

Senate Bill 82 & Apprenticeship Utilization Act Reform

NEVADA REVISED STATUTE 338.01165 COMPLIANCE IN 2024
AND BEYOND

Office of the Labor Commissioner

ENFORCEMENT RESPONSIBILITIES

- Wage & Hour Complaints
- Meal & Break Complaints
- General Complaints
- Prevailing Wage Project Regulation
- **Apprenticeship Utilization Act Regulation**
- Minor Employment

LICENSING RESPONSIBILITIES

- Private Employment Agencies
- Professional Employer Organizations
- Public Works Project Numbers
- State Apprenticeship Council

Senate Bill 82

- From the 82nd Legislative Session of the Nevada Legislature
- Sponsored by Senator Richard “Skip” Daly
- Signed into law by Governor Lombardo
- Significantly amends the Apprenticeship Utilization Act (“AUA”) (NRS 338.01165) in 3 ways:
 - Compliance
 - Procedure
 - Penalties

AUA: Who, What, Where, Why, When

Who	Contractors and Subcontractors
What	Employ apprentices for a minimum percentage of total hours worked
Where	On Public Works Projects
Why	A skilled workforce in construction is essential to the economic well-being of the Nevada (NRS 338.0116)
When	400 hours of vertical construction or 800 hours of horizontal construction performed by an apprenticeable craft

AUA: The Basics

“Contractors and Subcontractors”

“Contractor” means:

- (a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.
- (b) A design-build team.

“Subcontractor” means a person who:

- (a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and
- (b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

AUA: The Basics

“Apprentice, Apprenticed Craft, & Apprenticeship Program”

“Apprentice” means a person employed and individually registered in a bona fide apprenticeship program with:

1. The Bureau of Apprenticeship and Training of the Office of Apprenticeship, Training, Employer and Labor Services of the Employment and Training Administration of the United States Department of Labor or its successor; and
2. The State Apprenticeship Council pursuant to chapter 610 of NRS and any regulations adopted pursuant thereto.

“Apprenticed craft or type of work” means a craft or type of work for which there is an existing apprenticeship program recognized by the State Apprenticeship Council.

“Apprenticeship program” means an apprenticeship program recognized by the State Apprenticeship Council.

AUA: The Basics

“Public (Awarding) Body & Public Work”

“Public body” means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work

“Public work” means any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for:

- (a) Public buildings;
- (b) Jails and prisons;
- (c) Public roads;
- (d) Public highways;
- (e) Public streets and alleys;
- (f) Public utilities;
- (g) Publicly owned water mains and sewers;
- (h) Public parks and playgrounds;
- (i) Public convention facilities which are financed at least in part with public money; and
- (j) All other publicly owned works and property.

AUA: The Basics

“Horizontal vs. Vertical Construction”

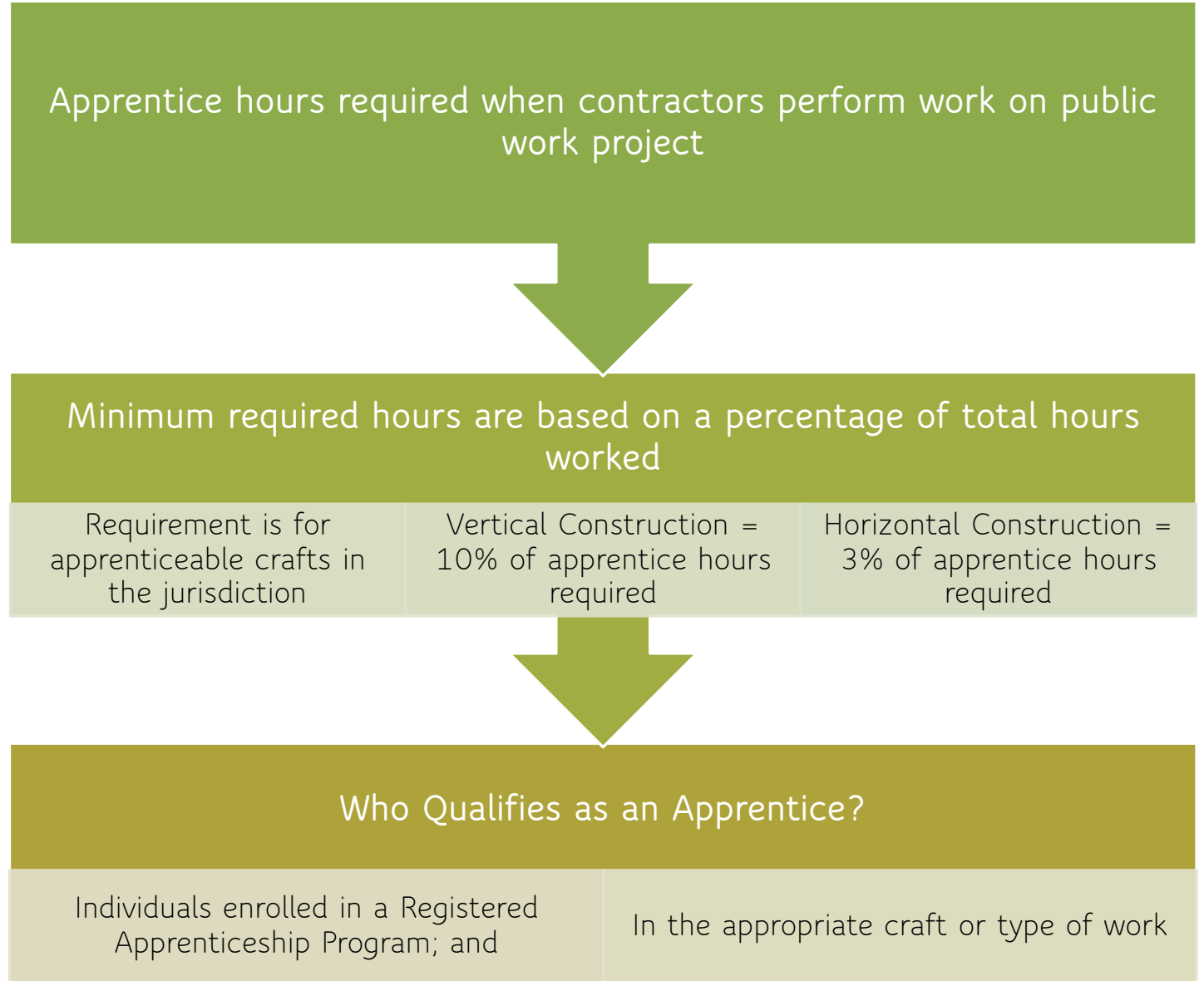
“Horizontal construction” means any construction, alteration, repair, renovation, demolition or remodeling necessary to complete a public work, including, without limitation, any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and any other work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.

“Vertical construction” means any construction, alteration, repair, renovation, demolition or remodeling necessary to complete a public work for any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any other work or improvement appurtenant thereto

Apprenticeship Utilization Act Compliance

WHAT'S THE SAME? WHAT'S CHANGING?

AUA Compliance: What's the Same?



AUA Compliance: What's New?



Compliance period is an Annual Requirement instead of a Per Project Requirement



Trigger is number of hours worked instead of number of workers employed on a project

Vertical Construction = 10% of Total Hours

- AUA Compliance required at 400 Hours per apprenticeable craft
- 400 Vertical Hours = 40 Apprentice Hours

Horizontal Construction = 3% of Total Hours

- AUA Compliance required at 800 Hours per apprenticeable craft
- 800 Horizontal Hours = 24 Apprentice Hours



Who Qualifies as an Apprentice?

IF an apprentice is not available → Contractors signatory to CBAs with a union that sponsors an apprenticeship can use graduates of the program within 36 months of graduation

A silhouette of a person with long hair, looking through a telescope. The background is a bright, hazy light, possibly a sunset or sunrise, creating a strong contrast with the dark silhouette. The text is overlaid on the left side of the image.

Apprenticeship Utilization Act Procedure

WHAT'S THE SAME? WHAT'S CHANGING?

AUA Procedure: What's the Same?

Requesting Apprentices

- Use form from labor.nv.gov
- Request directly from Registered Apprenticeship Program (RAP)
 - Not more than 10 Days before work
 - Not more than 5 days after commencing work
 - Current list of RAPs in Nevada available at labor.nv.gov
- Retain records and documentation of unavailability, denials, or no shows
 - Keep a copy of the request; and
 - Save the denial, evidence of nonresponse, or no show

Coordinate apprentice start date with
RAP

AUA Procedural Changes

Previously	New Under SB82
Complaint Based Procedure Per Project	Annual Report Due By February 15 of Following Year
Awarding Body Performed AUA Compliance	Awarding Bodies Removed From AUA Compliance
AUA Compliance Waiver Supporting Documentation Submitted to Awarding Body on Per Project Basis	AUA Compliance Waiver is Documentation Submitted to OLC With Annual Report Showing Denials, No Shows, and Unavailability
Waiver of Hours Permitted for “Good Cause”	Waiver of Hours Permitted for “Good Faith”
Waiver of Hours Granted Per Project	Ongoing Duty to Request Apprentices Every 30 Days Waiver of Annual Hours Requirement Considered by OLC from Documentation Submitted with Contractor’s Annual Report
Statute of Limitations on AUA Investigations Two Years from Close of Project	Except for Good Cause, Investigations Initiated By May 1 of the Year Following Reporting Period

Apprenticeship Utilization Act Penalties

WHAT'S THE SAME? WHAT'S CHANGING?

AUA Penalties: What's the Same?

Investigations for AUA violations will result in Determinations

- Same objection rights and procedure under NRS 338 & NAC 338
- Same Hearing procedure after objection
- Same Petition for Judicial Review and Appeal to District Court

Administrative Penalty up to \$5,000 for violations of NRS 338.010—NRS 338.130

Disqualification pursuant to NRS 338.017 if NRS 338.015 Administrative Penalty imposed

AUA Penalties: What's New?

No Forfeitures to the Awarding Body

Failure to Submit Report

- \$10,000 to \$75,000 Penalty, OR
- Disqualification from 180 Days to 2 Years

Penalty Structure is Based on Severity of
Apprentice Hour Deficiency

- 7.5%-9.94% for Vertical Construction or 2%-2.94% for Horizontal Construction
 - \$2 per deficient hour or \$2,500
 - Whichever is More
- 4%-7.44% for Vertical Construction or 1%-1.94% for Horizontal Construction
 - \$4 per deficient hour or \$3,000
 - Whichever is More
- 0%-3.94% for Vertical Construction or 0%-0.94% for Horizontal Construction
 - \$6 per deficient hour or \$5,000
 - Whichever is More

The Office of the Labor Commissioner

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