledgment of union agreement or no objection to
10 the registration. If such participation is not so provided for or practiced, the employer or
11 employers association must simultaneously furnish to an existing union, if any, that is the
12 collective bargaining agent of the employees to be trained a copy of its application for
13 registration and of the apprenticeship program. The registration agency shall provide for
14 receipt of union comments within 45 days before final action on the application for
15 registration.

16 **§3203. Standards of apprenticeship**

17 An apprenticeship program must conform to the following standards to be eligible for
18 approval and registration by the Maine Apprenticeship Program.

19 **1. Standards.** An apprenticeship program must have organized, written standards
20 containing the terms and conditions of employment, training and supervision of one or
21 more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has
22 undertaken to carry out the program. The standards must contain:

23 A. A description of the employment and training of the apprentice in a skilled
24 occupation;

25 B. A description of how successful apprenticeship will be measured, which for an
26 individual apprentice may be a time-based approach, a competency-based approach
27 or a hybrid approach. An apprenticeship program must require a minimum of 2,000
28 hours of on-the-job learning.

29 (1) The time-based approach measures skill acquisition through the individual
30 apprentice's completion of 2,000 to 10,000 hours of on-the-job learning as
31 described in a work process schedule.

32 (2) The competency-based approach measures skill acquisition through the
33 individual apprentice's successful demonstration of acquired skills and
34 knowledge, as demonstrated by an appropriate written and hands-on proficiency
35 measurement. An apprenticeship program using the competency-based approach
36 must still require apprentices to complete an on-the-job learning component of
37 registered apprenticeship. The apprenticeship program's standards must address
38 how on-the-job learning will be integrated into the apprenticeship program,
39 describe competencies and identify an appropriate means of testing and
40 evaluation for such competencies.

41 (3) The hybrid approach measures the individual apprentice's skill acquisition
42 through a combination of a specified minimum number of hours of on-the-job

1 learning and the successful demonstration of competency as described in a work
2 process schedule.

3 The determination of the appropriate approach for the apprenticeship program's
4 standards is made by the sponsor, subject to approval by the Maine Apprenticeship
5 Program of the determination as appropriate to the apprenticeable occupation for
6 which the apprenticeship program is registered;

7 C. An outline of the work processes in which the apprentice will receive supervised
8 work experience and training on the job and the allocation of the approximate amount
9 of time to be spent in each major process;

10 D. Provision for at least 144 hours of related instruction for each year of
11 apprenticeship. An apprenticeship instructor must:

12 (1) Meet the Department of Education's requirements for a career and technical
13 education instructor or be a subject matter expert, such as a journeyman, who is
14 recognized within an industry as having expertise in a specific occupation; and

15 (2) Have training in teaching techniques and adult learning styles. This training
16 may occur before or after the apprenticeship instructor has started to provide the
17 related instruction;

18 E. A schedule of progressively increasing wages to be paid to an apprentice
19 consistent with the skill acquired. The entry wage may not be less than the minimum
20 wage prescribed by the federal Fair Labor Standards Act of 1938 for student
21 preapprentices and not less than \$10 per hour or 50% of the journeyman rate,
22 whichever is highest, for adult registered apprentices, unless a higher wage is
23 required by other applicable federal law or regulation or state law or rule or by
24 collective bargaining agreement. For purposes of this paragraph, "journeyman rate"
25 is the rate of pay established by the sponsor for an apprentice who has met all of the
26 skill, knowledge and competency requirements for that occupation;

27 F. Provision for periodic review and evaluation of the apprentice's performance on
28 the job and in related instruction and for the maintenance of appropriate progress
29 records;

30 G. Provision for a numeric ratio of apprentices to journeymen consistent with proper
31 supervision, training, safety and continuity of employment and with applicable
32 provisions in collective bargaining agreements, except when a minimum ratio is
33 expressly provided for by the collective bargaining agreements. The ratio language
34 must be specific and clear as to its application to the job site, workforce, department
35 or plant;

36 H. Provision for a probationary period reasonable in relation to the full
37 apprenticeship term, with full credit given for such a period toward completion of
38 apprenticeship. The probationary period may not exceed 25% of the length of the
39 apprenticeship program or one year, whichever is shorter;

40 I. Provision for adequate and safe equipment and facilities for training and
41 supervision, safety training for apprentices on the job and in related instruction and
42 qualified training personnel and adequate supervision on the job;

- 1 J. The minimum qualifications required by the sponsor for persons entering the
2 apprenticeship program, with an eligible starting age of not less than 16 years of age,
3 or 18 years of age if required by federal occupational safety and health laws or
4 regulations;
- 5 K. Provision for the placement of an apprentice under an apprenticeship agreement
6 that meets the requirements of this chapter and 29 Code of Federal Regulations,
7 Section 29.7 and is approved by the Maine Apprenticeship Program and directly or
8 by reference incorporates the standards of the apprenticeship program as part of the
9 agreement;
- 10 L. Provision for the granting of advanced standing or credit for demonstrated
11 competency, acquired experience, training or skills, which must be applied to all
12 applicants equally, with commensurate wages for standing or credit so granted;
- 13 M. Provision for transfer of an apprentice between apprenticeship programs and
14 within an apprenticeship program in accordance with section 3204, subsection 3;
- 15 N. Provision for recognition for successful completion of apprenticeship evidenced
16 by an appropriate certificate issued by the Maine Apprenticeship Program;
- 17 O. With respect to an apprenticeship program that uses the competency-based or
18 hybrid approach under paragraph B and that includes the issuance of interim
19 credentials, program standards that clearly identify the interim credentials,
20 demonstrate how the credentials link to the components of the apprenticeable
21 occupation and establish the process for assessing an individual apprentice's
22 demonstration of competency associated with the particular interim credential.
23 Interim credentials may be issued only for recognized components of an
24 apprenticeable occupation;
- 25 P. Provision for the registration and deregistration of the apprenticeship program and
26 for the prompt submission of any program standard modification or amendment to
27 the Maine Apprenticeship Program for approval;
- 28 Q. Provision for registration of and amendments to apprenticeship agreements and
29 for notice to the Maine Apprenticeship Program in accordance with section 3204,
30 subsection 4;
- 31 R. Provision for authority for the cancellation of an apprenticeship agreement during
32 the probationary period under section 3205, subsection 8 by either party without
33 stated cause;
- 34 S. Provision for compliance with the equal employment opportunity requirements of
35 this chapter and be in accordance with all aspects of 29 Code of Federal Regulations,
36 Section 30;
- 37 T. The name, address, telephone number and e-mail address, if appropriate, for the
38 appropriate individual with authority under the apprenticeship program to receive,
39 process and make disposition of complaints; and
- 40 U. Provision for recording and maintenance of all records concerning apprenticeship
41 as may be required by the Maine Apprenticeship Program and other applicable law.

1 **§3204. Apprenticeship program performance standards**

2 **1. Minimum number of apprentices.** A registered apprenticeship program must
3 have at least one registered apprentice, except for the following specified periods of time
4 if the periods do not exceed one year:

5 A. Between the date when the apprenticeship program is registered and the date of
6 registration for its first apprentice; and

7 B. Between the date that the apprenticeship program graduates an apprentice and the
8 date of registration for the next apprentice in the program.

9 **2. Evaluation.** The Maine Apprenticeship Program shall evaluate the performance
10 of a registered apprenticeship program. The tools and factors to be used must include,
11 but are not limited to:

12 A. Quality assurance assessments;

13 B. Equal employment opportunity compliance reviews; and

14 C. Completion rates. The cancellation of an apprenticeship agreement during the
15 probationary period under section 3205, subsection 8 does not have an adverse
16 impact on an apprenticeship program's completion rate.

17 **3. Transfers.** A transfer of an apprentice between apprenticeship programs or
18 within an apprenticeship program must be based on agreement between the apprentice
19 and the affected sponsors and:

20 A. The sponsor must provide the transferring apprentice with a transcript of related
21 instruction and on-the-job learning;

22 B. The transfer may be only to an apprenticeship program for the same occupation as
23 the one from which the apprentice is being transferred; and

24 C. If the transfer occurs between sponsors, a new apprenticeship agreement must be
25 executed.

26 **4. Notice.** A sponsor shall notify the Maine Apprenticeship Program of a person
27 who has completed an apprenticeship program, of a transfer under subsection 3 or of a
28 suspension or cancellation of an apprenticeship agreement under section 3205 within 45
29 days of the completion, transfer, suspension or cancellation. Notice of a transfer,
30 suspension or cancellation must include the reasons for the transfer, suspension or
31 cancellation.

32 **§3205. Apprenticeship agreement**

33 An apprenticeship agreement must contain, explicitly or by reference:

34 **1. Names.** The names and signatures of the contracting parties, including the
35 apprentice and the sponsor or employer, and the name and signature of a parent or
36 guardian of the apprentice if the apprentice is a minor;

1 **2. Apprentice.** The gender, race and ethnicity of the apprentice in such detail as
2 required to conform to the federal Equal Employment Opportunity Act, 42 United States
3 Code, Chapter 21, subchapter VI and for affirmative action compliance in apprenticeship
4 programs, including records of the following races and ethnic groups: African-American
5 or black; Native American, including Alaskan Native; Asian, including Pacific Islander;
6 Hispanic, including persons of Mexican, Puerto Rican, Cuban, Central or South
7 American or other Spanish origin or culture regardless of race; and white other than
8 Hispanic, as well as the date of birth, contact information and, on a voluntary basis, the
9 social security number of the apprentice;

10 **3. Contact information.** Contact information of the sponsor and registration
11 agency;

12 **4. Occupation; term.** A statement of the occupation in which the apprentice is to be
13 trained and the beginning date and term of apprenticeship;

14 **5. Hours.** A statement setting forth:

15 **A.** For an apprenticeship program using the time-based approach under section 3203,
16 subsection 1, paragraph B, the number of hours to be spent by the apprentice in on-
17 the-job learning; for an apprenticeship program using the competency-based
18 approach under section 3203, subsection 1, paragraph B, a description of the skill sets
19 to be attained to complete the program, including the on-the-job learning component;
20 and, for an apprenticeship program using the hybrid approach under section 3203,
21 subsection 1, paragraph B, the minimum number of hours to be spent by the
22 apprentice in on-the-job learning and a description of the skill sets to be attained to
23 complete the program; and

24 **B.** The number of hours, which must be at least 144 hours per year, to be spent by
25 the apprentice in related instruction;

26 **6. Schedule.** A statement setting forth a schedule of the work processes in the
27 occupation or industry divisions in which the apprentice is to be trained and the
28 approximate time to be spent at each process;

29 **7. Wages.** A statement of the graduated scale of wages to be paid to the apprentice
30 and whether or not the required related instruction is compensated;

31 **8. Probationary period.** Statements providing:

32 **A.** For a specific period of probation during which the apprenticeship agreement may
33 be cancelled by either party to the agreement upon written notice to the registration
34 agency, without adverse impact on the sponsor; and

35 **B.** That, after the probationary period in paragraph A, the apprenticeship agreement
36 may be:

37 (1) Cancelled at the request of the apprentice; or

38 (2) Suspended or cancelled by the sponsor, for good cause, with due notice to the
39 apprentice and a reasonable opportunity for corrective action and with written
40 notice to the apprentice and to the department of the final action taken;

1 **9. Standards.** A reference incorporating as part of the agreement the standards of
2 the apprenticeship program as they exist on the date of the agreement and as they may be
3 amended during the period of the agreement;

4 **10. Equal opportunity.** A statement that the apprentice will be accorded equal
5 opportunity in all phases of apprenticeship employment and training, without
6 discrimination because of race, color, religion, national origin or gender; and

7 **11. Dispute resolution authority.** The name, address, telephone number and e-mail
8 address, if appropriate, of the appropriate authority designated under the apprenticeship
9 program to receive, process and make disposition of controversies or differences arising
10 out of the apprenticeship agreement when the controversies or differences cannot be
11 adjusted between the sponsor and apprentice or resolved in accordance with established
12 procedure or applicable collective bargaining provisions.

13 **§3206. Deregistration of a registered apprenticeship program**

14 As set out in this section, deregistration of an apprenticeship program may be
15 effected upon the voluntary action of the sponsor or by the Maine Apprenticeship
16 Program upon reasonable cause.

17 **1. Deregistration at the request of the sponsor.** Upon receipt of a request for
18 deregistration from a sponsor, the Maine Apprenticeship Program may deregister an
19 apprenticeship program by written acknowledgment of the request stating:

20 A. That the apprenticeship program is deregistered at the sponsor's request and the
21 effective date of the deregistration; and

22 B. That, within 15 days of the date of the acknowledgment, the sponsor must notify
23 all apprentices of the deregistration and the effective date; that the deregistration
24 automatically deprives the apprentices of individual registration; that the
25 deregistration removes the apprentices from coverage for federal purposes; and that
26 all apprentices are referred to the Maine Apprenticeship Program for information
27 about potential transfer to other registered apprenticeship programs.

28 **2. Deregistration by the Maine Apprenticeship Program upon reasonable cause.**
29 The Maine Apprenticeship Program may undertake deregistration proceedings with
30 respect to an apprenticeship program if the apprenticeship program is not conducted,
31 operated or administered in accordance with the apprenticeship program's standards under
32 section 3203 or with the requirements of this chapter, including not but limited to failure
33 to provide on-the-job learning; failure to pay an apprentice a progressively increasing
34 wage consistent with skills acquired; and persistent and significant failure to perform
35 successfully. For purposes of this subsection, persistent and significant failure to perform
36 successfully occurs when a sponsor consistently fails to register at least one apprentice,
37 shows a pattern of poor quality assurance assessment results over a period of several
38 years, demonstrates an ongoing pattern of very low completion rates over a period of
39 several years or shows no indication of improvement in the areas identified by the Maine
40 Apprenticeship Program during a review process as requiring corrective action. The
41 Maine Apprenticeship Program shall follow procedures regarding agency-initiated
42 deregistration as outlined in 29 Code of Federal Regulations, Section 29.8.

1 **3. Consequences of deregistration.** An apprentice who is enrolled in an
2 apprenticeship program that is deregistered pursuant to subsection 1 or 2 is denied
3 individual registration under the Maine Apprenticeship Program and is removed from
4 coverage for federal purposes.

5 **§3207. Limitations**

6 **1. Invalidate.** Nothing in this chapter or in an apprenticeship agreement may be
7 construed to invalidate:

8 A. An apprenticeship provision in a collective bargaining agreement between
9 employers and employees establishing more stringent apprenticeship standards; or

10 B. A special provision for veterans, minorities or women in the standards, apprentice
11 qualifications or operation of an apprenticeship program or in the apprenticeship
12 agreement that is not otherwise prohibited by law, executive order or authorized
13 regulation or rule.

14 **§3208. Complaints**

15 **1. Review.** A controversy or difference arising under an apprenticeship agreement
16 that cannot be resolved between the sponsor and the apprentice and that is not covered by
17 a collective bargaining agreement may be submitted by an apprentice, or the apprentice's
18 authorized representative, to the Maine Apprenticeship Program for review. Matters
19 covered by a collective bargaining agreement are not subject to such review.

20 **2. Complaint procedure.** A complaint submitted under subsection 1 by an
21 apprentice or the apprentice's authorized representative to the Maine Apprenticeship
22 Program must be in writing and signed by the complainant or authorized representative
23 and must be submitted within 60 days of the final decision of the sponsor. The complaint
24 must set forth the specific matter giving rise to the complaint, together with relevant facts
25 and circumstances. Copies of pertinent documents and correspondence must accompany
26 the complaint.

27 **3. Decision; resolution.** The Maine Apprenticeship Program, as appropriate, shall
28 render an opinion on a complaint under this section within 90 days after receipt of the
29 complaint, based upon such investigation of the matters submitted as the Maine
30 Apprenticeship Program finds necessary and the record before it. During the 90-day
31 period, the Maine Apprenticeship Program shall make reasonable efforts to effect a
32 satisfactory resolution between the parties involved. If the complaint is so resolved, the
33 Maine Apprenticeship Program shall notify the parties that the case is closed. If an
34 opinion is rendered, the Maine Apprenticeship Program shall send copies of the opinion
35 to all interested parties. The decision of the Maine Apprenticeship Program constitutes
36 final agency action and is subject to court review except as otherwise provided in this
37 section.

38 **4. Other remedies.** This section does not preclude an apprentice from pursuing any
39 other remedy authorized under another federal, state or local law.

1 **5. Application.** This section does not apply to a complaint concerning
2 discrimination or other equal opportunity matters. All such complaints must be
3 submitted, processed and resolved in accordance with applicable state or federal law.

4 **§3209. Maine Apprenticeship Council**

5 **1. Establishment.** The Maine Apprenticeship Council, as established in Title 5,
6 section 12004-I, subsection 54-D and referred to in this section as "the council," consists
7 of 16 members appointed in accordance with this subsection. Members of the council
8 must be familiar with apprenticeable occupations.

9 **A. Twelve members of the council are appointed by the Governor as follows:**

10 (1) Four members must be representatives of employees and be bona fide
11 members of a recognized major labor organization;

12 (2) Four members must be representatives of employers and be bona fide
13 employers or authorized representatives of employers; and

14 (3) Four members must be representatives of the public and may not be
15 industrial employers or employees or be directly concerned with any particular
16 industrial employer or employee. At least 2 of these members must represent the
17 interests of women and minorities and recipients of benefits under the Temporary
18 Assistance for Needy Families program under Title 22, chapter 1053-B who are
19 in registered apprenticeship.

20 **B. Four nonvoting members of the council are appointed by their respective agencies**
21 **as follows:**

22 (1) One representative of the Maine Jobs Council established in section 2006,
23 appointed by the chair of the Maine Jobs Council;

24 (2) One representative of the Maine Community College System, appointed by
25 the President of the Maine Community College System;

26 (3) One representative of the Department of Education, appointed by the
27 Commissioner of Education; and

28 (4) One representative of the Department of Economic and Community
29 Development, appointed by the Commissioner of Economic and Community
30 Development.

31 **2. Term; vacancy.** A member of the council serves a 4-year term. A member
32 serves until the member's successor is appointed and qualified. A vacancy on the council
33 must be filled for the remainder of the unexpired term in the same manner as the original
34 appointment.

35 **3. Chair.** The council shall appoint one of its members as chair of the council.

36 **4. Duties.** The council shall meet on a quarterly basis and shall assist and advise the
37 department in its duties administering the Maine Apprenticeship Program with respect to:

38 **A. Developing, approving and registering new apprenticeship programs;**

- 1 B. Identifying and registering new sponsors;
- 2 C. Representing the Maine Apprenticeship Program to the Maine Jobs Council
- 3 established in section 2006;
- 4 D. Reviewing and recommending additions or changes to Maine Apprenticeship
- 5 Program rules, policies and processes;
- 6 E. Ensuring availability of related instruction for apprentices;
- 7 F. Ensuring registered apprenticeship programs meet the requirements of this
- 8 chapter;
- 9 G. Ensuring appropriate records of registered apprenticeship programs, registered
- 10 apprentices and sponsors are created and maintained;
- 11 H. Reviewing complaints;
- 12 I. Developing a biennial plan and evaluation tools and processes to be used to review
- 13 apprenticeship program outcomes; and
- 14 J. Ensuring an annual report is provided by March 1st of each year to the Governor,
- 15 the joint standing committee of the Legislature having jurisdiction over labor and
- 16 economic development matters and the joint standing committee of the Legislature
- 17 having jurisdiction over education and cultural affairs that includes the following:
- 18 (1) The name and location of each sponsor;
- 19 (2) The number of apprentices registered into and completing apprenticeship;
- 20 and
- 21 (3) The return on investment.

22 **§3210. State office**

23 The department shall administer the Maine Apprenticeship Program through the

24 Bureau of Employment Services within the department, referred to in this section as "the

25 bureau." The bureau is the state office for the purposes of 29 Code of Federal

26 Regulations, Parts 29 and 30.

27 **1. Director.** The bureau shall employ a director of apprenticeship, who supervises

28 the execution of apprenticeship agreements and the maintenance of standards.

29 **2. Records; instruction.** The bureau shall keep a record of apprenticeship

30 agreements and apprenticeship programs and ensure that all aspects of related instruction

31 are delivered and coordinated in a timely manner.

32 **§3211. Additional powers and duties**

33 **1. Investment system.** The Maine Apprenticeship Program shall partner with the

34 Maine Workforce Investment System under chapter 33 to use registered apprenticeship as

35 a key talent development approach that serves both workforce investment system

36 participants and industry in the State.

1 2. Economic development. The Maine Apprenticeship Program shall cooperate
2 with the Department of Economic and Community Development in matters relating to
3 workforce and economic development.

4 3. Outreach. The Maine Apprenticeship Program shall cooperate, consult and
5 coordinate with workforce development entities that serve individuals seeking
6 employment.

7 4. Technical assistance. The Maine Apprenticeship Program may provide sponsors
8 with technical assistance.

9 5. Federal regulations. The Maine Apprenticeship Program shall ensure that all
10 apprenticeship programs established under this chapter conform to 29 Code of Federal
11 Regulations, Parts 29 and 30 and any applicable regulations of the United States
12 Department of Labor, Office of Apprenticeship.

13 6. Education. The Maine Apprenticeship Program shall cooperate with the
14 Department of Education, local school authorities such as adult education and career and
15 technical education centers and other groups in organizing and establishing related
16 instruction for apprentices employed under approved apprenticeship agreements.

17 A. A public educational institution or sponsor may provide related instruction
18 according to established policies. As funds permit, the Department of Labor shall
19 underwrite 50% of tuition costs for apprentices in good standing at public educational
20 institutions and provide training cost assistance to sponsor groups in accordance with
21 sponsor policies. To ensure that adequate funds are available for related instruction,
22 the Maine Apprenticeship Program shall establish a biennial plan, including projected
23 apprenticeship enrollments and a subsequent budget request.

24 B. The Maine Apprenticeship Program shall assist the Department of Education, the
25 State's community colleges, local school authorities such as adult education and
26 career and technical education centers and other groups in promoting, developing and
27 establishing student preapprenticeship programs and adult preapprenticeship
28 programs if the community colleges, local school authorities and other groups wish to
29 do so. A participant who successfully completes a preapprenticeship program meets
30 the qualifying standards of a registered apprenticeship program.

31 **§3212. Rulemaking**

32 The department shall adopt routine technical rules as defined in Title 5, chapter 375,
33 subchapter 2-A to implement the provisions of this chapter.

34 **Sec. 14. 32 MRSA §1101, sub-§1,** as amended by PL 2009, c. 415, Pt. A, §17, is
35 further amended to read:

36 **1. Apprentice electrician.** "Apprentice electrician" means an apprentice, as defined
37 in Title 26, section 2006, subsection 5-A, paragraph A, subparagraph (1) section 3201,
38 subsection 1, who is engaged in a written agreement to work at and learn the trade of an
39 electrician under the direct supervision of a master, journeyman or limited electrician.

1 Maine Job Council's Standing Committee on Apprenticeship and creates the Maine
2 Apprenticeship Program within the Department of Labor. The bill also creates the Maine
3 Apprenticeship Council to assist and advise the department in administering the program.