

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH SESSION

S.F. No. 2124

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DATE	D-PG	OFFICIAL STATUS
03/03/2014	5914	Introduction and first reading Referred to Jobs, Agriculture and Rural Development
03/13/2014		Comm report: To pass as amended Second reading

1.1

A bill for an act

1.2

relating to trades; making federal conformity changes to the apprenticeship

1.3

program; amending Minnesota Statutes 2012, sections 178.02; 178.03;

1.4

178.041, subdivision 2; 178.07; 178.09; 178.10; proposing coding for new

1.5

law in Minnesota Statutes, chapter 178; repealing Minnesota Statutes 2012,

1.6

sections 178.03, subdivision 2; 178.05; 178.06; 178.08; Minnesota Rules, parts

1.7

5200.0300; 5200.0310; 5200.0320, subparts 1, 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 14,

1.8

15; 5200.0340; 5200.0360; 5200.0390.

1.9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10

Section 1. **[178.011] DEFINITIONS.**

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Subdivision 1. **Scope.** The terms defined in this section have the meanings given

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and apply to this chapter.

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Subd. 2. **Apprentice.** "Apprentice" means a worker who is at least 16 years of

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age who is employed to learn an apprenticeable trade or occupation in a registered

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apprenticeship program under this chapter.

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Subd. 3. **Apprenticeship Advisory Board.** "Apprenticeship Advisory Board" or

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"board" means the Apprenticeship Advisory Board established under section 178.02 and

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as an advisory State Apprenticeship Council as defined in Code of Federal Regulations,

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title 29, section 29.2.

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Subd. 4. **Apprenticeship program.** "Apprenticeship program" means a program

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registered under this chapter that includes standards containing all terms and conditions

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for the qualification, recruitment, selection, employment, and training of apprentices,

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as required under Code of Federal Regulations, title 29, parts 29 and 30, and a written

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apprenticeship agreement.

2.1 Subd. 5. **Commissioner.** "Commissioner" means the commissioner of labor and
2.2 industry or a duly designated representative of the commissioner who is an employee
2.3 of the department.

2.4 Subd. 6. **Department.** "Department" means the Department of Labor and Industry
2.5 established under section 175.001.

2.6 Subd. 7. **Division.** "Division" means the department's Labor Standards and
2.7 Apprenticeship Division, established under sections 175.16 and 178.03, and the State
2.8 Apprenticeship Agency as defined in Code of Federal Regulations, title 29, part 29,
2.9 section 29.2.

2.10 Subd. 8. **Employer.** "Employer" means any person or organization employing
2.11 an apprentice whether or not the person or organization is a party to an apprenticeship
2.12 agreement with the apprentice.

2.13 Subd. 9. **Journeyworker.** "Journeyworker" means a person who has attained a level
2.14 of skill, abilities, and competencies recognized within an industry as having mastered the
2.15 skills and competencies required for the trade or occupation.

2.16 Subd. 10. **Registered apprenticeship agreement.** "Registered apprenticeship
2.17 agreement" or "apprenticeship agreement" means a written agreement, complying with
2.18 section 178.07, between the division, sponsor, and apprentice, and, if the apprentice is
2.19 a minor, the minor's parent or guardian, which contains the terms and conditions of the
2.20 employment and training of the apprentice.

2.21 Subd. 11. **Related instruction.** "Related instruction" means an organized and
2.22 systematic form of instruction designed to provide the apprentice with the knowledge of
2.23 the theoretical and technical subjects related to the apprentice's trade or occupation. The
2.24 instruction may be given in a classroom through trade, occupational, or industrial courses
2.25 or, when of equivalent value, by correspondence, electronic media, or other forms of
2.26 self-study approved by the commissioner.

2.27 Subd. 12. **Sponsor.** "Sponsor" means an employer, employer association, or
2.28 apprenticeship committee as defined by Code of Federal Regulations, title 29, part 29,
2.29 section 29.2, that operates an apprenticeship program and in whose name the program is
2.30 or is to be registered or approved.

2.31 **Sec. 2. [178.012] UNIFORMITY WITH FEDERAL LAW.**

2.32 Subdivision 1. **Apprenticeship rules.** Federal regulations governing apprenticeship
2.33 in effect on July 1, 2013, as provided by Code of Federal Regulations, title 29, part 29,
2.34 sections 29.1 to 29.6 and 29.11, are the apprenticeship rules in this state, subject to
2.35 amendment by this chapter or by rule under section 178.041.

3.1 Subd. 2. **State Apprenticeship Agency.** The commissioner shall take all necessary
3.2 steps as permitted by law to obtain and maintain the status of the division as a State
3.3 Apprenticeship Agency recognized by the United States Department of Labor under Code
3.4 of Federal Regulations, title 29, part 29, section 29.13.

3.5 Sec. 3. Minnesota Statutes 2012, section 178.02, is amended to read:

3.6 **178.02 APPRENTICESHIP ADVISORY BOARD.**

3.7 Subdivision 1. **Members.** The commissioner ~~of labor and industry, hereinafter~~
3.8 ~~called the commissioner,~~ shall appoint an Apprenticeship Board, ~~hereinafter referred~~
3.9 ~~to as the board,~~ composed of three representatives each from employer and employee
3.10 organizations, and two representatives of the general public. ~~The director~~ A designee of
3.11 the commissioner of education responsible for career and technical education or designee
3.12 shall be an ex officio member of the board and shall serve in an advisory capacity only.

3.13 Subd. 2. **Terms.** The board shall not expire. The terms, compensation, and removal
3.14 of appointed members shall be as provided in section 15.059.

3.15 Subd. 4. **Duties.** The board shall meet at the call of the commissioner and
3.16 shall advise the commissioner about matters relating to this chapter. It shall propose
3.17 occupational classifications for apprenticeship programs; propose minimum standards for
3.18 apprenticeship programs and agreements; and advise on the establishment of such policies,
3.19 procedures, and rules as the board or commissioner deems necessary in implementing
3.20 the intent of this chapter.

3.21 Sec. 4. Minnesota Statutes 2012, section 178.03, is amended to read:

3.22 **178.03 DIVISION OF LABOR STANDARDS AND APPRENTICESHIP.**

3.23 Subdivision 1. **Establishment of division.** There is established a Division of Labor
3.24 Standards and Apprenticeship in the Department of Labor and Industry. This division
3.25 shall be administered by a director, and be under the supervision of the commissioner ~~of~~
3.26 ~~labor and industry, hereinafter referred to as the commissioner.~~

3.27 Subd. 2. **Director of labor standards and apprenticeship.** The commissioner
3.28 shall appoint a director of the Division of Labor Standards and Apprenticeship, hereinafter
3.29 referred to as the director, and may appoint and employ such clerical, technical, and
3.30 professional help as is necessary to accomplish the purposes of this chapter. The director
3.31 and division staff shall be appointed and shall serve in the classified service pursuant to
3.32 civil service law and rules.

3.33 Subd. 3. **Duties and functions.** ~~The director, under the supervision of the~~
3.34 ~~commissioner, and with the advice and consultation of the Apprenticeship Board, is~~

~~authorized: to administer the provisions of this chapter; to promote apprenticeship and other forms of on-the-job learning; to establish, in cooperation and consultation with the Apprenticeship Board and with the apprenticeship committees, conditions, training, and learning standards for the approval of apprenticeship programs and agreements, which conditions and standards shall in no case be lower than those (1) prescribed by this chapter, and (2) established under~~ The division shall be administered as prescribed by this chapter and in accordance with Code of Federal Regulations, title 29, part 29; to promote equal employment opportunity in apprenticeship and other on-the-job learning and to establish a Minnesota plan for equal employment opportunity in apprenticeship which shall be consistent with standards established under Code of Federal Regulations, title 29, part 30, as amended; to issue certificates of registration to sponsors of approved apprenticeship programs; to act as secretary of the Apprenticeship Board; to approve, if of the opinion that approval is for the best interest of the apprentice, any apprenticeship agreement which meets the standards established hereunder; to terminate any apprenticeship agreement in accordance with the provisions of such agreement; to keep a record of apprenticeship agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as the commissioner deems necessary to carry out the intent of this chapter; provided, that the administration and supervision of supplementary instruction in related subjects for apprentices; coordination of instruction on a concurrent basis with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the function of state and local boards responsible for vocational education. ~~The director~~ The director ~~division~~ shall have the authority to make wage determinations applicable to the graduated schedule of wages and journeyworker wage rate for apprenticeship agreements, giving consideration to the existing wage rates prevailing throughout the state, except that no wage determination by the director shall alter an existing wage provision for apprentices or journeyworkers that is contained in a bargaining agreement in effect between an employer and an organization of employees, nor shall the director make any determination for the beginning rate for an apprentice that is below the wage minimum established by federal or state law.

Subd. 4. **Reciprocity approval.** ~~The director~~ commissioner, if requested by a ~~sponsoring entity program sponsor~~, shall grant reciprocity approval to apprentices, ~~apprenticeship programs of employers and unions who jointly form a sponsoring entity on a multistate basis in other than the building construction industry if such programs are in conformity with this chapter and have been registered in compliance with Code of Federal Regulations, title 29, part 29, by a state apprenticeship council recognized by or registered with the United States Department of Labor, Office of Apprenticeship,~~

~~when such approval is necessary for federal purposes under Code of Federal Regulations, title 29, section 29.13(a) or 29.13(b)(7), and standards that are registered in other states. Program sponsors seeking reciprocal approval must meet the requirements of this chapter including the wage and hour provisions and apprentice ratio standards.~~

Sec. 5. **[178.035] REGISTRATION OF APPRENTICESHIP PROGRAMS.**

Subdivision 1. **Application.** To apply for the registration of an apprenticeship program, a sponsor shall submit a completed application to the division on a form provided by the commissioner, which shall include standards of apprenticeship that comply with the requirements of Code of Federal Regulations, title 29, part 29, section 29.5, and this chapter.

Subd. 2. **Provisional approval.** The division shall grant a provisional approval period of one year to an applicant demonstrating that the standards submitted meet the requirements of this chapter. The division may review each program granted provisional approval for quality and for conformity with the requirements of this section and section 178.036 at any time, but not less than biannually, during the provisional approval period.

After review:

(1) a program that conforms with the requirements of this chapter:

(i) may be approved; or

(ii) may continue to be provisionally approved through the first full training cycle; and

(2) a program not in operation or not conforming with the requirements of this chapter during the provisional approval period shall be deregistered.

The division shall inform the applicant of the results of its review in writing at least 30 days prior to the expiration of the provisional approval period.

Subd. 3. **Review.** The division shall review all programs for quality and for conformity with the requirements of this chapter at the end of the first full training cycle. Subsequent review of a registered program must be conducted at least annually. Programs not in operation or not conforming to this chapter at the time of review may be recommended for deregistration.

Subd. 4. **Program modification.** To apply for the modification of or change to a registered program, a sponsor shall submit a written request for modification to the division. The division shall approve or disapprove a modification request within 90 days from the date of receipt. If approved, the modification or change must be recorded and acknowledged within 90 days of its approval as an amendment to the registered program. If not approved, the division shall notify the sponsor in writing of the disapproval and the reasons for the disapproval. The division may provide technical assistance to a sponsor seeking to modify or change a registered program.

6.1 Subd. 5. **Notice.** When an application is submitted under subdivision 1 by an
6.2 employer or employers' association, and where the standards, collective bargaining
6.3 agreement, or other instrument provides for participation by a union in any manner in the
6.4 operation of the substantive matters of the apprenticeship program, and the participation
6.5 is exercised, a written acknowledgment of the union's agreement or a written statement
6.6 specifying that the union has no objection to the registration is required. Where no union
6.7 participation is evidenced and practiced, the employer or employers' association shall
6.8 simultaneously furnish to the union, if any, which functions as the collective bargaining
6.9 agent of the employees to be trained, a copy of its application for registration and the
6.10 apprenticeship program. The commissioner shall provide a reasonable time of not less
6.11 than 30 days nor more than 60 days for receipt of union comments, if any, before final
6.12 action on the application for registration is taken. Union comments must be submitted to
6.13 the division during the time period specified by the commissioner.

6.14 Subd. 6. **Certificate.** Upon registration of a program, the commissioner shall issue a
6.15 certificate of registration to the sponsor. Within 30 days after the certificate is mailed or
6.16 otherwise delivered to the sponsor, the sponsor must submit to the commissioner a copy of
6.17 at least one executed apprenticeship agreement.

6.18 Subd. 7. **Policy requirement.** It must be the policy of the employer and sponsor
6.19 that the recruitment, selection, employment, and training of apprentices during their
6.20 apprenticeship must be without discrimination due to race, color, creed, religion, national
6.21 origin, sex, sexual orientation, marital status, physical or mental disability, receipt of
6.22 public assistance, or age. The employer and sponsor must take affirmative action to
6.23 provide equal opportunity in apprenticeship and must operate the apprenticeship program
6.24 as required under Code of Federal Regulations, title 29, part 30, and under the Minnesota
6.25 plan for equal opportunity in apprenticeship.

6.26 **Sec. 6. [178.036] STANDARDS OF APPRENTICESHIP.**

6.27 Subdivision 1. **Federal uniformity.** Each program must have an organized, written
6.28 plan of program standards embodying the terms and conditions of employment, training,
6.29 and supervision of one or more apprentices in an apprenticeable trade or occupation, as
6.30 defined in Code of Federal Regulations, title 29, part 29, section 29.4, and subscribed to by
6.31 a sponsor and employer who has undertaken to carry out the apprentice training program.
6.32 The program standards must contain the provisions that address each item identified in
6.33 Code of Federal Regulations, title 29, part 29, section 29.5(b).

6.34 Subd. 2. **Standards.** In addition to the requirements in subdivision 1, the program
6.35 standards must also contain provisions in compliance with paragraphs (a) to (j):

7.1 (a) **Related instruction.** A minimum of 144 hours of related instruction is required
7.2 in each training cycle. At least 50 hours of related safety instruction is required during the
7.3 term of apprenticeship. Time spent in related instruction cannot be considered as hours of
7.4 work as required by the job process schedule. Every apprenticeship instructor must meet
7.5 the Department of Education's requirements for a vocational-technical instructor or be a
7.6 subject matter expert, which is an individual such as a journeyworker, who is recognized
7.7 within an industry as having expertise in a specific trade or occupation.

7.8 (b) **Job process schedule.** Each time-based apprenticeship program must include
7.9 not less than 2,000 hours of reasonably continuous employment.

7.10 (c) **Ratios.** If the apprentice is covered by a collective bargaining agreement, the
7.11 employer must follow the provisions of the collective bargaining agreement regarding the
7.12 maximum number of apprentices to be employed at the work site for each journeyworker
7.13 employed at the same work site. In the absence of a collective bargaining agreement, for
7.14 the purposes of direct supervision and the safety and instruction of the apprentice, the
7.15 ratio shall be:

7.16 (1) one apprentice for the first journeyworker employed at the work site plus one
7.17 apprentice for each additional three journeyworkers employed at the work site;

7.18 (2) the work site ratio utilized by the majority of registered apprenticeship
7.19 agreements in the same trade or occupation; or

7.20 (3) a program-specific ratio that has been approved by the Apprenticeship Advisory
7.21 Board.

7.22 (d) **Graduated schedule of wages.** The graduated schedule of wages for an
7.23 apprenticeship program shall be calculated as a percentage of the journeyworker rate in
7.24 the majority of registered apprenticeship agreements in the same trade or occupation in the
7.25 state. If there are no registered apprenticeship agreements in the same trade or occupation,
7.26 the graduated schedule of wages may be determined by the sponsor.

7.27 (e) **Probationary period.** The standards must provide a period of probation of not
7.28 more than 500 hours of employment and instruction extending over not more than four
7.29 months, during which time the apprenticeship agreement shall be terminated by the director
7.30 upon written request of either party, and providing that after such probationary period the
7.31 apprenticeship agreement may be terminated by the director by mutual agreement of all
7.32 parties thereto, or terminated by the director for good and sufficient reason.

7.33 (f) **Dispute resolution.** The program standards must include a provision that
7.34 controversies or differences concerning the terms of the apprenticeship agreement which
7.35 cannot be resolved by the parties thereto, or which are not covered by a collective

bargaining agreement, may be submitted to the commissioner for determination as provided for in section 178.09.

(g) Term of apprenticeship. The term of apprenticeship may be measured either through the completion of at least 2,000 work hours of on-the-job training (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach).

(h) Training cycle. The training cycle for related instruction must be designated in hours, days, or months for each individual trade or occupation included in the standards.

(i) Responsibilities of the apprentice. An apprentice employed under the program standards shall agree to be punctual and regular in attendance, and to endeavor to the best of the apprentice's ability to perfect the required skills for the trade or occupation.

(j) Coordination of apprentices. The sponsor shall designate a qualified individual as a coordinator of apprentices who shall:

(1) maintain an adequate record of progress in training each apprentice;

(2) be responsible for assuring that the requirements of the applicable learning program are met during the prescribed training term; and

(3) perform other duties as may be assigned by the sponsor relative to the development and operation of an effective program of apprenticeship.

Sec. 7. Minnesota Statutes 2012, section 178.041, subdivision 2, is amended to read:

Subd. 2. **Chapter 14 applies.** Rules, modifications, amendments, and repeals thereof which may be issued by the commissioner under this ~~section~~ chapter shall be adopted in accordance with chapter 14 and shall have the force and effect of law.

Sec. 8. **[178.044] DETERMINATION OF APPRENTICE WAGES.**

Subdivision 1. **Maximum hours.** The maximum number of hours of work per week shall not exceed either the number prescribed by law or the customary regular number of hours per week for the employees of the company by which the apprentice is employed. Time spent in related and supplemental instruction for any apprentice shall not be included in the maximum number of hours of work per workweek.

Subd. 2. **Overtime.** An apprentice may be allowed to work overtime provided that the overtime work does not conflict with related instruction course attendance. All time in excess of the number of hours of work per week as specified in the apprenticeship agreement shall be considered overtime. For overtime, the apprentice's rate of pay shall be increased by the same percentage as the journeyworker's rate of pay for overtime is increased in the same industry or establishment.

9.1 Subd. 3. **Journeyworker wage rate.** If the apprentice is not covered by a collective
9.2 bargaining agreement, the journeyworker wage rate upon which the apprentice agreement
9.3 graduated schedule of wages is calculated shall be:

9.4 (1) the most current Minnesota state prevailing wage rate determination for the same
9.5 trade or occupation in the county in which the apprentice's employer is located. If the
9.6 apprenticeship agreement does not specify fringe benefits, the apprentice must be paid the
9.7 full amount of fringe benefits listed in the wage determination;

9.8 (2) if there is no Minnesota prevailing wage rate determination for the same trade or
9.9 occupation in the county in which the apprentice's employer is located, the journeyworker
9.10 wage rate will be the journeyworker wage rate in the majority of apprenticeship
9.11 agreements registered with the division in the same trade or occupation; or

9.12 (3) if there are no registered apprenticeship agreements in the same trade or
9.13 occupation registered with the division, the journeyworker wage may be determined
9.14 by the sponsor.

9.15 Sec. 9. Minnesota Statutes 2012, section 178.07, is amended to read:

9.16 **178.07 REGISTERED APPRENTICESHIP AGREEMENTS.**

9.17 Subdivision 1. **Approval required.** All terminations, cancellations, and transfers of
9.18 apprenticeship agreements shall be approved by the division in writing. The division must
9.19 be notified in writing by the sponsor within 45 days of all terminations, cancellations,
9.20 or transfer of apprenticeship agreements.

9.21 Subd. 2. **Signatures required.** Apprenticeship agreements shall be signed by
9.22 the sponsor, and by the apprentice, and if the apprentice is a minor, by a parent or legal
9.23 guardian. When a minor enters into an apprenticeship agreement under this chapter for a
9.24 period of learning extending into majority, the apprenticeship agreement shall likewise be
9.25 binding for such a period as may be covered during the apprentice's majority.

9.26 Subd. 3. **Contents.** Every apprenticeship agreement entered into under this chapter
9.27 shall contain:

9.28 (1) the names of the contracting parties, and the signatures required by subdivision 1;

9.29 (2) the date of birth, and information as to the race and sex of the apprentice, and, on
9.30 a voluntary basis, the apprentice's Social Security number;

9.31 (3) a statement of the trade, craft, occupation, or business which the apprentice is to
9.32 be taught, and the time at which the apprenticeship will begin and end;

9.33 (3) contact information of the sponsor and the division;

9.34 (4) a statement showing of the trade or occupation which the apprentice is to be
9.35 taught, and the date on which the apprenticeship will begin, and the number of hours to

be spent by the apprentice in work and the number of hours to be spent in concurrent, supplementary instruction in related subjects, which instruction shall be not less than 144 hours during each year of the apprenticeship term. The maximum number of hours of work per week not including time spent in related and supplemental instruction for any apprentice shall not exceed either the number prescribed by law or the customary regular number of hours per week for the employees of the company by which the apprentice is employed. An apprentice may be allowed to work overtime provided that the overtime work does not conflict with supplementary instruction course attendance. All time in excess of the number of hours of work per week as specified in the apprenticeship agreement shall be considered overtime. For overtime, the apprentice's rate of pay shall be increased by the same percentage as the journeyworker's rate of pay for overtime is increased in the same industry or establishment related instruction;

~~(5) a statement setting forth a schedule of the processes in the trade, occupation, or industry divisions in which the apprentice is to be taught and the approximate time to be spent at each process;~~

~~(6) (5) a statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated under sections 178.036, subdivision 2, clause (4), and 178.044, as applicable;~~

~~(7) (6) a statement providing for a period of probation of not more than 500 hours of employment and instruction extending over not more than four months, during which time the apprenticeship agreement shall be terminated by the director upon written request of either party, and providing that after such probationary period the apprenticeship agreement may be terminated by the director by mutual agreement of all parties thereto, or terminated by the director for good and sufficient reason listing any fringe benefits to be provided to the apprentice;~~

~~(8) a provision that controversies or differences concerning the terms of the apprenticeship agreement which cannot be resolved by the parties thereto, or which are not covered by a collective bargaining agreement, may be submitted to the director for determination as provided for in section 178.09;~~

~~(9) a provision that an employer who is unable to fulfill an obligation under the apprenticeship agreement may, with the approval of the director, transfer such contract to any other employer, provided that the apprentice consents and that such other employer agrees to assume the obligations of the apprenticeship agreement; and~~

~~(7) a statement incorporating as part of the agreement the registered standards of the apprenticeship program on the date of the agreement and as they may be amended during the period of the agreement;~~

(8) a statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination due to race, color, creed, religion, national origin, sex, sexual orientation, marital status, physical or mental disability, receipt of public assistance, or age; and

~~(10)~~ (9) such additional terms and conditions as may be prescribed or approved by the ~~director~~ commissioner not inconsistent with the provisions of this chapter.

Sec. 10. Minnesota Statutes 2012, section 178.09, is amended to read:

178.09 INVESTIGATIONS BY ~~DIRECTOR~~ AND ENFORCEMENT OF APPRENTICESHIP AGREEMENTS.

Subdivision 1. **Complaint.** Upon the complaint of any interested person or upon the ~~director's~~ division's own initiative, the ~~director~~ division may investigate to determine if there has been a violation of the terms of an apprenticeship agreement made under this chapter. Complaints must be made in writing within 60 days of the events giving rise to the complaint and must set forth the specific matters complained of together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint. The ~~director~~ division may conduct such proceedings as are necessary for that investigation and determination. All such proceedings shall be on a fair and impartial basis ~~and shall be conducted according to rules promulgated under section 178.041.~~

Subd. 2. **Determination; appeal.** Within 90 days after the receipt of a complaint, the division must issue a determination. The determination of the ~~director~~ division shall be filed with the commissioner and written notice shall be served on all parties affected by it. Any person aggrieved by any determination or action of the director may appeal to the commissioner. If no appeal is filed with the commissioner within ten days of the date of service, the ~~director's~~ division's determination shall become the final order of the commissioner. If an appeal is filed, the commissioner shall appoint and convene a hearing board to be composed of three members of the Apprenticeship Advisory Board appointed under section 178.02, one member being a representative of an employer organization, one representative being a member of an employee organization, and one member representing the general public. The board shall hold a hearing on the appeal after due notice to the interested parties and shall submit to the commissioner findings of fact and a recommended decision accompanied by a memorandum of the reasons for it. Within 30 days after submission, the commissioner may adopt the recommended decision of the board, or disregard the recommended decision of the board and prepare a decision based on the findings of fact and accompanied by a memorandum of reasons for that decision. Written notice of the commissioner's determination and order shall be served on all parties affected

by it. Any person aggrieved or affected by any the commissioner's determination or order of the commissioner may appeal from it to the district court having jurisdiction at any time within 30 days after the date of the order by service of a written notice of appeal on the commissioner. Upon service of the notice of appeal, the commissioner shall file with the court administrator of the district court to which the appeal is taken a certified copy of the order appealed from, together with findings of fact on which it is based. The person serving a notice of appeal shall, within five days after its service, file it, with proof of service, with the court administrator of the court to which the appeal is taken. The district court shall then have jurisdiction over the appeal and it shall be entered in the records of the district court and tried de novo according to the applicable rules. Any person aggrieved or affected by any determination, order, or decision of the district court may appeal as in other civil cases and order under this section is entitled to judicial review under sections 14.63 to 14.68 in the same manner that a person aggrieved by a final decision in a contested case is entitled to judicial review. The commissioner's determination and order under this section shall be a final decision and order of the department for purposes of sections 14.63 to 14.68.

Subd. 3. **Service.** Service under this chapter may be certified first class mail, personal service, or in accordance with any consent to service filed with the commissioner. Service by mail shall be accomplished in the manner provided in Minnesota Rules, part 1400.5550, subpart 2. Personal service shall be accomplished in the manner provided in Minnesota Rules, part 1400.5550, subpart 3.

**Sec. 11. [178.091] INVESTIGATIONS AND ENFORCEMENT;
APPRENTICESHIP PROGRAMS AND STANDARDS.**

Subdivision 1. **Investigations.** In order to carry out the purposes of this chapter, the commissioner may investigate registered apprenticeship programs and applicants for program registration to determine whether there are any grounds for deregistration of a registered program or for the denial of an application. Persons requested by the commissioner to provide information or produce documents shall respond within 30 days of the commissioner's service of the request.

Subd. 2. **Grounds.** (a) The commissioner may deregister a registered apprenticeship program or deny an application for registration if:

(1) the program does not comply with any requirement of Code of Federal Regulations, title 29, part 29 or 32, this chapter or any rule promulgated pursuant to section 178.041;

(2) the program does not have at least one registered apprentice in each trade or occupation, except for the following specified periods of time:

(i) within the first 30 days after the date a program is registered; or
(ii) within one year of the date that a program graduates an apprentice in a trade or occupation and the date of registration for the next apprentice in that trade or occupation; or

(3) the program is not conducted, operated, or administered in accordance with the program's registered standards or with the requirements of this chapter, including but not limited to:

(i) failure to provide on-the-job learning;
(ii) failure to provide related instruction;
(iii) failure of an employer to pay the apprentice a progressively increasing schedule of wages consistent with the apprentice's skills acquired; or
(iv) persistent and significant failure to perform successfully.

(b) The commissioner may deregister an apprenticeship program at the written request of the sponsor in a manner consistent with the provisions of Code of Federal Regulations, title 29, part 29, section 29.8(a).

Subd. 3. **Reinstatement.** If the commissioner deregisters a registered apprenticeship program, the sponsor may request reinstatement not before one year after the effective date of the deregistration. The commissioner may, as a condition of reinstatement, require the sponsor to comply with reasonable conditions the commissioner considers necessary to effectuate the purposes of this chapter.

Subd. 4. **Orders; hearings related to orders.** (a) If the commissioner determines that a registered apprenticeship program should be deregistered or that an application for registration should be denied, the commissioner shall issue to and serve on the sponsor an order deregistering the program's registration or denying the application for registration.

(b) An order issued under this subdivision must specify:
(1) the deficiency and the required remedy or corrective action;
(2) the time period to effectuate the required remedy or corrective action, which shall be no more than 90 days; and

(3) any other requirement consistent with Code of Federal Regulations, title 29, part 29, section 29.8(b).

(c) The sponsor to whom the commissioner issues an order under this subdivision may appeal to a hearing board appointed consistent with section 178.09, subdivision 2.

Sec. 12. Minnesota Statutes 2012, section 178.10, is amended to read:

178.10 LIMITATION.

14.1 (a) The provisions of this chapter shall have no application to those ~~infants~~
14.2 individuals who are apprenticed by the commissioner of corrections pursuant to sections
14.3 242.43 and 242.44.

14.4 (b) Nothing in this chapter or any apprenticeship agreement operates to invalidate:

14.5 (1) any apprenticeship provision in any collective bargaining agreement between
14.6 employers and employees establishing higher apprenticeship standards; or

14.7 (2) any special provision for veterans, minority persons, or women, in the standards,
14.8 apprentice qualifications, or operation of the program or in the apprenticeship agreement
14.9 which is not otherwise prohibited by law.

14.10 Sec. 13. **REVISOR'S INSTRUCTION.**

14.11 The revisor of statutes shall replace the phrase "Division of Voluntary
14.12 Apprenticeship" with the word "division" in Minnesota Rules, chapter 5200.

14.13 Sec. 14. **REPEALER.**

14.14 (a) Minnesota Statutes 2012, sections 178.03, subdivision 2; 178.05; 178.06; and
14.15 178.08, are repealed.

14.16 (b) Minnesota Rules, parts 5200.0300; 5200.0310; 5200.0320, subparts 1, 2, 3, 4, 5,
14.17 7, 9, 10, 11, 12, 13, 14, and 15; 5200.0340; 5200.0360; and 5200.0390, are repealed.

14.18 Sec. 15. **EFFECTIVE DATE.**

14.19 Sections 1 to 14 are effective the day following final enactment.

178.03 DIVISION OF LABOR STANDARDS AND APPRENTICESHIP.

Subd. 2. **Director of labor standards and apprenticeship.** The commissioner shall appoint a director of the Division of Labor Standards and Apprenticeship, hereinafter referred to as the director, and may appoint and employ such clerical, technical, and professional help as is necessary to accomplish the purposes of this chapter. The director and division staff shall be appointed and shall serve in the classified service pursuant to civil service law and rules.

178.05 APPRENTICESHIP COMMITTEES AND PROGRAMS.

Subdivision 1. **Establishment of committees.** Apprenticeship committees may be established by the director to supervise the operation of apprenticeship programs. Establishment of a committee may be considered justified if either of the following conditions are met:

(1) when the employers and employees in a trade or occupation or trades or occupations are parties to a collective bargaining agreement requiring joint participation in program operation; or
(2) when five or more apprentices are enrolled under a program.

Subd. 2. **Members.** (a) The total number of members on a committee may range from four to twelve.

(b) In joint participation there shall be equal representation of employers and employees.

(c) Members shall be selected by the group or groups they represent subject to approval by the director.

Subd. 3. **Programs.** (a) A program operating under the supervision of a committee shall, in its standards, include the procedures to be followed in the administration of the program which in no case shall be inconsistent with the provisions of this chapter, and such rules as may be promulgated by the department under the authority of this chapter.

(b) Every apprenticeship program operating under a committee shall, in its standards, provide for a tie breaking procedure should the committee, by its voting, find itself unable to reach a majority decision on any matter relative to the committee's supervision and operation of the program.

(c) When a committee is not established by the director, the operation of the program shall be according to the terms and conditions of the apprenticeship agreement as subscribed to by the named contracting parties and approved by the director.

178.06 APPRENTICE.

The term "apprentice," as used herein, means a person at least 16 years of age who has entered into a written agreement, hereinafter called an apprenticeship agreement, with a committee, an employer, an association of employers, or an organization of employees, which provides for learning consistent with this chapter and Code of Federal Regulations, title 29, section 29.5(b)(1) and (b)(2):

(1) a time-based approach involving not less than 2,000 hours or one year of reasonably continuous employment for such person and for participation in an approved program of on-the-job learning through employment and through concurrent, supplementary education in related subjects;

(2) a competency-based approach involving successful demonstration of acquired skills and knowledge by an apprentice plus on-the-job learning; or

(3) a hybrid approach involving the completion of a specified minimum number of hours plus the successful demonstration of competency.

Whenever a minimum age exceeding 16 years is prescribed by federal or state law to apply to workers in certain hazardous occupations, the minimum age so prescribed shall be applicable to apprentices.

178.08 DIRECTOR TO APPROVE APPRENTICESHIP AGREEMENTS.

Every apprenticeship agreement is subject to approval by the director and shall be signed by the committee, the employer, an association of employers, or an organization of employees, and by the apprentice, and if the apprentice is a minor, by a parent or legal guardian. When a minor enters into an apprenticeship agreement under this chapter for a period of learning extending into majority the apprenticeship agreement shall likewise be binding for such a period as may be covered during the apprentice's majority.

5200.0300 PROCEDURE FOR ESTABLISHING PROGRAMS.

The procedure for establishing an approved apprenticeship program is as follows. The proposed program must be presented to the director of the Division of Voluntary Apprenticeship by the program sponsor in duplicate and must include a detailed job process for the occupation including the training standards, amount of time to be spent in each individual category of training, percentage of journeyman's wage rate to be paid the apprentice, graduated schedule of wage increases, and the journeyman's wage rate for the proposed occupation.

Under a program proposed for registration by an employer or employers' association, and where the standards, collective bargaining agreement, or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and the participation is exercised, written acknowledgment of union agreement or no objection to the registration is required. Where no participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The state agency shall provide a reasonable time of not less than 30 days nor more than 60 days for receipt of union comments, if any, before final action on the application for registration and/or approval. For purposes of this paragraph, "employer" means a person or organization employing an apprentice whether or not the person or organization is a party to an apprenticeship agreement with the apprentice.

If the program is approved by the director, a certificate of registration will be issued to the program sponsor. Within 90 days of the certificate being issued, the program sponsor must submit to the director of the Division of Voluntary Apprenticeship a copy of at least one apprenticeship agreement or the director may revoke the certificate of registration.

5200.0310 MINIMUM TRAINING STANDARDS.

The minimum training standards to be met in an apprenticeship agreement must be the standards for the apprenticeship program registered with the division but must be no less than the Minnesota minimum standards listed in part 5200.0320.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subpart 1. **Definitions.** When used in parts 5200.0290 to 5200.0420 the terms defined in this subpart have the meanings given them.

A. "Employer" means the apprenticeship sponsor. (Employer, apprenticeship committee, association of employers, or organization of employees.)

B. "Approval agency" or "registration agency" means the apprenticeship board.

C. "Apprenticeship agreement" means a written agreement on a form prescribed by the commissioner between the employer and the apprentice, and, if the apprentice is a minor, his or her parent or guardian, and approved by the approval agency. The form can be obtained from the Division of Voluntary Apprenticeship, Department of Labor and Industry, St. Paul, Minnesota.

D. "Apprentice" means a person at least 16 years of age who has entered into an apprenticeship agreement with an employer, which apprenticeship agreement provides for:

(1) a time-based approach involving not less than 2,000 hours of reasonably continuous employment for the apprentice and for his or her participation in an approved program of on-the-job learning through employment and through education in related and supplemental subjects;

(2) a competency-based approach involving successful demonstration of acquired skills and knowledge by an apprentice plus on-the-job learning; or

(3) a hybrid approach involving the completion of a specified minimum number of hours plus the successful demonstration of competency.

E. "Supervisor of apprentices" means the individual designated by the employer to perform the duties described in subpart 9.

F. "Standards" means the Minnesota minimum standards of apprenticeship.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 2. **Policy.** It must be the policy of the employer that all apprentices employed in a trade covered under parts 5200.0290 to 5200.0420 must be governed by the terms of these standards and by the Minnesota voluntary apprenticeship law; and that the recruitment,

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selection, employment, and training of apprentices during their apprenticeship, must be without discrimination because of race, color, religion, national origin, or sex. The employer will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Code of Federal Regulations, title 29, part 30, and under the Minnesota plan for equal employment opportunity in apprenticeship.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 3. **Qualifications of apprentices.** Applicants for apprenticeship must be at least 16 years of age and must be physically qualified to perform the manual work of the trade.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 4. **Apprenticeship agreement.** The apprentice (and if a minor, his or her parent or guardian) shall sign the properly filled out apprenticeship agreement, which agreement must also be signed by the employer and submitted for approval to the approval agency. The apprenticeship agreement must contain a clause making these standards a part of the agreement.

The approval agency must furnish approved copies of the agreement to:

- A. the apprentice;
- B. the employer; and
- C. other interested organizations or agencies as required.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 5. **Term of apprenticeship.** The term of apprenticeship must be designated in hours, months, or years for the individual trades included in these standards. For each trade to be included, a job process schedule including the total training term applicable must be attached to the standards registered with the division.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 7. **Probationary period.** An apprentice under these standards shall be subject to a probationary period of not more than 500 hours of employment and instruction extending over not more than four months. During that period the apprenticeship agreement will be terminated by the director of the Division of Voluntary Apprenticeship at the request in writing of either party. After the probationary period the apprenticeship agreement may be terminated by the director, by mutual agreement of all parties thereto, or canceled by the director for good and sufficient reason, including violation of minimum standards.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 9. **Supervision of apprentices.** The employer shall designate a qualified individual as supervisor of apprentices who shall:

- A. maintain an adequate record of progress in training each apprentice;
- B. be responsible for assuring that the requirements of the applicable learning program are met during the prescribed training term; and
- C. perform other duties as may be assigned by the employer relative to the development and operation of an effective program of apprenticeship.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 10. **Schedule of work processes and wage schedule.** The apprentice must be given work experience and instruction according to the applicable job processes schedule in the apprenticeship program registered with the division which must be attached to the apprenticeship agreement. Training experience need not be in the exact order as listed in the schedule. Eighty percent adherence to the schedule will be considered adequate provided the full training term is accounted for. The job process schedule must provide for a minimum of 50 hours per year of training in safe work practices. For each job title there must be a minimum graduated wage schedule in the apprenticeship agreement which must be in percentages of journeyman wage and rate per hour.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 11. **Related instruction.** During each year of the apprenticeship term, a minimum of 144 hours of related instruction is required. Failure on the part of the apprentice to fulfill his or

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her related instruction requirement will be sufficient cause for cancellation of the apprenticeship agreement.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 12. **Hours of work.** Working hours for apprentices must be the same as for journeymen in the trade. Time spent in related instruction cannot be considered as hours of work as required by the job process schedule.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 13. **Certificate of completion of apprenticeship.** Upon successful completion of the apprenticeship term and related training requirements, and upon appropriate recommendation by the employer, the approval agency must issue to the apprentice a certificate of completion of apprenticeship.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 14. **Modification of program.** Details of a program may be modified from time to time subject to approval by the director. Any modification cannot, at the time of modification, affect apprenticeship agreements then in effect without the consent of the parties to the agreement. The employer may withdraw from the program by submitting a written request to the approval agency. The approval agency may cancel the standards of apprenticeship for good and sufficient reason, including violation of the Minnesota minimum standards in part 5200.0320.

5200.0320 MINNESOTA MINIMUM STANDARDS.

Subp. 15. **Compliance with Minnesota plan for equal employment opportunity in apprenticeship.** The provisions of the apprenticeship program must comply with part 5200.0370 and must include an approved equal opportunity pledge.

5200.0340 APPROVAL OF APPRENTICESHIP AGREEMENTS.

All apprenticeship agreements must be submitted to the Division of Voluntary Apprenticeship for approval.

5200.0360 TERMINATION, CANCELLATION, OR TRANSFER OF AGREEMENTS.

Subpart 1. **Written notice.** The Division of Voluntary Apprenticeship must be notified in writing by the sponsor of all terminations, cancellations, or transfer of apprenticeship agreements.

Subp. 2. **Director's approval required.** All terminations, cancellations, and transfers shall be approved by the director of the Division of Voluntary Apprenticeship. The director shall notify the sponsor and all other concerned parties in writing.

Subp. 3. **Appeals.** Any decision to terminate, cancel, or transfer an agreement by the director may be appealed under the Voluntary Apprenticeship Law, Minnesota Statutes, section 178.09.

5200.0390 DETERMINATION OF APPRENTICE WAGES.

Subpart 1. **Procedure.** Determination of the graduated schedule of wages for an apprenticeship agreement will be determined by the percentage rate used in the majority of individual apprenticeship agreements on file with the Division of Voluntary Apprenticeship in any particular trade. The beginning rate must be at least the federal or state minimum wage rate, whichever is higher.

Subp. 2. **Journeyman wage rate.** The journeyman wage rate for apprenticeship agreements where no bargaining agreement exists shall be determined by counties, for all trades. If there is either a state or federal prevailing wage determination or apprenticeship agreement for a trade, the most current rate of the determination or agreement must be used as the journeyman wage rate.

Subp. 3. **Exceptions.** The only exceptions to this part are programs in penal institutions including stipends paid by the Department of Corrections.