

A thick black L-shaped frame surrounds the text. The top-left corner is a horizontal bar extending to the right, then a vertical bar extending downwards. The bottom-right corner is a horizontal bar extending to the left, then a vertical bar extending upwards.

SKILLED & TRAINED WORKFORCE

2020 and beyond

Purpose

- The State Building and Construction Trades Council claim that “design-build and best-value alternative delivery methods are tools, which ... may be more efficient than other construction methods, they require a higher level of management sophistication and quality construction to ensure the general public's investment in public works is maximized and protected. The skilled and trained workforce requirements ensure the use of the most highly trained workforce available in order to deliver a project on time, on or under budget and to hire local workers that have graduated from regional apprenticeship programs on these projects.”
- The real reason? They promote the adoption of Project Labor Agreements.

Basic provisions

- First, **all** construction workers on some public works are required to have graduated from an approved apprenticeship program **or** have the equivalent hours of experienced as an apprenticeship program in that craft (e.g. commercial electrician – 8,000 hours) or be registered in a State apprenticeship program.
- Then there is a stepped mandate that an increasing percentage of workers must have graduated from a state apprenticeship program – forcing out of the workforce those who would have qualified under the “equivalency” provision or into the “subclass.”
- Allows “1/2 of the graduation percentage requirements... to be satisfied by skilled journeypersons **who commenced working in the apprenticeable occupation before the chief’s approval of an apprenticeship program for that occupation in the county in which the project is located.**
- Requires monthly compliance reporting unless there is a PLA

	SB 54 2013 Refinery	SB 785 2014 City/County D/B	AB 1358 2015 School D/B	AB 566 2015 School/LB	AB 1185 2105 Best Value	SB 762 2015 Best Value Pilot	AB 2551 2016 Water Projects	SB 693 2016 “Cleanup”	SB 840 2016 Energy	SB 35 2017 affordable housing	SB 418 2017 Cleanup	AB 3018 2018 Penalties
January 2014	30%											
January 2015	45%											
January 2016	60%	20%	20%	30%	20%	20%						
January 2017		30%	30%	40%	30%	30%	30%	30%	60%	30%	30%	
January 2018		40%	40%	50%	40%	40%	40%	40%		40%	40%	
January 2019		50%	50%	60%	50%	50%	50%	50%		50%	50%	
January 2020		60%	60%		60%	60%	60%	60%		60%	60%	
Code Section	HSC§255 36.7	PCC§10191 & PCC§22164	EdC§1725 0.25	EdC§1740 7.5	PCC§20119 .1	PCC§2015 5.2	PCC§20928.2	PCC§2600	PUC§388.2	GC§65913.4	PCC§2601	PCC§2601
Effective	1/1/2014	1/1/2015	7/1/2016	1/1/2016	1/1/2016	1/1/2016	1/1/2017	1/1/2017	9/13/2016	1/1/2018	1/1/2018	1/1/2019
Sunsets	none	2025	2025	2019	2021	2020	none	none	none	2026	none	none

SB 693 (Hueso) 2016 Cleanup

- Authorizes a public entity to require a bidder, contractor or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation
- Deletes various provisions of existing law in order to establish a new comprehensive section of the Public Contract Code applicable whenever a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project
- Defines "graduate of an apprenticeship program" to mean either of the following:
 - *The individual has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an approved apprenticeship program.*
 - *The individual completed an apprenticeship program located outside California and approved for federal purposes*

- Provides that the apprenticeship graduate requirements are satisfied if, in a particular calendar month, either of the following is true:
 - *At least the required percentage of skilled journeypersons employed by the contractor or subcontractor meet the specified graduate requirements.*
 - *For the hours of work performed by skilled journeypersons employed by the contractor or subcontractor, the percentage of hours performed is at least equal to the required graduate percentage.*
- Exempts a contractor or subcontractor from the apprenticeship graduation requirements if, during the calendar month the employed skilled journeypersons perform fewer than 10 hours of work on the contract or project
- Provides that a subcontractor need not meet the apprenticeship graduate requirements if both of the following are true:
 - *The subcontractor was not listed as a subcontractor or a substitute for a listed subcontractor.*
 - *The subcontract does not exceed one-half of 1% of the price of the prime contract.*

- Provides that when a contractor, bidder, or other entity is required to provide a commitment that a skilled and trained workforce will be used, the commitment shall be made in an enforceable agreement that provides specified provisions, including a monthly compliance report that shall be a public record.
- Provides that if the entity fails to provide the monthly report, the public agency or other awarding body shall withhold further payment until a complete report is provided.
- Provides that if a monthly report does not demonstrate compliance with these requirements, the public agency or other awarding body shall withhold further payments until the entity provides a plan to achieve substantial compliance prior to completion of the contract or project.

- Provides that these requirements shall not apply if any of the following is true:
 - *The entity has entered into, and agrees to abide by, a PLA that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce.*
 - *The project or contract is being performed under the extension or renewal of a PLA that was entered into prior to January 1, 2017.*
 - *The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier to use a skilled and trained workforce.*

SB 418 (Hernandez) skilled and trained workforce carveouts

- This bill revises the existing definition of “skilled and trained workforce” to specify that on or after January 1, 2018, the 40, 50 and 60 percentage graduation rate of skilled journeypersons required for work in specified contracts shall not apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

AB 3018 (Low) State contracts: skilled and trained workforce

- Increases public agency reporting requirements, creates penalties for noncompliance, and provides the Labor Commissioner (LC) with the authority to issue a civil wage and penalty assessment against a contractor or subcontractor found in violation of state law.
- Requires the public agency or other awarding body to forward a copy of the monthly report to the Labor Commissioner (LC) for issuance of a civil wage and penalty assessment and a copy of the plan, if any, to achieve substantial compliance with skilled and trained workforce requirements and the response to that plan, as prescribed, if the monthly report does not demonstrate compliance with skilled and trained workforce requirements.
- Limits the public agency or awarding body to withholding 150% of the value of the monthly billing for a subcontractor that failed to timely submit the required information or did not demonstrate compliance, and would allow the contractor, bidder, or other entity to withhold the same amount from the subcontractor.
- Requires a contractor or subcontractor to pay a civil penalty to the state of not more than \$5,000 per month of work performed in violation of the skilled and trained workforce requirements if the LC or his or her designee determines that the contractor or subcontractor failed to use a skilled and trained workforce.

AB 3018 con't

- Requires a contractor or subcontractor that commits a second or subsequent violation within a 3-year period to pay a civil penalty to the state of not more than \$10,000 per month of work performed in violation of the skilled and trained workforce requirements.
- Requires a contractor to obtain a declaration signed under penalty of perjury from the subcontractor that he or she has met the skilled and trained workforce requirements before making the final payment to the subcontractor.
- Makes a contractor or subcontractor who, with the intent to defraud, violates the above-described requirements ineligible to bid on, be awarded, or perform work on a contract for a public works project, as specified.
- Requires the LC to publish on the commissioner's Internet Web site a list of contractors who are ineligible under these provisions.

What is a Skilled and Trained Workforce

- All contractors are required to use a Skilled and Trained Workforce to perform work in the apprenticeable occupation
- A Skilled and Trained Workforce is either a skilled journeyworker or an apprentice in a state apprenticeship
- A skilled journeyworker has either graduated from a state program or a federal program located outside California; or
- Has at least as many OJT hours as a graduate

Graduation Requirements

As of 1/1/20, at least **60%** of the skilled journeypersons must be apprentice program graduates

Graduation percentages for certain trades capped at 30%

Teamsters are exempt from graduation requirements

Exceptions

- For these trades – graduation percentage capped at 30%
 - *Carpenters and sub-trades*
 - *Operating engineers*
 - *Masons and sub-trades*

Newer apprenticeship programs

- For occupations in which there was no state-approved apprenticeship program prior to 1/1/95, up to ½ of the apprentice program graduation percentages can be satisfied by journeypersons **who started working in that trade** before an apprenticeship program was approved by the state in the county where the project is located;
 - *VDV (telcom)*
 - *And various others*

Enforceable Commitment to Use Skilled & Trained Workforce

- You and your GC must agree on form and format to demonstrate compliance
- You must report monthly; unless
 - *You had fewer than 10 hours on the project*
- If you were not a listed sub and your work is less than .5% of contract you may be exempt – but make sure you have that in writing as some contractors have received differing interpretations of what the ceiling is
- Most PLA projects are exempt or have their own requirements

Penalties for non-compliance

- If you fail to provide report or provide an incomplete report, the awarding body shall withhold further payments until a complete report is provided (150%)
- You can be replaced on job
- Your report is forwarded to Labor Commissioner who can issue penalty;
 - *\$5,000 per month for 1st violation*
 - *\$10,000 per month for 2nd violation*
 - *Debarment for 1-3 years*

CHANGES IN 2019



None

What does Skilled and Trained Workforce mean to contractors

- Service & repair – probably nothing
- Commercial construction – not applicable (at this time)
- Residential construction – not applicable as long as not PW
- Public works construction – it depends
 - *Alternative procurement (LLB, DB, JOC, IDIQ) probably*
 - *Standard “hard bid” design/bid/build – not at present*



***WECA's Solution for our Member
Contractors and Their
Employees:
Accelerated Apprenticeship***

Who Should Apply?

- Individuals wishing to enter WECA's Apprenticeship Program who currently hold an active General Electrician, Residential Electrician, Fire/Life/Safety Technician , Voice Data Video Technician Certification from the State of California and/or a WECA Member's C10/C7 License holder .
- They will need to provide one of the following documents with their completed Apprenticeship Application, in addition to the other required application documents.
 - *Proof of Current State Certification*
 - Copy of Certification Card or
 - Proof of DIR web site of Certification
 - For Voice-Data-Video Technicians, proof of 4000 OJT hours (experience) may be used (Voice-Data-Video Certification would still be required to graduate)
 - Proof of C10/C7 License

Next Steps

- Submit the completed application and required documents.
- Schedule an assessment to determine what Related & Supplemental Instruction (RSI) the individual needs to complete in order to qualify for an Apprenticeship Certificate.
- Pass the Apprentice Entrance Testing Requirements
 - *Color Identification Test (Wire Test)*
 - *Ramsay Basic Skills Test*
 - *Measurement*
 - *Reading*
 - *Arithmetic*
 - *Ramsay Multi-Craft Aptitude*
 - *Structured Interview*
 - *Drug Screen (Results Obtained Normally Between 24-48 Hours)*
- Coordinate Apprentice Registration Date

Important Details

- The Individual must be enrolled as an Apprentice for not less than 6 months to qualify for an Apprenticeship Certificate (may be longer based on individual progress and RSI requirements).
- The Individual must complete and pass the assigned RSI.
- The Individual will be considered an Apprentice and therefore must be supervised by another Journeyperson.
- The Individual will be excluded from participation in WECA's Health Benefits and Pension Plans due to the short term of their Apprenticeship and the impact that the timing would have on those benefits. Members would still be responsible for accounting for the required contributions amounts but may do so via their own plans or by including the amount as wages.
- The Individual must meet all Apprenticeship graduation requirements (OJT, Active Certification, Completion of RSI)
- Apprentices in the accelerated program will be registered with the State of California. They will not be registered federally due to the Federal requirement of a one year minimum in the Apprenticeship Program.