

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3890

| (SENATE AUTHORS: SEEBERGER and McEwen) | | |
|--|--------|---|
| DATE | D-PG | OFFICIAL STATUS |
| 02/19/2024 | 11641 | Introduction and first reading Referred to Labor |
| 02/26/2024 | 11761a | Comm report: To pass as amended and re-refer to Judiciary and Public Safety |
| 03/14/2024 | 12224 | Comm report: To pass and re-referred to Labor |

1.1

A bill for an act

1.2

relating to labor and industry; making policy and technical changes to the

1.3

apprenticeship program; amending Minnesota Statutes 2022, sections 13.7905, by

1.4

adding a subdivision; 178.011, subdivision 9; 178.012, subdivision 1; 178.035,

1.5

subdivisions 2, 4, 6, 7; 178.036, subdivisions 3, 4, 5, 6, 7; 178.044, subdivision 3;

1.6

178.07, subdivisions 1, 3; 178.09, subdivision 2; 178.091, subdivisions 2, 4, by

1.7

adding subdivisions; 178.10; Minnesota Statutes 2023 Supplement, section 178.01;

1.8

proposing coding for new law in Minnesota Statutes, chapter 178; repealing

1.9

Minnesota Statutes 2022, section 178.036, subdivision 10; Minnesota Rules, part

1.10

5200.0400.

1.11

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

1.12

Section 1. Minnesota Statutes 2022, section 13.7905, is amended by adding a subdivision

1.13

to read:

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Subd. 10. **Apprentice data.** Apprentice data reported to, maintained by, or collected by

1.15

the department is governed by section 178.071.

1.16

Sec. 2. Minnesota Statutes 2023 Supplement, section 178.01, is amended to read:

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178.01 PURPOSES.

1.18

The purposes of this chapter are: to open to all people regardless of race, color, creed,

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religion, national origin, sex, ~~creed, color or national origin~~ gender identity, sexual

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orientation, marital status, familial status, disability, status with regard to public assistance,

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or age, the opportunity to obtain training and on-the-job learning that will equip them for

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profitable employment and citizenship; to establish as a means to this end, a program of

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voluntary apprenticeship under approved apprenticeship agreements providing facilities for

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their training and guidance in the arts, skills, and crafts of industry and trade or occupation,

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with concurrent, supplementary instruction in related subjects; to promote apprenticeship

opportunities under conditions providing adequate training and on-the-job learning and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Advisory Board and apprenticeship committees to assist in effectuating the purposes of this chapter; to provide for a Division of Apprenticeship within the Department of Labor and Industry; ~~to provide for reports to the legislature regarding the status of apprentice training in the state;~~ to establish a procedure for the determination of apprenticeship agreement controversies; and to accomplish related ends.

Sec. 3. Minnesota Statutes 2022, section 178.011, subdivision 9, is amended to read:

Subd. 9. **Journeyworker.** "Journeyworker" means a person who has attained a level of skill, abilities, and competencies recognized within an industry as having mastered the skills and competencies required for the trade or occupation. Use of the term may also refer to a mentor, technician, specialist, or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training.

Sec. 4. Minnesota Statutes 2022, section 178.012, subdivision 1, is amended to read:

Subdivision 1. **Apprenticeship rules.** Federal regulations governing apprenticeship ~~in effect on January 18, 2017,~~ as provided by Code of Federal Regulations, title 29, parts 29, sections 29.1 to 29.6 and 29.11, and 30, are the apprenticeship rules in this state, subject to amendment by this chapter or by rule under section 178.041.

Sec. 5. Minnesota Statutes 2022, section 178.035, subdivision 2, is amended to read:

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~~ made permanent; 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.

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

3.3 Sec. 6. Minnesota Statutes 2022, section 178.035, subdivision 4, is amended to read:

3.4 Subd. 4. **Program modification.** To apply for modification of or change to a registered
3.5 program, a sponsor shall submit a written request for modification to the division. The
3.6 division shall approve or disapprove a modification request within 90 days from the date
3.7 of receipt. If approved, the modification or change must be recorded and acknowledged
3.8 within 90 days of its approval as an amendment to the registered program. If not approved,
3.9 the division shall notify the sponsor in writing of the disapproval and the reasons for the
3.10 disapproval. The division may provide technical assistance to a sponsor seeking to modify
3.11 or change a registered program. The division may require program modification to ensure
3.12 standards of apprenticeship that comply with the requirements of Code of Federal
3.13 Regulations, title 29, part 29, section 29.5, and this chapter.

3.14 Sec. 7. Minnesota Statutes 2022, section 178.035, subdivision 6, is amended to read:

3.15 Subd. 6. **Certificate.** Upon ~~registration~~ provisional approval of a program, the
3.16 commissioner shall issue a certificate of registration to the sponsor. Within ~~30~~ 45 days after
3.17 the certificate is mailed or otherwise delivered to the sponsor, the sponsor must submit to
3.18 the commissioner a copy of at least one executed apprenticeship agreement.

3.19 Sec. 8. Minnesota Statutes 2022, section 178.035, subdivision 7, is amended to read:

3.20 Subd. 7. **Policy requirement.** It must be the policy of the employer and sponsor that
3.21 the recruitment, selection, employment, and training of apprentices during their
3.22 apprenticeship must be without discrimination due to race, color, creed, religion, national
3.23 origin, sex, gender identity, sexual orientation, marital status, ~~physical or mental~~ familial
3.24 status, disability, ~~receipt of~~ status with regard to public assistance, or age. The employer
3.25 and sponsor must take affirmative action to provide equal opportunity in apprenticeship
3.26 and must operate the apprenticeship program as required under Code of Federal Regulations,
3.27 title 29, part 30, and under the Minnesota plan for equal opportunity in apprenticeship.

3.28 Sec. 9. Minnesota Statutes 2022, section 178.036, subdivision 3, is amended to read:

3.29 Subd. 3. **Related instruction.** A minimum of 144 hours of related instruction is required
3.30 ~~in~~ each training cycle. At least 50 hours of related safety instruction is required during the
3.31 term of apprenticeship. Time spent in related instruction cannot be considered as hours of

work as required by the ~~job~~ work process schedule. Related instruction must be designated in hours for each individual trade or occupation included in the standards. Every apprenticeship instructor must meet the Department of Education's requirements for a ~~vocational-technical~~ career and technical education instructor or be a subject matter expert, which is an individual such as a journeyworker who is recognized within an industry as having expertise in a specific trade or occupation.

Sec. 10. Minnesota Statutes 2022, section 178.036, subdivision 4, is amended to read:

Subd. 4. **Job Work process schedule.** Each ~~time-based~~ apprenticeship program must include not less than 2,000 hours of reasonably continuous employment.

Sec. 11. Minnesota Statutes 2022, section 178.036, subdivision 5, is amended to read:

Subd. 5. **Ratios.** If the apprentice is covered by a collective bargaining agreement, the employer must follow the provisions of the collective bargaining agreement regarding the maximum number of apprentices to be employed at the work site for each journeyworker employed at the same work site. In the absence of a collective bargaining agreement, for the purposes of direct supervision and the safety and instruction of the apprentice, the ratio shall be:

(1) one apprentice for ~~the first~~ each journeyworker employed at the work site ~~plus one apprentice for each additional three journeyworkers employed at the work site;~~ except that for occupations in the building and construction trades or any hazardous occupation as defined by section 181A.04, subdivision 5, one apprentice for the first journeyworker employed at the work site plus one apprentice for each additional three journeyworkers employed at the work site;

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

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

Sec. 12. Minnesota Statutes 2022, section 178.036, subdivision 6, is amended to read:

Subd. 6. **Graduated schedule of wages.** The graduated schedule of wages for an apprenticeship program shall be calculated as a percentage of the journeyworker rate in the majority of registered apprenticeship agreements in the same trade or occupation in the state. If there are no registered apprenticeship agreements in the same trade or occupation,

5.1 the graduated schedule of wages may be determined by the sponsor with the approval of
5.2 the division.

5.3 Sec. 13. Minnesota Statutes 2022, section 178.036, subdivision 7, is amended to read:

5.4 Subd. 7. **Probationary period.** The standards must provide a period of probation of not
5.5 more than ~~500 hours of employment and instruction extending over not more than four~~
5.6 ~~months~~ one year or 25 percent of the length of the program, whichever is shorter, during
5.7 which time the apprenticeship agreement shall be terminated by the director upon written
5.8 request of either party, and providing that after such probationary period the apprenticeship
5.9 agreement may be terminated by the director by mutual agreement of all parties thereto, or
5.10 terminated by the director for good and sufficient reason.

5.11 Sec. 14. Minnesota Statutes 2022, section 178.044, subdivision 3, is amended to read:

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

5.15 (1) the most current Minnesota state prevailing wage rate determination for the same
5.16 trade or occupation in the county in which the apprentice's employer is located. If an
5.17 apprenticeship agreement ~~entered into after January 1, 2015~~, does not specify fringe benefits,
5.18 the journeyworker wage rate upon which the apprentice wage rate is calculated must be the
5.19 total rate listed in the wage determination; or

5.20 (2) if there is no Minnesota prevailing wage rate determination for the same trade or
5.21 occupation in the county in which the apprentice's employer is located, the journeyworker
5.22 wage may be determined by the sponsor with the approval of the division.

5.23 Sec. 15. Minnesota Statutes 2022, section 178.07, subdivision 1, is amended to read:

5.24 Subdivision 1. **Approval required.** (a) The division shall approve, if it determines that
5.25 it is in the best interest of the apprentice, an apprenticeship agreement prepared by the
5.26 sponsor on a form provided by the commissioner that meets the standards established in
5.27 this section.

5.28 (b) ~~All terminations, cancellations, and transfers of apprenticeship agreements shall be~~
5.29 ~~approved by the division in writing.~~ The division must be notified in writing by the sponsor
5.30 within 45 days of all terminations, cancellations, or transfer of apprenticeship agreements.

Sec. 16. Minnesota Statutes 2022, section 178.07, subdivision 3, is amended to read:

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

(1) the names of the contracting parties, and the signatures required by subdivision 2;

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

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

(4) a statement of the trade or occupation which the apprentice is to be taught, 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, related instruction;

(5) a statement of the wages to be paid the apprentice under sections 178.036, subdivision 6, and 178.044, as applicable;

(6) a statement listing any fringe benefits to be provided to the apprentice;

(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, gender identity, sexual orientation, marital status, ~~physical or mental~~ familial status, disability, ~~receipt of~~ status with regard to public assistance, or age; and

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

Sec. 17. **[178.071] APPRENTICE DATA.**

Subdivision 1. **Definition.** "Apprentice data" means data on individuals collected, maintained, used, or disseminated because an individual has applied for or has been submitted for registration as an apprentice with the Division of Apprenticeship, or is currently or has been registered as an apprentice with the Division of Apprenticeship.

Subd. 2. **Classification.** Apprentice data are private data on individuals.

7.1 Subd. 3. **Data sharing.** Apprentice data may be shared with a state agency for the purpose
7.2 of determining compliance with section 116J.871 or 177.41 to 177.44. The division may
7.3 provide apprentice data to the United States Department of Labor.

7.4 Sec. 18. Minnesota Statutes 2022, section 178.09, subdivision 2, is amended to read:

7.5 Subd. 2. **Determination; appeal.** Within 90 days after the receipt of a complaint, the
7.6 division must issue a determination. The determination of the division shall be filed with
7.7 the commissioner and written notice shall be served on all parties affected by it. Any person
7.8 aggrieved by any determination or action of the director may appeal to the commissioner.
7.9 If no appeal is filed with the commissioner within ~~ten~~ 15 days of the date of service, the
7.10 division's determination shall become the final order of the commissioner. If an appeal is
7.11 filed, the commissioner shall appoint and convene a hearing board to be composed of three
7.12 members of the Apprenticeship Advisory Board appointed under section 178.02, one member
7.13 being a representative of an employer organization, one representative being a member of
7.14 an employee organization, and one member representing the general public. The board shall
7.15 hold a hearing on the appeal after due notice to the interested parties and shall submit to the
7.16 commissioner findings of fact and a recommended decision accompanied by a memorandum
7.17 of the reasons for it. Within 30 days after submission, the commissioner may adopt the
7.18 recommended decision of the board, or disregard the recommended decision of the board
7.19 and prepare a decision based on the findings of fact and accompanied by a memorandum
7.20 of reasons for that decision. Written notice of the commissioner's determination and order
7.21 shall be served on all parties affected by it. Any person aggrieved by the commissioner's
7.22 determination and order under this section is entitled to judicial review under sections 14.63
7.23 to 14.68 in the same manner that a person aggrieved by a final decision in a contested case
7.24 is entitled to judicial review. The commissioner's determination and order under this section
7.25 shall be a final decision and order of the department for purposes of sections 14.63 to 14.68.

7.26 Sec. 19. Minnesota Statutes 2022, section 178.091, subdivision 2, is amended to read:

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

7.29 (1) the program does not comply with any requirement of Code of Federal Regulations,
7.30 title 29, part 29 or ~~32~~ 30, this chapter, or any rule adopted pursuant to section 178.041;

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

7.33 (i) within the first ~~30~~ 45 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).

Sec. 20. Minnesota Statutes 2022, section 178.091, subdivision 4, is amended to read:

Subd. 4. ~~Orders; hearings related to orders~~ **Corrective action.** ~~(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.~~ a notice to correct containing the following:

~~(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 less than 30 days and no more than 90 60 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.~~

9.1 Sec. 21. Minnesota Statutes 2022, section 178.091, is amended by adding a subdivision
9.2 to read:

9.3 Subd. 5. **Denial of application.** If an applicant for registration does not take the required
9.4 corrective action within the allotted time, the commissioner may deny the application for
9.5 registration.

9.6 Sec. 22. Minnesota Statutes 2022, section 178.091, is amended by adding a subdivision
9.7 to read:

9.8 Subd. 6. **Order of deregistration.** If the registered apprenticeship program does not
9.9 take the required corrective action within the allotted time, the commissioner may issue an
9.10 order of deregistration containing the following:

9.11 (1) that certain deficiencies were identified in the notice to correct and the registered
9.12 apprenticeship program did not take the required corrective action;

9.13 (2) based on the deficiencies stated in the notice to correct and the failure of the registered
9.14 apprentice program to remedy those deficiencies, a determination has been made that there
9.15 is reasonable cause to deregister the program;

9.16 (3) that the registered apprenticeship program may appeal this determination within 15
9.17 days to the commissioner consistent with subdivision 7; and

9.18 (4) that, if the registered apprenticeship program does not appeal the determination, the
9.19 order becomes final.

9.20 Sec. 23. Minnesota Statutes 2022, section 178.091, is amended by adding a subdivision
9.21 to read:

9.22 Subd. 7. **Appeal.** Any person aggrieved by an order of deregistration may appeal to the
9.23 commissioner. If no appeal is filed with the commissioner within 15 days of the date of
9.24 service, the order of deregistration shall become the final order of the commissioner. If an
9.25 appeal is filed, the commissioner shall appoint and convene a hearing board to be composed
9.26 of three members of the Apprenticeship Advisory Board appointed under section 178.02,
9.27 one member being a representative of an employer organization, one representative being
9.28 a member of an employee organization, and one member representing the general public.
9.29 The board shall hold a hearing on the appeal after due notice to the interested parties and
9.30 shall submit to the commissioner findings of fact and a recommended decision accompanied
9.31 by a memorandum of the reasons for the recommended decision. Within 30 days after
9.32 submission, the commissioner may adopt the recommended decision of the board, or

10.1 disregard the recommended decision of the board and prepare a decision based on the
10.2 findings of fact and accompanied by a memorandum of reasons for that decision. Written
10.3 notice of the commissioner's determination and order shall be served on all parties affected
10.4 by the commissioner's determination. Any person aggrieved by the commissioner's
10.5 determination and order under this section is entitled to judicial review under sections 14.63
10.6 to 14.68 in the same manner that a person aggrieved by a final decision in a contested case
10.7 is entitled to judicial review. The commissioner's determination and order under this section
10.8 shall be a final decision and order of the department for purposes of sections 14.63 to 14.68.

10.9 Sec. 24. Minnesota Statutes 2022, section 178.10, is amended to read:

10.10 **178.10 LIMITATION.**

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

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

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

10.16 (2) any special provision for veterans, ~~minority persons~~ people of color, individuals with
10.17 a disability, or women, in the standards, apprentice qualifications, or operation of the program
10.18 or in the apprenticeship agreement which is not otherwise prohibited by law.

10.19 Sec. 25. **REPEALER.**

10.20 (a) Minnesota Rules, part 5200.0400, is repealed.

10.21 (b) Minnesota Statutes 2022, section 178.036, subdivision 10, is repealed.

APPENDIX
Repealed Minnesota Statutes: S3890-1

178.036 STANDARDS OF APPRENTICESHIP.

Subd. 10. **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.

APPENDIX
Repealed Minnesota Rules: S3890-1

5200.0400 APPRENTICESHIP COMMITTEE RULES.

Adoption of apprenticeship committee rules or changes must be submitted to the director of the division in writing for approval.