

NOVEMBER 15, 2023
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Proposed Responses to 2018
Prior Issues and Summary
Drafts of 2024 New Issues





CONTRACTORS STATE LICENSE BOARD

TABLE OF CONTENTS

Contractors State License Board Meeting **Proposed Responses to 2018 Prior Issues and Summary Drafts of 2024 New Issues**

Wednesday, November 15, 2023

Prior Issues from 2018 Sunset Report.....	1
Issue #1: Staffing.....	1
Issue #2: Board Member Vacancies.....	5
Issue #3: Implementation of Recent Legislation.....	6
Issue #4: Fund Condition.....	9
Issue #5: Pro Rata.....	11
Issue #6: Examination Passage Rates.....	12
Issue #7. Licensing and Certifications.....	15
Issue #8: Enforcement Priorities.....	18
Issue #9: Workforce Development and Disaster Response.....	22
Issue #10: Workers' Compensation.....	26
Issue #11: Tree Worker Safety.....	29
Issue #12: BreZE.....	31
Issue #13: Technical Changes May Improve Effectiveness of the Law Administered by CSLB.....	34
Issue #14: LLCs.....	35
Issue #15: Unsatisfied Judgments.....	37
Issue #16: C-10 License Category Fee Collection.....	39
Issue #17: Should The CSLB Be Continued?.....	41



CONTRACTORS STATE LICENSE BOARD

TABLE OF CONTENTS

Proposed New Issues Summaries for 2024 CSLB Sunset Report.....	43
Issue #1: Reimbursement for Industry Expert Costs	43
Issue #2: Adopt Enforcement Fine Minimums in Statute Consistent with Other Boards and Bureaus	44
Issue #3: Expand Hazardous Substance Certification to Include Excavation and Debris Removal	44
Issue #4: Correct License Examination Fee Structure to Reduce Costs to Applicants and to CSLB	45
Issue #5: Licensing Tribes	46
Issue #6: Cash Bond In Lieu Of Surety Bond – Potential Liability for Attorney Fees	47
Issues No Longer Recommended for 2024 Sunset Review	48
Issue: Requirements and Restrictions for Qualifiers on Multiple Licenses.....	48
Issue: Workers' Compensation Certificates to be Submitted by Applicants, Licensees, or Insurers.....	49
Issue: Removal or Deletion Of C-61 / D-49 Tree Service Contractor License.....	50



Section 10 – Board Action and Response to Prior Sunset Issues

ADMINISTRATIVE ISSUES

ISSUE #1: (STAFFING) What are the operational impacts of the CSLB's reported staffing challenges?

Background: During the CSLB's prior sunset review, the CSLB identified staffing levels as an issue of concern. At that time, the CSLB reported 354 authorized positions with a vacancy rate around 40 positions, and the CSLB was concerned that the workflow would increase as the economy rebounded and more contractors were licensed, increasing both application processing needs and enforcement-related issues. Ultimately, the CSLB was concerned that it would not have sufficient staff to meet potentially growing needs. Since 2015, the CSLB has seen its authorized position count grow identified staffing as an issue in two specific areas: workload for complaints and the CSLB's role in disaster situations, such as the recent fires.

Complaint Workload

According to the CSLB, over the last year, the CSLB saw significant growth in the number of consumer-filed complaints. According to the CSLB, for fiscal year 2017-2018, CSLB enforcement division staff operated at higher-than-optimum workloads. The target maximum number of complaints per enforcement representative is 35, but as of July 2018, staff averaged 39 cases per representative. An analysis of consumer complaints received during the last four fiscal years shows an increase of 1,872 complaints in fiscal year 2017-2018, as compared to fiscal year 2016-2017. This equates to approximately 150 more complaints per month, or a 10 percent increase.

Disaster Response

According to the CSLB, in 2017, CSLB personnel worked at approximately two dozen local assistance centers (established by the Governor's Office of Emergency Services) and federal disaster relief centers (established by FEMA) in 20 different counties. Although staffing for these events requires contributions from many units within CSLB, the majority of staff assigned to these centers came from the enforcement division. In 2017, 52 CSLB employees worked a total of almost 3,600 hours at the relief centers—the equivalent of 90 work weeks. The CSLB further reports, "This total does not include the extensive post-disaster enforcement efforts conducted by CSLB during community rebuilding. With thousands of staff hours redirected to the disaster areas, the impact on the Enforcement Division has been substantial, and has led to a decrease in the timely handling of complaints. Unfortunately, all indications are that 2017 was not an anomaly. It appears that the



frequency and severity of wildfires in California will continue to outpace historical averages and continue to adversely affect CSLB's routine operations."

The CSLB reports that it has submitted five budget change proposals over the four FYs, and has received six permanent and two limited staff positions to address staffing needs based on recently enacted legislation. For FY 2019-2020, the CSLB is requesting a staffing augmentation of 2.0 permanent positions (1.0 Enforcement Representative II (ER II) and 1.0 Office Technician Typing (OT)) and \$217,000 in 2019-20 and \$201,000 in 2020-21 and ongoing to address the additional workload and implement the mandates associated with SB 1465 (Hill, Chapter 514, Statutes of 2018). The current BCP is under consideration through the annual budget process.

Committee Staff Recommendation: The CSLB should advise the Committees on its current staffing issues and future concerns. The CSLB should advise the Committees on processes for cross-training staff and managing workloads based on departmental needs and changes.

CSLB's 2018 Response to Recommendation: In the past year staff has made significant progress in reducing the vacancy rate, which is now consistently at 20 positions, or less than 5 percent of the board's workforce of 407 authorized positions. This success is attributable, in large part, to our in-house personnel unit and the strong relationship we have with DCA's human resources team. In the past two years CSLB's disaster response, the number of incoming complaints, and, more recently, the receipt of applications have all increased markedly. Cross-training staff, so they can be quickly redirected for unexpected events, like disaster response, has so far minimized the effect on workloads in both licensing and enforcement. CSLB has also continued to implement new licensing efficiencies, such as providing online fillable forms, to help keep processing times low.

However, should the board continue to see increases in workload leading to delays in processing times and in responding to consumer complaints, we may seek additional staff through the budget change proposal process.

Current Response: As of September 2023, there were 30 vacancies out of 425 positions, or seven percent, which is an increase since the last sunset review, but well below the goal of a vacancy rate of less than 10 percent. There are common challenges that have contributed to a delay in filling positions. For example, many candidates are searching for 100 percent telework post-COVID. CSLB offers hybrid telework to all employees who meet work expectations, but does not offer 100 percent telework. To meet operational needs, all employees are required to report to a CSLB office at least one day per week.

In-person employees are particularly important for jobs that are difficult to perform or cannot be performed at home, such as the public facing positions in the call center and front counters at CSLB headquarters and its field offices. Additionally,



positions that need significant training upon appointment and benefit from the employee reporting to an office during the probationary period, such as those in enforcement and examination development, have seen reduced candidate pools. To address these issues, CSLB began advertising that a hybrid telework schedule is available on its job postings. Communicating the hybrid availability up front has resulted in an increase in the number of candidates and a decrease in candidates who drop out during the recruitment process after finding out 100 percent telework is not likely.

Another CSLB-wide concern is the scarcity of applicants for entry-level classifications. In Sacramento, where most of CSLB employees are located, the median household income was \$58,307 in 2021.¹ However, the annual income for the most common classifications, Office Technician and Program Technician II, fall well below that median (\$40-\$50 thousand for each classification). Although CSLB has not conducted a study, it is confident in assuming that low wages present an issue to prospective candidates and contribute to small candidate pools. Pay levels are subject to collective bargaining and not under CSLB control. To expand the applicant pool, CSLB highlights promotional opportunities and seeks opportunities to reclassify positions to more commonly used positions. Examples include reclassifying Enforcement Representatives to Special Investigators (discussed in question 14) and a current effort to reclassify Consumer Services Representatives to Staff Service Analysts.

Enforcement Division

Staffing levels remain a concern for CSLB, particularly for the Enforcement Division. CSLB saw a temporary decrease in consumer complaints during COVID as fewer consumers were contracting for home improvements – the primary source of complaints received by CSLB. However, as the impact of COVID became less intense, consumer complaints returned to pre-COVID rates and have increased by 1,056 complaints over the average of the previous three fiscal years.²

Specific complaints that create a strain on enforcement resources is the volume of solar complaints. With the exception of FY 2019/20, complaints against solar companies have increased each year during the reporting period for a total increase of 1,365 complaints (or 276 percent) since FY 2018/19.

Solar Complaints Received by Year					
Fiscal Year	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Complaints Received	777	965	901	1,148	2,142

¹ Employment Development Department, Bureau of Labor Statistics, [2021 Data](#) for Sacramento Co.

² Although Table 9 reports 20,522 complaints received for FY 2022/23, 629 of those were solar restitution claims, which CSLB excluded for this calculation, i.e., the total received to calculate this increase is 19,893. Additionally, data in board meeting materials reports on a calendar year, whereas these data are reported by fiscal year.



In addition to the high volume, the egregiousness of solar complaints further creates a workload issue. These cases often include elder abuse, fraud, and other high priority complaint types that require these cases to be prioritized over other complaints.³ CSLB is considering ways to address the increasing solar related complaints that include a continued restitution fund and a BCP to create enforcement positions because the increased workload cannot be supported with existing resources.

Additionally, severe storms and fires have resulted in numerous emergency declarations in FY 2022/23, with some counties experiencing more than one disaster. Staff from CSLB's proactive enforcement unit – the Statewide Investigative Fraud Team (SWIFT) – primarily attend LACs and DRCs. SWIFT employees are in the field regularly, are located throughout the state, and have access to state vehicles, which makes them ideal representatives to attend these events.

CSLB staff participated in 47 LACs/DRCs in FY 2022/23, which required 10,894 staff hours – more than the previous four years combined (45 and 5,772, respectively).

Disaster Response Events Attended and Enforcement Staff Hours					
Fiscal Year	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
LACs/DRCs Attended	15	8	13	9	47
CSLB Personnel Hours	3,838	334	1,168	432	10,284

Although SWIFT personnel can be called upon to reduce investigative backlogs when needed, disaster response has limited their availability for this duty. The staff hours required for disaster response in FY 2022/23 are nearly equivalent to five PYs, which if working complaints, could close 120 cases in a year per staff member. If the pace of LAC/DRC participation remains near/at current levels, the impact to workload will not be sustainable.⁴

Increased complaints, disaster response, and turnover, combined with fewer qualified candidates and delays inherent to hiring Special Investigators (e.g., time to complete background checks and obtain medical clearance), lead to lengthy recruitment periods and higher caseloads for existing staff. These challenges have also contributed to a higher than preferred caseload as well as more management and senior employee resources being redirected to training and developing new employees or taking on the work of the vacant positions.

Licensing and Examinations Division

³ A full description of CSLB's complaint prioritization guidelines is in the response to Prior Issue 9 on page XX.

⁴ CSLB received an appropriation of approximately \$1.3 million from the General Fund to reimburse costs associated with LAC participation in FY 22/23. Although the reimbursement minimizes the fiscal impact of travel and overtime, the appropriation does not offset the workload impact.



The Licensing and Examinations Division has also experienced staffing issues, and in some units, had a vacancy rate as high as an 80 percent (e.g., four out of five PYs). While most vacancies can be attributed to positive developments – retirements and promotions – the high volume of new applications and renewals (2,300 and 4,600 each month, respectively) makes it challenging to keep pace when an employee leaves. The Licensing Division has maintained performance goals through extensive cross-training, approving overtime when necessary, having working managers, and placing a high priority on filling vacancies.

The Licensing Unit anticipates an unabsorbable new workload associated with implementing SB 216 (Dodd, Chapter 978, Statutes of 2022). This bill required workers' compensation for all licensees in four classifications effective January 1, 2023, and will apply to all other classifications on January 1, 2026.⁵ Based on the unanticipated workload that was created by that bill in 2023, Licensing is concerned that current staffing levels (even if fully staffed) will not be sufficient to implement and comply with this bill.

In the four affected classifications, 45 percent of the 30,000 licensees had exemptions on file prior to SB 216. This bill was expected to impact IT workload as an online method was developed in anticipation of the SB 216 effective date. However, a significant number of the licensees chose to submit their insurance policies through the mail rather than utilize online services. Additionally, CSLB did not anticipate the volume of addendums for staff services companies who would be submitting insurance. The volume of cancelations, suspensions, and reinstatements increased, all of which contributed to a significant impact to workload.

To prepare for the classifications that will be required to replace exemptions with policies in 2026, CSLB is considering multiple ways to address this workload issue, including a BCP to create positions to perform ongoing work created by SB 216.

ISSUE #2: (BOARD MEMBER VACANCIES) Do vacancies affect the CSLB's ability to meet and undertake its important work?

Background: The CSLB's 15-member board is statutorily constructed and has a vital role in the overall operation of the CSLB. Board members are responsible for appointing the Registrar, and setting the administrative and legislative policy for overall operations. As required in BPC § 7002, board members are comprised of 7 industry members including five contractor members, one labor representative and one local building official. The remaining eight public members include one 23 representative of a statewide senior citizen organization. As of January 1, 2018, the CSLB had three vacancies on its board. On January 4, 2019, former Governor Brown appointed a public member to fill one of the three vacancies. There are currently

⁵ SB 216 is discussed in detail in the response to Prior Issue #10 on page XX.



two vacancies both are Governor appointees, a "C" contractor member; and a public member from a statewide senior citizen organization. CSLB does not note any issues with achieving a quorum because of the vacancies. Although there was one recent appointment, the positions had been vacant since mid-2018. In the CSLB's 2015 sunset review, it was reported that the CSLB had two vacancies then as well.

Committee Staff Recommendation: The Board should advise the Committees about any issues with the current board member vacancies. Does the CSLB anticipate any quorum issues at future meetings? How is the CSLB working with the Governor's office to encourage the appointments of the two remaining vacancies?

CSLB's 2018 Response to Recommendation: The board does not have any concerns about the two current member vacancies, either in regard to ensuring a quorum for future meetings or in fulfilling its responsibility in directing administration and legislative policy. It is not unusual for board vacancies to remain open for 6-to-12 months, and the board has had a quorum at all board and committee meetings during the past four years. The two current vacancies are governor appointees, and while the new gubernatorial administration navigates a considerable number of statewide appointments, CSLB continues to work closely with DCA's office of Board and Bureau Relations on board member appointments. The board will assist, as appropriate, to expeditiously fill these vacancies.

Current Response: CSLB encourages industry leaders to share when board member vacancies are available with their membership. When an industry representative shows interest, CSLB ensures the candidate has a valid license and does not have a history of disciplinary action or other consumer complaint issues. The Department of Consumer Affairs', Division of Board and Bureau Relations then works with the Governor's Appointments Secretary to appoint qualified and reputable board members. In June 2023, there was one new appointment to the board and one existing board member's term limit expired. Consequently, the board still has two vacant board member positions. However, the board has established a quorum at all board and committee meetings during the past five years. CSLB does not anticipate the two vacancies to impact the board's ability to meet quorum requirements or fulfill its duties.

ISSUE #3: (IMPLEMENTATION OF RECENT LEGISLATION) Numerous measures have been enacted since the prior review affecting the Board's operations and licensees. How does CSLB effectively implement so many changes?

Background: Since 2015, there have been 28 measures chaptered into law, which effect a multitude of operations at the CSLB including its regulatory authority, licensees, applicants and the industry of which it regulates. Much of the chaptered legislation requires the CSLB to change or alter existing practices, provide reports, convene stakeholder groups, update examinations, and change application or



licensure requirements, along with altering enforcement capabilities. Roughly, 35% of the recent legislation was sponsored by the CSLB; however, industry-related organizations or members of the Legislature sponsored the remaining 65%.

Statutory changes have serious impacts on the regulatory population of the CSLB. While many licensees and members of the public follow legislative activities affecting the CSLB, many do not and rely solely on the CSLB to provide updates on issues. As noted above, the CSLB does maintain a useful website, but there may be other mechanisms the CSLB could utilize to inform licensees, consumers, industry representatives, local building officials and others about changes to the contractors' license law.

Committee Staff Recommendation: The CSLB should advise the Committees on how it adapts to numerous legislative changes and requirements. Further, the CSLB should advise the Committees on any budget, operations, or staff-related issues resulting from the recent changes to the contractors' license law.

CSLB's 2018 Response to Recommendation: All proposed legislation related to CSLB licensees, applicants, consumers, and internal operations are analyzed to determine their effect. CSLB responds to new legislation in different ways, depending on the legislative requirements and, when necessary, will request additional resources to ensure that the board meets statutory mandates.

For example:

- SB 561 (Monning, Chapter 281, 2015) required CSLB to alter forms and change processes for registering home improvement salespersons, but also created new efficiencies by allowing registrants to work for multiple licensees.
- To assist disaster survivors, CSLB met the mandates of AB 2486 (Baker, Chapter 270, 2016) to provide a website search function for licensed contractors by geographic area one year early.
- To implement AB 2138 (Chiu and Low, Chapter 995, 2018), CSLB is amending regulations, updating its licensing system to track new statistics, and establishing new protocols to obtain court records to meet the mandates of this new legislation.

In addition to its website, CSLB utilizes several platforms to publicize relevant information for its stakeholders. These include: posting content to various social media channels; issuing a newsletter; utilizing an email alert system for more than 174,000 subscribers; annually publishing and distributing the *California Contractors License Law and Reference Book*; hosting numerous outreach events for seniors, potential applicants, and consumers; participating in various home and industry shows; and producing live and archived webcasts of board and committee meetings.



Current Response: Since the board's last sunset review, 13 bills were enacted that created an absorbable workload and two created an unabsorbable workload. For bills that require additional resources to implement, CSLB requests BCPs. Since FY 2018/19, CSLB requested two BCPs for a total of \$717,000 to implement SB 1465 (Hill, Chapter 514, Statutes of 2018) and AB 2138 (Chiu, Chapter 995, Statutes of 2018). Although 13 bills generated workloads that were manageable individually, their collective impact equates to 2-3 additional positions and a financial need of \$369,000, for which CSLB did not request extra funding. These legislative changes predominantly affect our IT Division.

Each CSLB division contributes to the process of implementing legislation and the level of each division's involvement is determined by the bill's subject matter. The Legislative Division adopts regulations when necessary and issues implementation memos and BCPs. The Licensing Division may be required to update their forms, processes, and internal workflow. The Testing Unit could be required to update the law examination or even develop a new examination, such as when SB 1189 (McGuire, Chapter 364, Statutes of 2020) created the B-2 residential remodeling license type. When the legislation creates a new cause for discipline, adds authority, changes fines, or makes any other amendment that impacts the Enforcement Division, procedures are updated and staff are trained to enforce the new law.

In addition to the divisions that carry out legislation, the Public Affairs Office (PAO) updates the website, informational materials, licensing workshops, and law book to notify licensees of the changes. To advertise changes in law, the PAO issues industry alerts, recently renewed publishing its quarterly newsletter, and uses social media. The new laws are also summarized in a legislative update that is sent to the interested parties list.

In addition, CSLB sponsored SB 630 (Dodd, Chapter 153, Statutes of 2023) to require applicants and licensees of CSLB to provide an email address, if available, at the time of initial licensure and renewal. This bill will enable CSLB to communicate with its licensee population of more than 280,000 in a manner that is low-cost and timely without requiring contractors to undergo the opt-in process to join the interested party list.

Potential Issues Anticipated

The majority of enacted bills impact CSLB's IT Division, which would benefit from a delayed implementation whenever legislation impacts IT systems. Any bill that has an IT impact has a disproportionate impact on CSLB because the IT system and website are self-supported, i.e., not supported by DCA. Therefore, CSLB is responsible for the full breadth of implementation. Because most bills are effective on January 1 of the following year, the IT Division does not have lead time required to create positions and hire staff or to contract with a temporary staff member to



implement legislation. This leads to the IT Division absorbing a significant amount of work for which it would request resources under a longer implementation timeline.

Additionally, while CSLB undertakes a business modernization project (discussed in Prior Issue 12 on page XX), duplicative changes may be required on the legacy system and developed into the new system for changes borne from future legislation, requiring a duplicative effort by the IT Division.

The Licensing Division is concerned that implementing SB 216 (Dodd, Chapter 978, Statutes of 2022) in 2026 will have a larger than anticipated impact on workload. While SB 216 progressed through the legislative process, CSLB did not anticipate a significant workload impact because renewals and insurance are submitted online. BPC section 7125 (a) requires a Certificate of Workers' Compensation Insurance to be filed by an insurer duly licensed to write workers' compensation in this state. This requirement contributed in increased workload in several ways, including: 1) multiple submissions by an insurer, which requires staff to determine which is the correct certificate by ruling out incorrect, incomplete, or duplicate submissions; 2) submissions that require staff follow up due to incomplete information, 3) submissions that are not accepted and the insurer does not follow up, which can lead to suspension; and 4) fielding calls, sending letters to licensees, and changing the license status of licenses that are suspended when an insurer does not submit a policy timely.

CSLB is researching multiple ways to help the Licensing Division prepare for January 1, 2026, when all licensees must have workers' compensation policies on file, including submitting a BPC for additional positions, cross training staff from other units within the Licensing Division to temporarily work in this unit, and otherwise streamlining the process.

BUDGET ISSUES

ISSUE #4: (FUND CONDITION). Boards under the DCA are typically expected to maintain a fund reserve of 6 months. CSLB's expenditures are increasing and reserve funds are decreasing. What accounts for this trend and is CSLB concerned?

Background: According to the CSLB's 2018 Sunset Review Report, the CSLB's projected months in reserve is 1.9 months down from 4.7 months (a 58% drop) since FY 2014-2015. The Expenditures have remained relatively consistent since FY 2014-2015; annual expenditure totals have remained between \$60,773 in FY 2014-15 and \$62,200 in FY 2017-18 (2.3% annual increase).

Committee Staff Recommendation: The CSLB should advise the Committees on its current fiscal situation, and the current trend of declining reserves, including what steps CSLB is taking to ensure a healthy fund.



CSLB's 2018 Response to Recommendation: In the past four years, a series of expenditures increased CSLB's spending by approximately \$3 million per year, which led to a decline in reserves. This resulted from increases in operational costs, most significantly in personnel, statewide pro rata, disaster response, and one-time expenditures for facility improvements.

CSLB's 2017 fee increase was projected to produce an additional \$5 million in revenue annually to ensure that CSLB's budget remains balanced. For the current fiscal year, CSLB is on pace to exceed revenue projections for the year and projects to maintain a steady reserve.

The board continues to be fiscally prudent with its resources and regularly seeks ways to reduce expenditures without compromising consumer protection, such as the recently approved informal citation conferences (SB 1042, Monning, Statutes of 2018), which will reduce CSLB legal fees. Staff also provide budgetary updates at each board meeting. Finally, although there is no current plan to raise fees, CSLB can address any unforeseen future increases in expenses by raising fees via regulation.

Current Response: As of June 30, 2023, CSLB has a fund reserve of approximately \$24 million, representing three months of operating expenditures. CSLB took multiple steps to return the fund to a healthy reserve balance following the previous sunset review.

Emergency regulations were approved and effective on December 19, 2019, to raise license renewal fees to the statutory maximums while recommendations for long term fee structure changes were considered. This emergency fee increase was projected to increase revenue by \$2.5 million in FY 2019/20 and \$6 million beginning in FY 2020/21 and ongoing.

CSLB commissioned a fee study to be conducted by CPS HR (attachment **XX**), which was finalized in December 2020. The study recommended a permanent increase to all fees to address continuing structural fund imbalances. SB 607 (Min, Chapter 367, Statutes of 2021) codified the emergency fee increases, increased remaining fees, and raised the statutory maximum of each fee by approximately 25 percent, effective January 1, 2022.

In addition to fee increases, SB 607 implemented a reorganized fee structure to charge fees by the type of business (e.g., sole owner vs other entities). This tiered fee structure allows CSLB to assess fees commensurate with the workload required to process an application of the business types, which introduces fairness to sole owners, whose applications are not as work intensive to process as those with multiple owners.



The decision to raise fees was not made lightly. Despite best efforts to reduce costs, CSLB could not continue to reduce expenditures that support the licensing and enforcement programs without negatively affecting the ability to process applications in a timely manner and to quickly mediate or investigate consumer complaints. These fee increases were necessary to ensure that CSLB continues to be effective in regulating the construction industry in California.

ISSUE #5: (PRO RATA). CSLB is prohibited from paying over 10 percent of its total income to DCA pro rata. Is CSLB and DCA in compliance with this statutory limit?

Background: Like many other DCA entities, the CSLB is required to pay a share of its revenue to the DCA for services provided. DCA is 99% funded by a portion of the licensing fees paid by California's state-regulated professionals in the form of "pro rata." Pro rata funds DCA's two divisions, the Consumer and Client Services Division (CCSD) and the Department of Investigations (DOI). Service areas under the CCSD include the Administrative and Information Services Division which includes the Executive Office, Legislation, Budgets, Human Resources, Business Services Office, Fiscal Operations, Office of Information Services, Equal Employment Office, Legal, Internal Audits, and SOLID training services), the Communications Division (Public Affairs, Publications Design and Editing, and Digital Print Services), and the Division of Program and Policy Review (Policy Review Committee, Office of Professional Examination Services, and Consumer Information Center. Pro rata is primarily apportioned based on the number of authorized staff at each board, regardless of how much of DCA's services the boards say they use. DCA also charges boards based on actual use for some services, such as the Office of Information Services, the Consumer Information Center, the Office of Professional Examination Services, and DOI. Based on DCA's own figures, actual pro rata, costs for every board have increased since FY 2012-2013.

BPC § 7136 prohibits the DCA from taking more than 10% of the CSLB's total income for the CSLB's share of the cost of administration. According to the CSLB, the percentage paid in DCA pro rata during the last four FYs is as follows: FYs 2014-2015 10.8%; FY 2015-16 11.55%; FY 2016-2017 11.5%; and, FY 2017-2018 10%. The CSLB projects spending 10% for pro rata in FY 2018-2019 as well. Although the CSLB's pro rata is fairly close to the statutory allotment, in three of the last four FYs years, the CSLB has provided more than the statutory authority.

Committee Staff Recommendation: The CSLB should explain to the Committees if the current statutory cap has any impact on the CSLB's ability to perform its oversight functions. What steps does the CSLB take to ensure that only the maximum authorized in statute is provided for administrative purposes?

CSLB's 2018 Response to Recommendation: In fiscal year 2017-18, CSLB discovered that the pro rata assessment to DCA for the prior fiscal year exceeded 10 percent. CSLB notified DCA, which quickly rectified the oversight once it was brought to their



attention. In fiscal year 2017-18, CSLB operated with a pro rata rate of 9.8 percent of the board's appropriations. DCA will continue to provide pro rata calculations annually, which CSLB staff will review for accuracy.

Though CSLB maintains its own information technology unit, testing and examination unit, call center, and public affairs office, DCA does provide administrative and other services to CSLB and deals directly with all control agencies (Department of Finance, Department of General Services, State Controller's Office, and California Department of Human Resources). The board believes that the current 10 percent cap on CSLB's pro rata contribution to DCA is fair, based on the services utilized, and is an amount that does not negatively affect CSLB's ability to appropriately regulate the construction industry and protect consumers.

Current Response: CSLB annually reviews pro rata paid to the Department to ensure compliance with the 10 percent statutory cap in BPC section 7136. Total expenditures are included in Table 3 on page XX and the following table shows how those data translate to a percentage of income paid toward pro rata:

CSLB Pro Rata Payments – Percentage of Income by Year					
Fiscal Year	FY 2018/19	FY 2019/20*	FY 2020/21	FY 2021/22	FY 2022/23
Pro Rata Expenditures	\$6,561,455	\$6,802,143	\$7,578,724	\$7,148,474	\$8,932,573
Percentage of Income	10%	11%	10%	9%	9%

* An unexpected COVID-related decrease in revenue occurred during the fourth quarter FY 2019/20. This resulted in pro rata, which was assessed based on projected revenue, exceeding the 10 percent limit.

The Board believes the pro rata contributions are fair for the services received from the Department and the 10 percent cap sufficiently ensures CSLB has resources to effectively regulate industry and protect consumers.

LICENSING ISSUES

ISSUE #6: (EXAMINATION PASSAGE RATES) Why are some examination passage rates so low?

Background: In order to obtain any contractor's license, an applicant must take and pass both a trade examination and a California Law and Business examination unless they have qualified for a waiver of the examination. In Table 8, on page 59, in the CSLB's 2018 sunset review report, there is a list of each examination administered by the CSLB, the passage rate of each examination for both first-time and repeat test-takers (those who failed passage the first time), and the combined total of both during the last four FYs. Across all 46 classifications, the CSLB reports a passage rate of 69% for all of its examinations, down 5% from FY 2014-2015 when 74% of first-time test takers passed the examinations (the total number of test takers



has significantly increased from FY 2014-2015 to 2017-2018 by roughly 35%). Although 69% is the average passage rate for all examinations in FY 2017-2018 for first-time test takers, there are some notable lower passage rates for a number of the contractor classifications: "General B", 60%; C-2 37%; C-6 57%; C-9 48%; C-13 51%; C-28 39%; C35 54%; C-42 44%; and, 48% for asbestos certification, to name a few. The CSLB develops its licensing examinations with the aid of industry experts, and each examination goes through an occupational analysis approximately every five to seven years.

Committee Staff Recommendation: The CSLB should advise the Committees on efforts to improve examination passage rates. The CSLB should advise the Committees on why some examinations have lower passage rates than others.

CSLB's 2018 Response to Recommendation: CSLB's examinations are designed to test for minimum competency to ensure that all candidates who pass are ready to practice their trade in a safe and competent manner. The examination development process occurs every five-to-seven years, which includes an occupational analysis and determines the passing standard that candidates must meet. CSLB's development of this standard for each of its exams follows industry accepted standards. In addition, CSLB's examination development model was used to develop the National Commercial General Building Contractor exam, which has a comparable passage rate to CSLB's overall passage rate.

Each trade varies in regard to training, which can lead to different passage rates. Specifically, the lower passage rates for the C-2 (Insulation and Acoustical) examination and the C-28 (Lock and Security Equipment) exam are likely the result of many C-2 candidates specializing in one aspect of the trade but not both, and many C-28 candidates coming to the examination with four years of journey-level experience performing simpler locksmith work but not adequately preparing for an exam that covers the breadth of this complex electronics-based trade.

To assist candidates who may not have experience in the full breadth of their trade, CSLB sends applicants free study guides (also available on the CSLB website) when their exam date is scheduled. These documents tell candidates what to expect on the day of the exam, including what content they will be tested on. The guide also provides sample questions and study resources to help them prepare for the examination.

Current Response: CSLB administered 167,651 examinations over the past four years and the overall pass rate for all examinations mirrors that of National Association of State Licensing Agencies (NASCLA), which develops and administers examinations for states that do not have in-hour test development and offers an open book examination. However, there are several individual trade examinations that have lower pass rates than the overall average and there seem to be recurring factors that contribute to these examination failures.



Requests for Translation Services

Due to the technical nature of the examinations, the ability of the test taker to pass largely depends on the skill of the translator they use. Eighty percent of the requests for translation services are for Spanish and not surprisingly, the passage rates for the specialties with the highest number of requests are lower than the overall pass rate in any given year. The top ten examinations for which CSLB received requests to use Spanish translators were translated and released into production between August 1 and December 1, 2023. The examinations translated are Law and Business, B-(General Building, C-8 (Concrete), C-9 (Drywall), C-15 (Flooring and Floor Covering), C-27 (Landscaping), C-33 (Painting and Decorating), C-36 (Plumbing), C-39 (Roofing), and C-54 (Ceramic and Mosaic Tile).⁶

Additionally, CSLB translated all study guides into Spanish, even for examinations that are not yet translated. Although it is too early to determine if these actions are positively impacting passage rates, early response has shown promise.

Between August 1 and November 1, 2023, PSI Exams administered 631 Spanish examinations (589 Law and Business, 33 "B" license, seven C-08 (concrete) trade, and two C-33 (painting)). Of those, 96 previously failed an exam in English. Upon retake in Spanish, 42 passed, which brings Spanish speaker retake pass rate equal to the overall retake pass rate. On November 1, 2023, CSLB released Spanish exams for the C-9 (drywall) and C -27 (landscaping). CSLB will closely monitor Spanish examination pass rates to evaluate the efficacy of translating examinations.

Other Contributing Factors

Individual trade examination passage rates may appear artificially low for examinations that have a small number of candidates, i.e., one candidate's failure (or multiple failures) will have a disproportionate impact on the overall results for that particular examination. Examples of these are C-4 (Boiler, Hot Water Heating, and Steam Fitting), C-11 (Elevator), and C-55 (Water Conditioning), which average 34, 25, and 21 examinations each year, respectively.

Finally, there is not a limit on how many times an examination can be taken so candidates who fail will often retake and fail the examination multiple times. These multiple failures decrease the passage rate as an overall percentage of tests administered. In FY 2022/23, first time candidates comprised 56 percent of the candidates who failed the examinations; therefore, 44 percent of candidates failing the exam were taking the exam a second or subsequent time with some having taken the exam and failing eight attempts.

Additional Steps Taken to Curtail Failures

The Testing Division has considered several strategies to decrease the impact of

⁶ CSLB also receives a high number of requests to use translators for the C-10 (Electrician) classification, but those requests are not as high for Spanish.



these factors that hinder successful examinations. Based on the factors above, CSLB continues to update study guides to promote first time examination passage. These study guides are also translated into Spanish each time an exam is updated.

Additionally, each examination contains “pretest” questions that are being vetted for future inclusion in an examination. These questions are not included in the final score and instead, are evaluated to determine if the question is too confusing. This step is taken to ensure questions are adequate to test that the applicants meet minimum standards without being overly complex. Like the revised study guides, this method of test development is intended to reduce the number of applicants who must take an examination more than once by incorporating questions that are clear, not too complex, and relevant to the trade.

ISSUE #7. (LICENSING AND CERTIFICATIONS) Are there any certification and licensing requirements that CSLB needs to update?

Background: The CSLB licenses and regulates approximately 285,000 licensees in 44 licensing classifications and 2 certifications and registers approximately 18,000 Home Improvement Salespersons. Each licensing classification specifies the type of contracting work permitted in that classification. To obtain licensure in each classification, applicants are required to take and pass both a trade examination and a Law and Business examination. If an individual seeks licensure in two separate classifications (e.g., C-10 Electrical and C-39 Roofing), the individual must take and pass both trade examinations. Licensees may not perform work outside of a classification without having the appropriate license to do so, unless they are a “B” general contractor who is able to take a prime contract or subcontract for projects involving other trades as long as framing and carpentry (i.e., the C5 trade) is not counted among those other trades.

Although the examination, experience, workers' compensation, and bonding requirements are consistent amongst the different classifications, there are instances where certain contracting classifications are required to have additional certifications or meet other requirements based on the work performed within that classification.

For example, LC § 108.2(a) requires persons who perform work as electricians to become certified and prohibits uncertified persons from performing electrical work for which certification is required and specifies that certification is only required for persons who perform work as electricians for contractors licensed as class C-10 electrical contractors. Specifically, each person who performs work as an electrician must obtain the certification. C-10 license holders are not required to obtain the separate certification; however, the employees that work under the C-10 contractor's license are required to obtain certification.



Additionally, a general building contractor may not contract for any project that includes the “C-16” Fire Protection classification as provided for in BPC § 7026.12 or the “C-57” Well Drilling classification as provided for in Section 13750.5 of the Water Code, unless the general building contractor holds the appropriate license classification, or subcontracts with the appropriately licensed contractor. (BPC §7057).

It is unclear how often, or if at all, the CSLB reviews its licensing classifications to determine if additional certifications or other requirements should be included for its licensing population.

Committee Staff Recommendation: The CSLB should explain to the Committees its processes for reviewing and revising new work or certification requirements for its various licensing classifications. Are there any updates needed?

CSLB's 2018 Response to Recommendation: Several CSLB license classifications also require additional certifications issued by other California state agencies. These certifications are outside of CSLB's jurisdiction. For example, while CSLB licenses electricians, asbestos removers, and fire suppression system contractors, it does not certify them. They are certified, respectively, by the Department of Industrial Relations' Division of Labor Standards Enforcement, the Department of Industrial Relations' Division of Safety and Health, and CalFire. Because CSLB does not issue or administer supplemental certifications, the board does not have a process to review or revise them for these or other classifications. However, CSLB does have a memorandum of understanding with DLSE, DOSH, and the Division of Apprenticeship Standards to discuss enforcement of certification requirements.

Current Response: CSLB conducts an occupational analysis for each classification every five to seven years. During that time, the examinations are evaluated to determine whether they adequately establish minimum standards for the classification and examinations are revised accordingly.

In addition to regular evaluations during the occupational analysis process, CSLB may review requirements and/or certifications for other reasons, including meeting consumer needs, defining classifications after new technology is introduced into industry, and addressing the natural evolution of classification's scope.

Response to Consumer Needs – B-2 Residential Remodeling

Consumer needs have recently motivated adding a new license type, the B-2 residential remodeling contractor license. SB 1189 (McGuire, Chapter 364, Statutes of 2020) created the B-2 residential remodeling license type and redefined “home improvement” to include the reconstruction, restoration, or rebuilding of a residential property that is damaged or destroyed by a natural disaster for which a state of emergency is proclaimed by the Governor. Following a disaster when there is an increased need for licensees in a specific location, there are frequent



shortages of licensed contractors who can restore residential properties. Prior to SB 1189, the only option for a general contractor was the B – general building contractor license, which is defined by BPC § 7057 (in relevant part) as, “a contractor whose principal contracting business is in connection with any structure built, being built, or to be built...” Because the scope includes structures that are built or to be built, the qualifier is required to demonstrate knowledge in framing or carpentry.

However, through the process of researching the viability a handyman license, CSLB found there were many contractors who have experience in more than one classification that does not include framing or carpentry. The B-2 license allows those contractors to obtain a general license to take on projects to restore or make improvements on an existing residential structure. As of November 1, 2023, there were 594 licensed B-2 contractors.

Technological Advancements – Battery Energy Storage Systems

Advancements in technology also contribute to revisions being necessary to define those who may perform specific work under their classification. The development of battery energy storage systems (BESS) designed for residential use and those specifically installed in conjunction with solar photovoltaic systems is one such example.

The C-46 solar contractor classification was established to enable solar contractors to install, modify, maintain, or repair thermal and photovoltaic (PV) solar energy systems. The C-46 classification does not expressly include BESS within its scope, however. This led to an analysis of whether BESS is: 1) A separate electrical system, which would require a C-10 electrical contractor to install, 2) Considered incidental and supplemental to installing PV solar energy systems, which would allow a C-46 solar contractor to install a BESS, or 3) A system that could be installed by both classifications.⁷

CSLB collaborated with expert consultants to study each of the above options (attachment XX). Based on the results of the study, CSLB submitted a rulemaking proposal to pursue the third option above where C-16 solar contractors would be permitted to install BESS of up to 80 kWh and a larger system would require a C-10 electrician contractor. This determination was made to recognize that consumers are increasingly having BESS installed at the same time the PV solar system is installed. Further, the limit of 80 kWh was based on safety concerns when installing BESS above that threshold.

⁷ 16 CCR, Section [831](#), defines incidental and supplemental as, “...work for which a specialty contractor is licensed if that work is essential to accomplish the work in which the contractor is classified...”



Evolution of Industry – Hazardous Substance Removal Certification (HAZ)

In the wake of unprecedented disasters in California over the past several years, residential rebuilding efforts have commenced across the state in areas devastated by floods, fires, and earthquakes. CSLB has received inquiries from concerned parties about whether contractors digging to remove contaminated materials from these devastated areas are trained or have the qualifications to do the work safely.

A contractor must have an existing license to apply for a certification, which is added to the license after the qualifier passes the corresponding examination. The hazardous material certification scope is defined in BPC section 7058.7 and essentially permits the contractor to install or remove underground storage tanks. However, CSLB does not know of a reason that excavating and removing hazardous material should be limited to storage tanks, unless the construction site is listed on specified state and federal websites. To address this limitation, CSLB included expanding the scope of a hazardous substance removal certification to include excavation and hazardous debris removal required during the rebuilding process after a disaster as New Issue **XX**.

ENFORCEMENT ISSUES

ISSUE #8: (ENFORCEMENT PRIORITIES) Do CSLB's enforcement priorities continue to prioritize consumer safety and public protection?

Background: The CSLB's mission "is to protect consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction." Two of the ways in which CSLB accomplishes its missions is by enforcing the laws, regulations, and standards governing construction in a fair and uniform manner and providing resolution for disputes that arise from construction activities. CSLB's enforcement staff have authorization under the contractors' license law to investigate complaints against licensees, nonlicensees acting as contractors, and unregistered home improvement salespeople. In addition, the CSLB may refer cases involving criminal activity to district attorneys who may prosecute cases under the BPC and other applicable codes.

As noted in issue number 1) above, the CSLB identified enforcement staffing as an issue for enforcement operations. According to the CSLB, complaints have increased and enforcement division staff are "operating at higher-than-optimum caseloads." The CSLB reports that enforcement management is working with the CSLB, and the DCA human resources department to fill job vacancies as quickly as possible.

As part of its enforcement unit, the CSLB also takes actions against unlicensed individuals who may be providing services for which a license is required. The CSLB



notes that unlicensed activity and the underground economy continues to be a problem for the CSLB. Unlicensed contractors avoid the legal requirements to comply with the law, which may include avoiding the workers compensation requirement law or obtaining the appropriate construction-related permits.

As part of its efforts to address the underground economy, the CSLB established the Statewide Investigative Fraud Team, which is a statewide program that focuses on underground economy and unlicensed operators. When participating in the activities of the Joint Enforcement Strike Force on the Underground Economy pursuant to Section 329 of the Unemployment Insurance Code, the enforcement division has the authority to visit any construction site with labor present ask contractors to produce proof of licensure in good standing, citing those who are not properly licensed.

The CSLB reports that it is mostly meeting its internal and statutory timeframes for enforcement workload, however, it was noted in its 2018 Sunset Review Report that enforcement cases exceeding 270 days has increased since FY 2014-2015. In FY 2017-2018, the CSLB reported that 119 cases exceed the Board's goal of completing investigations within 270 days of receipt. The CSLB attributes aging cases to the redirection of enforcement staff to disaster response, an increase in complaints received, an increase in accusations filed, and an increase in the number of citations issued. Increased workload amount can affect the functions of the CSLB's enforcement operations.

CSLB's enforcement program extends beyond complaint investigations and those involving the underground economy. The CSLB's enforcement extends to various compliance issues including, workers compensation requirements, the electrical certification requirements, advertising requirements, and newly enacted mandatory settlement reporting requirements, among others. As part of its application review process, the CSLB reviews all applications for previous disciplinary actions and criminal history. As part of that review, the licensing unit and enforcement unit are coordinated in efforts to ensure that applicants for licensure are accurately reflecting any past disciplinary outcomes as well as criminal convictions.

How the CSLB determines its enforcement priorities has been an issue identified during prior sunset reviews of the CSLB. The CSLB notes in its responses to issues identified during the last sunset review that enforcement staff across the state typically focus on consumer filed complaints, the majority of which are against licensed contractors. Issues identified from previous reports, were critical of the CSLB' attention to unlicensed contractors rather than focused enforcement of current licensees. Given that the CSLB reports that most of its enforcement efforts now address current licensees, it would be helpful to understand how the CSLB addresses enforcement needs and determines enforcement priorities.



Committee Staff Recommendation: The CSLB should advise the Committees on its enforcement priorities. How does the CSLB determine the focus of enforcement pertaining to licensed and unlicensed populations? Is the CSLB aware of any consequences when the focus shifts too far in one direction?

CSLB's 2018 Response to Recommendation: Allocating CSLB's enforcement resources to investigate licensed versus unlicensed contractors requires maintaining an effective balance. Activities involve "reactive" efforts, which include responding to and investigating incoming complaints, and "proactive" efforts, involve sweeps of active construction sites and undercover stings to ensure compliance with laws and regulations.

To maximize consumer protection, the majority of CSLB's Enforcement division staff are dedicated to reactive enforcement activities: handling, mediating, and investigating consumer construction complaints. In 2018, CSLB completed more than 20,000 investigations. Approximately 15,000 of these resulted from consumer filed complaints, with about 70 percent filed against licensees, and 30 percent against unlicensed contractors.

The board believes its current determination of enforcement priorities is appropriate and annually reviews an enforcement priority matrix that was established in 2013. The matrix prioritizes complaints that involve an immediate threat to public safety, criminal activity, or widespread victimization of vulnerable populations. Consumer complaints are handled promptly and effectively, while CSLB's proactive enforcement efforts remain both aggressive and widespread. The board receives regular updates about current operations and allows management sufficient flexibility to temporarily redirect personnel when necessary, such as enhanced enforcement in disaster areas.

Current Response: Board approved enforcement priorities continue to be reactive cases, which are primarily generated from consumer complaints. CSLB's enforcement staff distribution is an effective indicator of those priorities with 77 Special Investigators and 32 Consumer Services Representatives who investigate consumer complaints, while there are 27 members of the SWIFT unit, who investigate proactive, unlicensed cases. This staff distribution ensures that while there are resources dedicated to finding and enforcing unlicensed activity, consumer complaints are prioritized and resolved in a timely manner.

In May 2019, the board approved revised prioritization criteria, which replaced the complaint prioritization matrix discussed during the previous sunset review. While mostly reflective of CSLB's enforcement priorities, the matrix was considered visually confusing and appeared to consider the source of the complaint, e.g., elected officials, consumers, anonymous tips, etc., over the type of complaint, which dictates priority in practice.



The revised criteria were memorialized in a chart developed by Enforcement Division staff to help managers prioritize workload and correct deficiencies of the previous matrix. The chart's design was inspired by the Complaint Prioritization and Referral Guidelines published by the Department of Consumer Affairs in late 2017 and identifies twenty-one complaint types, which have been grouped into four prioritization categories: Urgent, High, Routine, and Low. Other improvements include: 1) the updated complaint types and positions more accurately express current Board priorities, 2) the chart is more comprehensive by including almost twice as many complaint types, and 3) the complaint source has been deleted, which ensures the type of complaint received is the determining factor.

Contractors State License Board Complaint Prioritization Guidelines

URGENT	<ul style="list-style-type: none"> • Health & Safety Code Violations • Elder Abuse • Predatory Criminal Acts • Diversion of Funds • Significant Public Interest
HIGH	<ul style="list-style-type: none"> • Aiding and Abetting/Misuse of a License • Fraud/Misrepresentation • Workers' Compensation Violations • Subsequent Arrest • Repeat Offender • Absentee Qualifier
ROUTINE	<ul style="list-style-type: none"> • Workmanship • Abandonment • Working Out of Classification • Building Permit Violations • Public Contract Code Violations • Labor Code Violations • Unlicensed Activity
LOW	<ul style="list-style-type: none"> • Stand-Alone Contract Violations • Advertising Violations • Failing to Display License Number • Bonds



These criteria place a higher priority on complaints of violations that have a greater negative impact on consumer protection and public safety, including predatory contractors, those committing elder abuse, and repeat offenders. Additionally, the revised criteria ensure unlicensed activity is not the primary focus of the Enforcement Division by ranking unlicensed activity as a routine violation. However, when a licensee aids and abets the unlicensed activity, that is considered a high priority. This distinction ensures that complaints against licensees who are aware of the importance of licensure, yet still help unlicensed contractors operate, are treated with more urgency than a standalone unlicensed activity complaint.

Not included in the chart are solar restitution claims. Subsequent to board approval of the above criteria, AB 137 (Committee on Budget, Chapter 77, Statutes of 2021) created a Solar Energy System Restitution Program (SESRP). The SESRP provides restitution to consumers who experienced financial loss or injury resulting from fraudulent or other unlawful acts committed by a residential solar energy system contractor on or after January 1, 2016. The Legislature granted CSLB a one-time appropriation of five million dollars that included up to one million dollars to administer the program. Because SESRP is not a continuous program, CSLB did not incorporate these complaints into the prioritization criteria. Additionally, these complaints are not investigated by the Enforcement Division and instead, staff dedicated to SESRP handle these complaints to enable efficient accounting of administrative costs. To facilitate a fair distribution of restitution payments, these claims are prioritized in the order received.

SESRP Activity as of August 2, 2023	
Total Claims Received	642
Total Claims Reviewed	540
Restitution Approved for Payment	\$4.17 million
Claims Closed Without Restitution Paid *	193
Claims Pending	7
Claims Not Reviewed**	102
Average Approved Payout	\$12,694.36

ISSUE #9: (WORKFORCE DEVELOPMENT AND DISASTER RESPONSE) California has faced a series of devastating natural disasters, the recovery from which typically includes a role for contractors. What steps has CSLB taken to coordinate with various agencies to ensure consumers in these situations are provided quality services and fraud is prevented?

Background: The CSLB partners with other state and federal agencies in response to natural disasters to help those whose homes, businesses, and/or property were damaged or destroyed. According to the CSLB, they provided staff for more than two dozen local assistance centers established by the Governor's Office of



Emergency Services and disaster relief centers established by FEMA. The centers, which were open from one day to one month, provided a single location for disaster survivors to receive services and information. The CSLB notes that its response to the disasters placed a significant workload strain on CSLB. From fall 2017 through June 2018, CSLB employees, mostly from its enforcement division, worked almost 3,600 hours at the relief centers—the equivalent of 90 work weeks (not including enforcement sweeps and sting operations in the various fire zones, or the time involved in investigating leads provided by survivors, industry groups, local building departments, and others). CSLB reports that the increased workload has led to a decrease in the number of closed complaints.

Committee Staff Recommendation: The CSLB should advise the Committees on its disaster response systems. What processes does the CSLB have in place to quickly transition staff to assist in disaster response situations when needed? The CSLB should update the Committees on how it helps to ensure a licensed workforce is available to meet the needs for rebuilding and other clean-up efforts. Does the CSLB forecast any workforce shortages or concerns?

CSLB's 2018 Response to Recommendation: Over the past four years, CSLB has aggressively expanded its disaster response program, and has committed to cross-training staff to ensure that the board can quickly redirect resources when needed. This comprehensive effort has focused particularly on helping to educate survivors who need to hire someone to repair or rebuild their homes. CSLB has distributed educational material at assistance centers and in other locations; coordinated numerous rebuilding workshops for survivors and contractors looking to work in these areas; and posted hundreds of warning signs in disaster zones throughout the state noting that it is a felony to work as an unlicensed contractor in a declared disaster area, including in Butte, Lake, Los Angeles, Mendocino, Napa, Orange, San Diego, Santa Barbara, Shasta, Sonoma, and Ventura counties.

While CSLB does not specifically create jobs in construction or train workers, to help ensure a licensed workforce is available to meet the needs in disaster zones, CSLB expedites applications for those seeking to work in these areas and also prioritizes applications from those already licensed in states with which the board has a reciprocity agreement. Additionally, as noted in response to Chairman Low's question about this issue at the February 26, 2019 oversight hearing, CSLB has asked the National Association of State Contractors Licensing Agencies (NASCLA) to share information about work requirements in California with its other member states.

Beginning in November 2017 in northern California, and in February 2018 in southern California, CSLB has held monthly licensing workshops in English and Spanish to assist individuals seeking licensure. In the past we have also partnered with several day laborer centers and the Mexican Consulate to present this same information to potential applicants. CSLB is currently developing plans to expand these workshops,



as well as to continue partnering with local agencies to hold workshops in disaster areas for those who want to work on the rebuild.

Additionally, in the months following the October 2017 northern California wildfires, CSLB served on a joint Wildfire Recovery Long-Term Housing Task Force working group established to help identify the availability of a skilled construction workforce. CSLB reached out to a number of stakeholders to secure their involvement with the project. The group developed a resource guide for licensed contractors, job seekers, local governments, and workforce developers that identifies existing training programs for individuals interested in entering the construction industry in the North Bay Area.

Also, for almost 30 years, CSLB has served as the conduit for the industry to help fund the education of the next generation of construction leaders. CSLB oversees the "Construction Management Education Sponsorship Act," which funds grants to university Construction Management Departments. Generous donations from licensees and applicants have allowed CSLB, since 2002, to disburse more than \$1.3 million in grants to seven different universities.

Current Response: To promote a licensed workforce is available in disaster areas, CSLB continues to expedite applications for contractors seeking to work in counties where emergencies are declared and still prioritizes applications from those already licensed in states with which the board has a reciprocity agreement. To further assist applicants with the licensing process, interactive "Get Licensed to Build" workshops are conducted live in English on the first Friday of every month and in Spanish on the second Friday of every month. Past licensing workshop videos in both languages are posted to YouTube for viewing at any time.

CSLB revised its Disaster Response Plan to place increased priority on enforcement in disaster areas. The Disaster Response Plan identifies the roles of various stakeholders, including local, state, and federal agencies in responding to declared natural disasters result in lost structures. The plan also identifies the role of each CSLB division in the coordinated disaster response from first response to post-disaster response, along with a timeline for each activity. These duties include outreach and education from the Public Affairs Office, enforcement activity by the SWIFT unit, and application expediting by the Licensing Division.

The increasing frequency of disasters and CSLB participation in disaster response has contributed to an enforcement workload issue, which is discussed in Prior Issue 1 on page XX. Despite those concerns, CSLB remains committed to ensuring that the board can quickly redirect resources when a disaster occurs. Staff from the SWIFT unit attend most local assistance centers and disaster recovery centers because of their access to state vehicles and unit employees being located throughout the state. Additionally, because SWIFT conducts proactive enforcement, its operations can be scheduled to accommodate participation in disaster response, i.e., cross-



training is not generally required. However, in the event SWIFT staff are not available to staff disaster response, CSLB dispatches staff from other units whose workload allows them to attend these events.

CSLB works with the California Governor's Office of Emergency Services to participate in local assistance centers and the Federal Emergency Management Agency to staff disaster recovery centers. For its participation, CSLB received an appropriation of approximately \$1.3 million from the General Fund to reimburse costs associated with local assistance center participation in FY 22/23. Activities at these centers include educating consumers how to protect themselves from predatory contractors by checking the license, as well as adhering to down payment limits of \$1,000 or 10 percent of the contract price, whichever is lower, and ensuring progress payments do not exceed the value of the work performed or material delivered (BPC section 7159.5, subdivisions (a)(3) and (a)(5), respectively).

To supplement in-person outreach and information distribution, CSLB revised its outreach materials to address current issues found in disaster areas, including updated fast fact documents addressing Rebuilding After a Disaster and Debris Removal. CSLB also created a QR code to allow consumers quickly access CSLB's Disaster Help Center that provides the fast facts documents, tip sheets, videos, and other information for consumers, contractors who work in these areas, and media.

Following a disaster, there is an increased need for licensees to facilitate the rebuilding process for consumers, but there is frequently a shortage of licensed "B" general contractors who have the necessary classification to rebuild homes. To expand the number of contractors available to perform disaster related restoration work and provide effective consumer protection in rebuilding after a disaster, CSLB partnered with Senator McGuire to pass SB 1189, which created the B-2 residential remodeling license type and redefined "home improvement" to include the reconstruction and restoration of a residential property that is damaged or destroyed by a natural disaster for which a state of emergency is proclaimed by the Governor. The updated definition of "home improvement" recognizes specific activities that fall under this activity when performed in a declared disaster area and the B-2 license allows those contractors to take on projects to restore or make improvements on existing residential structures. While there are not as many licensees as other license types because the license type is new, the B-2 population has increased by an average of 20 licensees each month since it was created.

Unlicensed activity and excessive payments remain leading contributors to job abandonment, which is a common problem during rebuilding after a disaster. To address these issues, CSLB partnered with Senator McGuire to pass SB 601 (McGuire, Chapter 403, Statutes of 2023). This bill extends the statute of limitations when a licensee aids and abets unlicensed activity from one to three years. Consumers who are recovering after a disaster don't often file a complaint



immediately because they do not have a concern with their contractor until construction is underway. Investigating complex fraud issues or contractual arrangements can take more than six months and this bill will allow CSLB time to effectively pursue criminal action in these cases.

Additionally, SB 601 mandates courts to assess the maximum civil penalty for home improvement contract violations in declared disaster areas, including violations of down payment and progress payment requirements. Prohibiting courts from lowering fines assessed to contractors who take advantage of consumers in disaster areas ensures this predatory activity is punished with a fine commensurate with the egregiousness of the offense.

ISSUE #10: (WORKERS' COMPENSATION) Should the CSLB be authorized to mandate that additional license classifications have workers' compensation insurance?

Background: Licensees are required to obtain workers' compensation insurance or have a workers compensation exemption on file with the CSLB if they qualify. Those licensees with employees must file with the CSLB either a Certificate of Workers' Compensation Insurance or a Certificate of Self-Insurance (issued by the Department of Industrial Relations). Licensees without employees are required to file a workers' compensation exemption with the CSLB (BPC § 7125). Licensees with a workers' compensation exemption are required to recertify on their renewal application that they do not have employees each time they renew a license. According to the CSLB, 55% of its licensing population maintains an exemption from workers' compensation, meaning that licensees report having no employees. If a contractor files a false workers' compensation exemption, they may be subject to disciplinary action, including the suspension of a license.

Concerned about the potential of fraudulent workers' compensation exemptions, the CSLB conducted a pilot project in Sacramento County during the first quarter of 2017. Through that program, the CSLB contacted a sample of contractors in four targeted classifications that perform outdoor construction (likely to require multiple employees): C-8 (Concrete), C-12 (Earthwork/Paving), C-27 (Landscaping), and D-49 (Tree Trimming). According to the CSLB, the results of the survey found that a minimum of 59% of the contractors investigated had filed false workers' compensation exemptions with the CSLB.

In 2018, the CSLB discussed a statutory change to mandate workers' compensation insurance for specific license classifications likely to employ workers (as required for C-39 roofing), and preclude licensees from filing a new workers' compensation exemption with CSLB for one year if they are found to have employed workers without a workers' compensation policy.

The legislative proposal to consider mandating workers' compensation insurance for specified license classifications received full support from CSLB board members



at its September 2018 meeting, and subsequently adopted as a 2019-21 strategic plan objective. The additional licensing classifications that would be required to have workers' compensation insurance, regardless of employee status is as follows: : C-8 (Concrete) D-49 (Tree Service) and C-16 (Fire Protection).

Committee Staff Recommendation: The CSLB should inform the Committees of any other options to ensure compliance with workers' compensation requirements. Does the CSLB inspect or attempt to verify if a workers' compensation exemption form is valid? Can the CSLB explain how it identified the specialty licenses, which would be subject to this requirement?

CSLB's Response to 2018 Recommendation: All applicants for licensure must either provide proof of workers' compensation insurance or certify that they do not have employees and are, therefore, exempt from the requirement before CSLB will issue an initial license. Subsequently, licensees with a policy must provide CSLB proof of renewal when the policy expires or recertify their exemption from the requirement when renewing their contractor license with CSLB.

CSLB regularly reminds licensees about the importance of complying with this requirement in communications to the industry through newsletters, industry bulletins, and social media, and also encourages consumers to ask about coverage. In 2017, CSLB created a process for electronic submission of workers' compensation paperwork to ease compliance for licensees.

CSLB engages in regular enforcement actions around workers' compensation insurance compliance, including responding to leads, conducting undercover stings, engaging in sweeps of active job sites and issuing stop orders if a workers' compensation violation is found, and partnering with other state agencies, including the Joint Enforcement Strike Force.

CSLB can also cancel a false workers' compensation exemption and suspend the license. However, this is not always effective since a contractor can immediately file a new exemption to avoid license suspension. Since 2015, in response to consumer complaints, on average, 49 percent of those referred for license suspension filed new workers' compensation exemptions, 39 percent acquired policies, and less than 12 percent resulted in license suspension. The board has previously discussed a possible legislative proposal to preclude licensees from filing a workers' compensation exemption with CSLB for one year if they are found to have filed a false exemption.

The specialty license classifications identified as potentially subject to a mandatory workers' compensation requirement were selected because the nature of the work involved most likely involves employee labor, such as concrete, because there are particular safety concerns, as with tree service workers, and because, in the case



of fire protection, the classification is required to have certified employees, which would require the licensee to carry workers' compensation insurance.

CSLB plans to hold stakeholder meetings with both insurance and industry representatives to discuss the possibility of proposing legislation that would mandate workers' compensation coverage in these classifications and to develop strategies for appropriate auditing so that such a change would not lead to higher premiums. Representatives from these three industries have expressed support for this requirement.

Current Response: The board sponsored SB 216 (Dodd, Chapter 978, Statutes of 2022) to require all licensees to have evidence of worker's compensation coverage on file with the Board. This bill was effective on January 1, 2023, for C-8 (Concrete), C-20 (Warm-Air Heating, Ventilating and Air-Conditioning), C-22 (Asbestos Abatement), and D-49 (Tree Service) classifications.⁸ The bill also made failure to have workers' compensation on file with the Board cause for suspension, i.e., exemptions from workers' compensation insurance needed to be replaced with a policy on file, effective July 1, 2023. The delayed suspension date allowed CSLB to conduct outreach to licensees and gave licensees in the affected classifications time to obtain workers' compensation insurance policies. On January 1, 2026, this bill and disciplinary action will be effective for all other classifications.

Despite years of increased enforcement focus on compliance with workers' compensation requirements, the number of exemptions on file with CSLB and the number of contractors in violation of the workers' compensation laws remained consistent. This problem creates an unfair competitive disadvantage for law-abiding contractors who are subject to higher business costs, puts employees at risk if they are not covered and experience a workplace injury, and exposes consumers to litigation for injuries incurred on their property. SB 216 protects law abiding contractors, contractor employees, and consumers by addressing a longstanding practice of filing fraudulent workers' compensation insurance exemptions.

Although the initial classifications included C-12 (Earthwork/Paving), C-16 (Fire Protection), and C-27 (Landscaping), industry input and support changed the focus for the first classifications to which the requirement would apply. CSLB held several stakeholder meetings to discuss which classifications should be included on the first effective date and the meeting during which the C-8, C-20, and D-49 classifications were discussed was held on April 4, 2019, at the State Compensation Insurance Fund in Sacramento. Representatives included United Contractors, Sheet Metal and Air Conditioning Contractors Association of California, West Coast Arborists,

⁸ AB 881 (Emmerson and Runner, Chapter 38, Statutes of 2006) removed eligibility for C-39 (Roofing) to file an exemption regardless of whether they have employees, thereby requiring all C-39 contractors to file workers' compensation policies with CSLB as a condition of licensure. Subsequent bills extended, then made permanent, this requirement for roofing contractors.



and the California Professional Association of Specialty Contractors (which is now Housing Contractors of California). The C-22 classification was not discussed, but was amended into the bill because workers' compensation insurance is already required by the Department of Industrial Relations to perform asbestos removal.⁹

CSLB's goal was to eventually require workers' compensation for all contractors. SB 216 was widely supported by industry, as evidenced by the registered support for the bill and no industry opposition. Additionally, on February 7, 2023, CSLB held a stakeholder meeting with staff from Senator Dodd's office to discuss impacts to industry and unintended consequences after the first implementation date of January 1, 2023. All industry representatives in attendance remained overwhelmingly supportive of the policy, which they said improves worker safety, protects consumers, and removes inequities arising from fraudulently filed exemptions.

For classifications that may still submit a workers' compensation exemption through December 31, 2025, applicants sign under penalty of perjury that they do not have employees. CSLB's enforcement division verifies this information when conducting investigations in response to a consumer complaint. CSLB also continues to engage in regular proactive enforcement operations to address workers' compensation insurance compliance.

On November 1, 2022, CSLB contacted all licensees in the four affected classifications (active and renewable) to notify them of changes to the law, including potential for disciplinary action. Licensees who did not replace an exemption with a workers' compensation insurance policy by July 1, 2023, would be subject to automatic suspension or removal of the C-8, C-20, C-22, or D-49 classification when a license included multiple classifications. At the time, 10,807 of these licensees had workers' compensation exemptions on file (2,706 C-8; 7,043 C-20; 2 C-22, and 1,056 D-49). On July 1, 2023, 1,681 licenses were suspended and a classification was removed from 1,122 licenses.

Despite a small decline in the license population due to suspension or licensees voluntarily removing a classification, there are now thousands of additional contractors who protect their employees and consumers by complying with workers' compensation requirements.

ISSUE #11: (TREE WORKER SAFETY) Should the CSLB have expanded enforcement authority for contractors who perform tree work?

⁹ BPC section [7058.6](#) requires asbestos-related work to be performed by a contractor who is registered by the Division of Occupational Safety and Health (DOSH). A pre-requisite to DOSH registration is for the employer to cover employees by being insured by workers' compensation (Labor Code section [6501.5 \(a\)\(2\)](#)).



Background: According to information provided by the CSLB, since August 2017, CSLB staff has met several times with members of the tree care industry regarding the proper CSLB license classifications to perform tree care. Members of the industry expressed concern about accidents, injuries, and fatalities among workers in this occupation. Two CSLB license classifications may perform stand-alone tree work: C-27 (Landscaping) and C-61/D-49 (Tree Service). Additional license classifications may perform tree work as part of a larger contract in specified circumstances.

At the CSLB's April 2018, meeting, the board directed staff to meet with representatives from the Department of Industrial Relations' Division of Occupational Safety and Health (DOSH) and hold informational meetings with various stakeholders to identify possible solutions to the concerns raised regarding safety. In these meetings, DOSH confirmed that existing safety regulations require specific training and equipment for tree workers and that it may issue a citation to employers for failing to meet these requirements. However, BPC §7109.5 requires that, before CSLB can discipline a license, a contractor's violation of a safety provision must result in the death of or serious injury to an employee. The CSLB would like to see increased oversight beyond death or serious injury.

At its September 20, 2018 meeting, board members directed staff to prepare a legislative proposal for consideration by the Legislative Committee and, ultimately, the full Board. The proposal would expand BPC §7109.5 to provide CSLB authority to initiate disciplinary action against a licensee upon receipt of a DOSH finding that a licensee violated tree worker safety requirements and require that DOSH forward findings of such violations to CSLB.

Committee Staff Recommendation: The CSLB should advise the Committees on the number of additional enforcement actions that would have resulted from this change. The CSLB should advise the Committees on what its anticipated enforcement penalties for a violation would be.

CSLB's 2018 Response to Recommendation: CSLB would rely on referrals regarding tree safety violations from the Department of Industrial Relations. According to the Department of Industrial Relations, in 2018, DOSH issued 45 violations to California employers related to its tree worker safety regulations. If DOSH was mandated to report this information to CSLB, that would have likely resulted in 45 enforcement actions by CSLB against these contractors for violation of safety regulations that do not involve serious death or injury.

The anticipated penalties for a violation would closely mirror those in BPC section 7110, which ranges from \$200 to \$5,000.

Current Response In 2020, [AB 2210 \(Aguiar-Curry, Chapter 128, Statutes of 2020\)](#) added subdivision (a) to Business and Professions Code section 7109.5 to provide



that violation of any safety provision in the Department of Industrial Relations General Plant Equipment and Special Operations regulations (California Code of Regulations, Title 8, §§ [3420-3583](#), and accompanying tables and appendices) is cause for disciplinary action regardless of whether death or serious injury occurred. Following are the number of enforcement actions (discipline or citation) since subdivision (a) was enacted:

BPC § 7109.5 (a) Violations		
Fiscal Year	FY 2021/2022	FY 2022/23
Complaints/DOSH Referrals Received	3	0
Accusations	0	0
Citations	3	0

AB 2210 enables CSLB to take disciplinary action for safety violations without regard for injury or death so a referral from DOSH is no longer required to investigate an alleged violation and one of the above was a result of a DOSH referral. The citations above assessed fines of \$5,000 each. The maximum administrative fine that can be assessed for most violations, including BPC section 7109.5, was increased to \$8,000 by AB 569 (Grayson, Chapter 94, Statutes of 2021). Thus, the fine range for these violations is now \$500 to \$8,000 (16 CCR § [884](#) (a)) and the amount assessed is determined using the criteria set forth by 16 CCR § 884 (b).

CSLB will meet with DOSH and industry partners in early 2024 to encourage them to notify CSLB when a construction worker is seriously injured or killed.

TECHNOLOGY ISSUES

ISSUE #12: (BreEZe) What is the status of the CSLB’s technology system upgrade? Does the CSLB need a new IT system?

Background: DCA has been working since 2009 to replace multiple antiquated standalone IT systems with one fully integrated system used consistently across all regulatory entities. That project, commonly referred to as BreEZe, was planned to be implemented in three releases, or phases. The CSLB was slated to be a part of the third release. Unfortunately, due to numerous cost overruns, technical delays, and product inefficiencies, in 2015 the DCA-led technology upgrade was stopped, effectively canceling the BreEZe system for those entities in the third release. Special Project Report 3.1 outlined the changing scope and cost of the BreEZe project and removed all Release 3 entities from the project entirely. As a result, numerous regulatory entities, including the CSLB, did not transition to the new IT system. Payment for the entire technology upgrade was the responsibility of the boards, bureaus and commissions under the DCA umbrella. Presumably, the decision to include all entities regardless of need was to spread the costs of the system across the entire regulatory landscape. However, the remaining boards and



bureaus that never transitioned to the BreEZe system were still required to pay the costs associated with the project. As of FY 2017-2018, the CSLB's contributions to the BreEZe project has been \$4,255,555, a hefty figure for an IT project it will not, and has not received any benefit. The CSLB reports that beginning in FY 2018-2019, it will no longer contribute to the BreEZe system. Any costs already contributed to the system will not be paid back to the CSLB, even as the CSLB is facing a depleted reserve level of 1.9 months for FY 2019-2020.

Prior to 2009, when the BreEZe project began, the CSLB had and continues to utilize, its own Information Technology (IT) system and department. The CSLB's IT division supports all of its licensing and enforcement programs along with its website, public outreach and all other routine functions of the CSLB. CSLB's IT division has approximately 25 personnel. The CSLB notes that its IT system is effective and efficient; however, the CSLB notes that it continues to seek upgrades to its own system including an upgrade to application processing to help reduce the number of deficient applications it receives. According to CSLB, in FY 2018-2019, it spent approximately \$2.9 million on its IT division staff and operations.

In the CSLB's sunset report, it notes that release 3 boards and bureaus, which include the CSLB, are individually, and in collaboration with DCA, assessing their specific business needs to determine the best course of action for a replacement for the BreEZe project. DCA currently has no formal plan to expand BreEZe to the 19 boards originally included in Release 3. Instead, DCA first intends to conduct a cost-benefit analysis for Release 3 boards and then make a decision about whether programs previously slated for Release 3 of the project will come onto BreEZe and, if so, how it will be implemented. It is not clear whether the system has been evaluated to determine if it will meet the needs of Release 3 entities like the CSLB or whether or not a transition to the new upgraded system is valuable or even necessary, especially for the CSLB which currently has its own unique IT infrastructure.

AB 97 (Ting, Chapter 14, Statutes of 2017) and SB 547 (Hill, Chapter 428, Statutes of 2017) required the DCA to provide specified reports to the Legislature on the status of the DCA's technology projects. Both bills required the director of the DCA to report progress on Release 3 entities' transition to a new licensing technology platform to the Legislature by December 31 of each year. Information included in the progress report is to include updated plans and timelines for completing: business process documentation; cost-benefit analyses of IT options; IT system development and implementation; and, any other relevant steps needed to meet the IT needs of release 3 entities along with any other information requested by the Legislature.

Because the CSLB is included in the release 3 entities, it is required to be a part of the director's annual report. The director's report noted the following with respect



to the CSLB in DCA's report to the Legislature on the status of its technology projects:

Summary of Business Activities

Level of Effort:

During the 2018 reporting period, the board and OCM staff held 10 exclusively for business activities, which includes process documentation, review, approval, discussions, business use case and functional requirements gathering. The team is in the midst of the process and continues to work towards completion.

Deliverables during Business Activities

Process Workflow Documentation Listing:

Business activities for the Contractor State Licensing Board are underway. To date, the board and OCM have completed the workflow documentation for the following processes.

The information provided in the director's report regarding the CSLB's technology modernization does not fully explain the CSLB's current technology system and its need or desires to move to new IT system.

Committee Staff Recommendation: The CSLB should update the Committees about its current information technology system and how a new DCA-wide platform would be beneficial or any concerns moving to a new system.

CSLB's 2018 Response to Recommendation: CSLB's in-house Information Technology unit maintains three separate computer systems for exams, licensing and enforcement, and imaging/workflow. CSLB is working closely with DCA to modernize these current systems. Priorities include the capacity to accept online payments and electronic signatures, both of which can be incorporated into the board's existing systems.

In 2018, the board established a two-member information technology advisory committee to provide oversight on IT project and priorities.

Although, as a release 3 board, CSLB is no longer part of the BreEZe project and no longer contributes financially to its costs, the board's earlier involvement provided a valuable opportunity to document existing and future business processes and needs that will help in the effort to modernize the board's existing systems. However, because CSLB has its own information technology systems and staff to implement incremental changes and does not rely on DCA to do so, the board



does not believe CSLB needs to be included in DCA's annual reporting to the legislature on the status of the BreEZe system.

Current Response: Due to frequent developments impacting CSLB's update to this issue, the response to this response will be written closer to the submission deadline.

OTHER ISSUES

ISSUE #13: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE LAW ADMINISTERED BY CSLB.) There are amendments to the various practice acts that are technical in nature but may improve CSLB operations and the enforcement of those laws.

Background: There may be a number of non-substantive and technical changes to the contractors' license law, which may improve efficiencies. Since the CSLB's last sunset review in 2015, the CSLB has sponsored or been impacted by more than 20 pieces of legislation which address all or parts of the CSLB's duties, oversight authority, licensing requirements and examination standards, among others. As a result, there may be a number of non-substantive and technical changes to the contractors' law, which should be made to correct deficiencies or other inconsistencies in the law.

Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The CSLB's sunset review is an appropriate time to review, recommend and make necessary statutory changes. For example, AB 1070 (Gonzalez-Fletcher, Chapter, Statutes of 2017) amended BPC § 7169 by requiring the CSLB to develop a "solar energy disclosure document". In BPC § 7169 (c), there is an incorrect reference to the "disclosure document" as a "disclose document". A technical correction is recommended. Any changes to the CSLB during the sunset review and subsequent legislation would be an appropriate place to update any technical deficiencies similar to the above noted.

Committee Staff Recommendation: The CSLB should recommend any technical and non-substantive clean-up amendments for BPC § 7000 et seq. to the Committees.

CSLB's 2018 Response to Recommendation: CSLB has identified no additional technical changes to contractors' state license law beyond the one identified in the background information presented above and has no requests at this time.

Current Response: CSLB has identified technical amendments that are needed to clarify the Contractors State License Law, which it will submit under separate cover.



ISSUE #14: (LLCs). Do timeframes outlined for compliance with LLC filing requirements need to be updated to better reflect how long the process can take?

LLC Liability Policy: BPC § 7071.19 requires a license holder as a limited liability company (LLC) to maintain a general liability insurance policy at all times as a condition of licensure. The number of persons on the personnel of record will determine the amount of insurance the LLC must maintain. BPC § 7071.19(f) requires the applicant or license holder renewing an application to provide the required insurance information to the CSLB. Additionally, insurer companies are required to report to the registrar including the name, license number, policy number, dates that coverage is scheduled to commence and lapse, date and amount of any payment of claims, and cancelation date if applicable. The CSLB raised an issue that it is having difficulty securing the required information from the insurance companies in a timely manner. If the CSLB does not have the information on record, it will suspend the license. The CSLB reports that insurance providers are not always timely in submitting the required information to the CSLB. In some cases, the licensee may have submitted the required insurance documents, but the insurance provider has not. If the CSLB does not have both records of insurance on file, the CSLB reports that the license must be suspended.

In its Sunset Review Report 2018, the CSLB proposed a statutory modification regarding BPC §7071.19 to allow the insurance provider and applicants 45 days to provide the required insurance documents. The CSLB notes that a licensee would still be required to submit the certificate of insurance compliance without a break in general liability insurance coverage or the suspension would still apply. Under current law, the CSLB reports that if the CSLB gets a report that a workers' compensation policy has lapsed, the licensee has 45 days to take corrective actions.

Secretary of State Filing of Information: In addition to a liability insurance policy, license holders who are LLCs or corporations are required to register with, and be in good standing with, the Secretary of State. Any failure to register or be in good standing as identified by the Secretary of State can result in the automatic suspension of a license 30 days from the date of the Secretary of State's notice of noncompliance. The CSLB contends that it can take more than 30 days for a licensee to reconcile with the Secretary of State when filing its "statement of information and would instead request that the license suspension be effective 60-days from the date of notice from the Secretary of State. The CSLB reports that it can take longer than 30 days to resolve registration issues with the Secretary of State. It is not clear why processing these registrations is delayed at the Secretary of State's office nor is it clear how the Secretary of State notifies the CSLB if an individual is not in compliance with filing the required statement of information.

Committee Staff Recommendation: The CSLB should advise the Committees on outreach efforts to licensees to encourage the timely filing of required



documentation for licensure and renewal. Additionally, the CSLB should advise the Committees on its communications with outside entities to encourage the timely distribution of required information for CSLB licensees and applicants. How will the additional time ensure compliance?

CSLB's 2018 Response to Recommendation: In January 2019, CSLB launched an online submission process for general liability insurance to ease compliance with this requirement and plans to develop industry bulletins to educate licensees, insurance carriers, and interested stakeholders about complying with license renewal and other license maintenance requirements. CSLB has not conducted specific outreach with licensees on ensuring compliance with limited liability company and Secretary of State requirements.

CSLB requests extending the grace period to 45 days before license suspension occurs for limited liability companies to comply with commercial general liability insurance requirements, as is already the case for maintenance of a workers' compensation policy or workers' compensation exemption. The licensee would still be required to timely submit the certificate without a break in general liability insurance coverage. CSLB also requests extending to 60 days the grace period before license suspension occurs if a licensee is not registered and in good standing with the Secretary of State's office.

These two proposals, which would allow licensees additional time to submit insurance documents to CSLB and to reconcile records with the Secretary of State, are intended to reduce barriers to maintaining valid licensure.

Current Response: [Issues previously reported as specific to processing LLC applications are considered resolved.](#) Licensees, applicants, and insurance providers have grown accustomed to the reporting requirements as a condition of licensure. These applications are now routinely processed without incident or complaint.

[Process changes for LLC applications were quickly implemented by CSLB's Licensing Division and adopted by industry, which eliminated the need for an Industry Advisory.](#) CSLB has developed processes specific to processing an application from an LLC and cross-trained multiple staff to process applications and assist applicants when questions arise. Additionally, CSLB updated its IT systems to better communicate with insurance companies and reflect changes to the applicant's status with the Secretary of State's systems.

[In addition to internal adjustments, improvements outside CSLB have contributed to decreasing processing times.](#) Since CSLB's last sunset review, the Secretary of State's online business lookup has been updated multiple times to include additional functionality and provide more information. The improvements simplify verifying LLC status with the Secretary of State, which was previously identified as a



contributor to delayed processing times. Although changes to the Secretary of State website have improved CSLB's ability to obtain information, the frequent changes have presented challenges for staff when researching applicant information. Because the Secretary of State website continues to be incrementally updated and improved, staff communicate changes as they are discovered to managers who then ensure all staff are aware and update procedures to reflect those changes to prevent delays in processing.

ISSUE #15: (UNSATISFIED JUDGMENTS) What steps can the CSLB take to ensure that licensees facing construction related judgements are prevented from continuing to operate until the judgement is satisfied?

Background: CSLB has authority to suspend a license if it learns of an unsatisfied construction-related judgment imposed on the licensee, as specified in BPC § 7071.17. When the CSLB suspends a license for failure to pay an outstanding judgement, any qualifying individual or personnel on the license record is automatically prohibited from serving in those capacities on another license until the judgment is satisfied. This prohibition also causes suspension of the license of any other license entity with any of these same personnel as the license subject to the judgment (until those members disassociate from the license or the judgment is satisfied). Therefore, when a judgment is imposed on a license, the suspension extends to individuals associated with the judgment debtor license and other licenses.

However, the reverse is not true: If a judgment is entered against an individual without naming the licensed entity, the statutory language does not authorize CSLB to suspend the license on which the individual appears. As a result, an individual named on a construction-related judgment can remain on a license. The proposed clarifying change to BPC section 7071.17 would preclude license applicants, if they were subject to an unsatisfied final judgment, from becoming licensed until that judgment is satisfied. Additionally, it would preclude an individual named in an unsatisfied judgment from appearing on an active license until the judgment is satisfied.

Committee Staff Recommendation: The CSLB should advise the Committees on the extent of this issue and explain how changing current law would enhance consumer protection.

CSLB's 2018 Response to Recommendation: Contractors' state license law allows CSLB to suspend a contractor license and associate licenses for those that have a construction-related unsatisfied civil judgment. However, many consumers are unfamiliar with the civil court process and name only the individual they have dealt with and not the licensed entity. Currently, CSLB cannot help them enforce the judgment if the licensed entity is not named. CSLB does not currently track these types of judgments; however, this proposed change to hold named individuals



accountable for unsatisfied judgments that arise from their contracting activities would benefit consumers.

Current Response: SB 610 (Glazer, Chapter 378, Statutes of 2019), which extended the regulatory authority of CSLB to 2024, made several additional amendments to the Contractors State License Law. Among those amendments were clarifying changes to BPC section 7071.17.

One amendment specifies that if a judgement is made against a licensee's personnel of record (rather than the licensee), the qualifier and personnel of record at the time of the judgement cannot serve on another license until that judgement is satisfied (BPC section 7071.17 (j)(1)). Additionally, this bill precludes an individual named in an unsatisfied judgment from appearing on any other active license until the judgment is satisfied and authorized suspension of those licenses until the judgement is satisfied (BPC section 7071.71 (j)(2)).

These amendments prevent the personnel of record and qualifiers from recommitting violations, mistakes, or fraudulent behavior against additional consumers by serving in the same capacity for another contractor. CSLB does not have a method of predicting how many consumers could have fallen victim had these amendments not been made. However, it is undeniable that holding the personnel of record and qualifiers accountable for actions that led to judgments reduces the potential harm caused to consumers.

Judgement data for Fiscal Years 2018/19 through 2022/23 are as follows:

Outstanding Liabilities (from California State Agencies)					
Fiscal Year	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Initial	934	737	363	1176	730
Suspend	820	699	200	899	617
Reinstate	693	617	220	634	469
Total	2447	2053	783	2709	1816

Final Judgments (from court actions)					
Fiscal Year	FY 2018/19	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Initial	593	593	644	553	569
Suspend	224	260	235	278	181
Reinstate	602	565	567	558	498
Total	1419	1418	1446	1389	1248



ISSUE #16: (C-10 LICENSE CATEGORY FEE COLLECTION) The CSLB is authorized to collect fees from certain licensure categories, but does not require these fees to be assessed. Should the CSLB be required to collect fees to verify certification?

Background: BPC § 7137 authorizes the CSLB to charge a fee, not to exceed \$20, for C-10 (Electrician) and C-7 (Low Voltage Systems) licensees for enforcement of the electrician certification requirement as specified in Labor Code (LC) § 108.2. LC § 108.2(a) requires persons who perform work as electricians to become certified and prohibits uncertified persons from performing electrical work for which certification is required and specifies that certification is only required for persons who perform work as electricians for contractors licensed as class C-10 electrical contractors.

Specifically, each person who performs work as an electrician must obtain the certification. C-10 license holders are not required to obtain the separate certification; however, the employees that work under the C-10 contractor's license are required to obtain certification. In addition, if a licensed C-10 contractor is working under another C-10 license holder as an employee, then he or she is subject to the certification law and must be certified. If a C-10 contractor is in violation of the certification law, he or she is subject to discipline by the CSLB.

The certification is not required for persons performing work for contractors licensed as C-7 low voltage systems or C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license. The CSLB is responsible for ensuring that the C-10 employees meet the certification requirements. According to the CSLB, there are approximately 30,500 active C10 contractors and if they use employees as prescribed in LC § 108.2, the CSLB must ensure that those employees are certified. The CSLB reports that it does not have sufficient staff resources allotted to ensure compliance with the LC requirement. As a result, the CSLB acknowledges that it does not effectively enforce this requirement. The CSLB has the statutory authority to charge the fee, but would need regulations to implement its authority; however, the regulatory process is currently under review, as it may take multiple years for the appropriate issuance of new regulations. The CSLB would like to request a statutory change to require the CSLB collect the \$20 payment to increase enforcement efforts of the electrician certification.

Under current law, the Labor Commissioner is required to have a memorandum of understanding with the Registrar and maintain a process for referring cases to the CSLB when it determines that a violation has likely occurred. Upon receipt of a complaint from the Labor Commissioner alleging that a violation has occurred, the CSLB is required to open an investigation, and any disciplinary action against the licensee must be initiated within 60 days of receipt of the referral. Additionally, the Registrar may initiate disciplinary action against any licensee upon his or her own



investigation, the filing of any complaint, or any finding that results from a referral from the Labor Commissioner alleging a violation.

CSLB's proposal would change the permissive language to a requirement that the CSLB collect the \$20 fee and would additionally would strike the reference to C-7 (Low Voltage Systems) contractors as they are currently exempt under LC § 108.2 electrician certification requirements.

Committee Staff Recommendation: The CSLB should explain how the additional revenue would increase compliance given the CSLB's concerns with sufficient staffing.

CSLB's 2018 Response to Recommendation: CSLB requests statutory authority to assess an additional \$20 fee on C-10 (Electrician) license renewals to fund additional staff to focus on ensuring compliance with the electrician certification requirement, as well as related disciplinary legal action costs. As the funding for this additional staff would come from a new revenue source, it would not affect staffing in other areas of the board. CSLB would seek this additional staffing through the budget change proposal process.

Current Response: During the board's previous sunset review, BPC section 7137 authorized CSLB to charge a fee up to \$20, but did not set the fee to be charged to C-10 electrical contractors. This fee is required to be used by the Board to enforce provisions of the Labor Code, including certification requirements of employees of C-10 (electrical) contractors. Subsequent to CSLB's proposal to set the fee during the sunset process, SB 610 (Glazer, Chapter 378, Statutes of 2019) set the fee at \$20, payable at time of C-10 license renewal. Therefore, CSLB is no longer requesting this amendment.

When the fee became effective, CSLB's fund was near insolvency. While SB 607 requires the C-10 fee to be charged, the fund was not stable enough to create additional positions to perform this work. In fact, after SB 610 was enacted, the Board sponsored SB 607 (Min, Chapter 367, Statutes of 2021) to raise most fees to address the fund's structural imbalance. Now that Contractors License Fund has stabilized, CSLB plans to submit a BCP in 2024 to request new positions in the Enforcement Division got dedicated enforcement of electrician certification requirements.

Although a BCP was untenable at the time, CSLB continued to enforce Labor Code section 108.2. This was accomplished by redirecting a seasoned Special Investigator (SI) to collaborate with industry partners to enforce certification requirements on a part-time basis. However, one part-time SI is not sufficient to effectively investigate electrician certification violations. Two full-time SIs are needed.

**CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT MEMBERS OF CSLB****ISSUE #17: (SHOULD THE CSLB BE CONTINUED?) Should the licensing and regulation of contractors be continued and be regulated by the CSLB?**

Background: The safety and welfare of consumers persists under the presence of a strong licensing and regulatory structure to oversee the contractor profession. The CSLB's focus is consumer protection, to that end, has demonstrated its commitment to ensuring a robust contractor market place. Although, there are places where the CSLB can improve, including fiscal prudence, strengthening its licensing and enforcement objectives and those respective programmatic units, and identifying legislative priorities sooner, the CSLB should continue with a four-year extension so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: Recommend that the licensing and regulation of contractors and home improvement salespersons continue under the CSLB's regulatory authority in order to protect the interests and safety of the public. The CSLB should continue to improve upon its administrative processes to ensure the regulatory functions of the CSLB meet its consumer protection mandate. The CSLB should continue to develop staff management policies to ensure it has well-trained and cross-trained staff to alleviate pressures when disaster response is necessary. Further, the recommendation is for the CSLB to be reviewed by the appropriate policy committees of the Legislature once again in four years.

CSLB's 2018 Response to Recommendation: As noted in the board's December 2018 Sunset Report, a well-regulated construction industry protects the health, safety, and welfare of consumers.

Current Response: The board agrees with the recommendation to extend CSLB's regulatory authority. The board continues to fulfill its consumer protection mandate and goals through effective licensing and consumer-focused enforcement programs. CSLB consistently strives to improve its ability to protect consumers and looks forward to working with the Committees during sunset review to continue improving its regulation of the construction industry.



Proposed New Issues Summaries for 2024 CSLB Sunset Report

The following new issues were identified in concept at the September 14, 2023, Board Meeting. Staff are recommending three of the new issues be removed from consideration.

- ~~1. 7068.1 issues: firm/20%/duty statement*~~
2. IE reimbursement
3. Adopt fine minimums in statute and raise minimums for those in regulations
- ~~4. WC to be submitted by applicant OR insurer*~~
5. Expand Haz certification to include excavation and debris removal
- ~~6. D-49 Expiration*~~
7. Applicants pay exam fees directly to PSI
8. Licensing Tribes
9. Cash in Lieu of Surety Bond - Legal Liability

**Discussed at the end of this document*

ISSUE ONE: Reimbursement for Industry Expert Costs

BACKGROUND: CSLB receives more than 13,000 consumer-filed complaints each year. The majority allege incomplete and/or defective work. For the investigations that allege workmanship problems, CSLB contracts with industry experts (IE) and pays them approximately \$750 to inspect the project site complaint items and prepare an industry expert report. These services are required to determine if the contracted items were completed and or performed to minimum trade standards. Most investigations result in settlement, citation, letter of admonishment or arbitration, and none of these outcomes provide for reimbursement to CSLB for the cost of the IE inspection and report. CSLB contracts with hundreds of industry experts each year and does not recover the cost of those IE inspections except in the small number of cases in which a formal accusation is filed.

RECOMMENDED SOLUTION: **There is a need** for CSLB to have the authority to obtain reimbursement for the cost of repeatedly inspecting poor workmanship or incomplete work. This is distinguishable from traditional "cost recovery" because CSLB is not pursuing an accusation. Providing for the recovery of some IE costs will be a deterrent to contractors who do not timely respond to requests to correct from consumers and CSLB, but instead repeatedly rely on CSLB to incur the cost of an IE to tell them how to correct and complete their contracted work (which has the additional effect of increasing complaints to CSLB). The proposal would authorize CSLB to seek reimbursement for IE costs when a letter of admonishment or citation is issued for a workmanship violation. The contractor would be required to pay an industry expert cost which would be set by statute considering CSLB's actual cost for the inspection (less than \$1,000) and providing for phased increases



commensurate with the consumer price index (CPI). The cost would be assessed to the contractor on their next renewal. At least one other DCA agency has this authority.

ISSUE TWO: Adopt Enforcement Fine Minimums in Statute Consistent with Other Boards and Bureaus

BACKGROUND: CSLB enforcement fines are set by statute. They are unique from other boards and bureaus that have enforcement fines in statute, because CSLB's fines provide only "maximum" amounts in statute and no "minimum" amounts in statute. The CSLB minimum fines are in regulation and were last amended in the 1990s. CSLB has had several successful bills in the past few years that increased maximum fines by statute for specified violations (for example from \$5,000 to \$8,000 and from \$15,000 to \$30,000 for specified violations). But each time this was done, the minimum fines set forth in regulation remained unchanged. As a result, an administrative law judge must consider a wide range of potential fines between an out-of-date minimum in regulation (for example, \$200) and an updated statutory maximum (say, \$8,000), causing the judge to land on a reduced fine. Failing to set higher minimum fines when the legislature increases the maximum fine is contrary to CSLB's consumer protection mandate and confounds legislative intent that reflects the seriousness of the violations.

RECOMMENDED SOLUTION: There is a need to ensure enforcement fine "floors" are commensurate with recent statutory maximum increases and increases in the CPI. Similar authority exists with several other boards and bureaus and would involve enacting a statutory minimum fine that is based on historical increases in the consumer price index (CPI) since the floor was last set in regulation. The proposal would also provide that minimum and maximum fines be adjusted every five years in line with the CPI.

ISSUE THREE: Expand Hazardous Substance Certification to Include Excavation and Debris Removal

BACKGROUND: CSLB issues a hazardous substance certificate to contractors who already have a contractor's license and need the certification to engage in "removal or remedial action." The certification is required for all work that "requires the contractor to dig into the surface of the earth and remove the dug material" at hazardous sites that are identified by the Department of Toxic Substances Control (DTSC) (state law) or are listed on the National Priorities List (federal law). The hazardous substance certification is also needed to install or remove underground storage tanks.

In the wake of unprecedented disasters in California over the past several years, rebuilding efforts have commenced across the state in residential areas devastated by floods, fires, and earthquakes. CSLB has received several inquiries from concerned parties about whether contractors digging to remove contaminated materials from these devastated areas are properly trained or qualified. CSLB updates the hazardous substances



certification examination every five years with extensive input from subject matter experts who help design questions based on federal, state, and local law.

The existing statute only requires the hazardous substance certification for removal and installation of underground storage tanks or if the project site is listed on specific state or federal websites.

RECOMMENDED SOLUTION: There is a need to evaluate whether CSLB's hazardous substance certification needs to be updated to include construction related digging in disaster areas. CSLB is currently working with DTSC to clarify the criteria for inclusion of a dig site within a declared disaster area on their website. If DTSC is unable to list residential sites in declared disaster areas on their website, then there will be a need to expand the CSLB hazardous substance certification to include these additional sites devastated by floods, fires, and earthquakes.

ISSUE FOUR: Correct License Examination Fee Structure to Reduce Costs to Applicants and to CSLB

BACKGROUND: In July of 2022, CSLB entered a master contract held by the Department of Consumer Affairs, joining several boards and bureaus whose license examinations are administered by a third-party vendor, PSI.

Applicants to other boards and bureaus simply pay the vendor directly to take their examinations. CSLB is unique in that CSLB continues to charge applicants directly for examination administration services and pays the vendor to administer the examination. The vendor in turn charges CSLB a flat fee for each examination administered. This is a costly duplication of effort and paperwork for all parties involved.

The reasons for the current inefficiency are threefold: (1) CSLB's pending structural budget imbalance requiring cost-saving measures be adopted in 2019; (2) the need to conduct a fee study to justify increased fees in 2020; and (3) legislative authority to contract with a third party for examination administration in 2021. The initial strategy discussed by CSLB staff with the consultant who conducted its fee study in 2020 involved the following:

- When application fees were increased based on the fee study, the new application fees intentionally did not include the costs of examination administration (with the understanding it would soon be outsourced and the cost was not known at that time).
- CSLB has a long-standing fee in existing law that charges for rescheduling an examination; this fee was retained to cover the estimated costs of coordinating examination scheduling with PSI until the outsourcing was complete.
- In anticipation of this upcoming cost for applicants, CSLB did not increase the initial licensee fee of \$200 for sole ownerships (60% of CSLB's license population) when increasing fees in 2021.



After a year of examination administration through a third-party vendor, CSLB pays the vendor \$45.65 for each examination administered. CSLB collects nothing from applicants for first-time examination administration but assesses (per statute) a \$100 examination “rescheduling fee” (for retaking examinations; the vast majority of applicants reschedule their examination at least once).

Legislatively, this proposal would provide that fees for examination administration be paid to the vendor directly and remove the \$100 reschedule fee from CSLB law. The result would be that applicants would pay \$45.65 per examination (\$91.30 for Law/Business and Trade Examination) to sit for their examination for the first time, an amount that is currently paid by CSLB. A large number of applicants who reschedule for any reason, including failing the examination, would pay the vendor \$45.65 to reschedule instead of paying CSLB \$100 (a reschedule fee is flat and does not change based on the number of rescheduled). This results in net savings of \$54.35 for each applicant who reschedules an examination.

CSLB would then stop paying PSI directly.

RECOMMENDED SOLUTION: There is a need to amend the CSLB fee statute to state that the applicant shall pay the examination rescheduling fee directly to the vendor (in this case PSI). The existing contract between CSLB and PSI contains controls to prevent the applicant from paying an excessive amount to PSI to take the examination (i.e., the applicant should not be charged much more than the actual cost to PSI administering the examination.) The benefit is savings to all repeat test takers or reschedulers, less administrative burden to CSLB, and no need to periodically statutorily adjust the CSLB “reschedule fee” with changes to the CPI.

ISSUE FIVE: Licensing Tribes

BACKGROUND: Recognizing it is a California requirement to have a license to act in the capacity of a contractor, several tribes have attempted to apply for contractor licenses. However, there is no authority in the Contractors State License Law to issue a license to a tribe because the law does not reference tribes in any capacity that authorizes licensure. Rather, the Contractors State License Law only authorizes licenses issued to individual sole proprietorships or entities that are registered with the Secretary of State.

As sovereign governments, tribes often pursue economic development initiatives by operating for-profit businesses. These businesses can, but are not required to, register their businesses with the Secretary of State as foreign corporations. Requiring a tribe to register with the Secretary of State offends principles of sovereignty, and issuing a license to a sole proprietor is not sufficient because a tribe is not an individual. As a result, CSLB is unable to issue contractor licenses to tribes.



RECOMMENDED SOLUTION: There is a need to remove barriers to licensure for tribes that seek to engage in activity that requires a contractor's license. This proposal would add to the Contractors State License Law the different ways a tribe can be organized, and then recognize these tribes as entities to which a contractor's license can be issued (for example, "tribally owned business," "tribally chartered corporation," or "state-chartered tribal corporation.") The statute would provide that each tribal organization would meet specified federal requirements in lieu of being required to register with the Secretary of State.

ISSUE SIX: Cash Bond in Lieu of Surety Bond – Potential Liability for Attorney Fees

BACKGROUND: A recent California appellate court opinion (*Karton v. Ari Design* 61 Cal.App. 5th 734) found that surety bond companies holding licensed contractor bonds may be ordered to pay the attorney fees of the litigating parties when the surety company delays in releasing the bond in the civil litigation.

CSLB is required to hold cash deposits and cannot release them until directed by a court. Because CSLB is holding the deposit, CSLB is often named as a co-defendant in civil cases as a matter of course while the court decides whether the claimant may recover against the cash deposit. CSLB should not be responsible for attorneys' fees for holding a cash deposit because, among other reasons, CSLB is not a surety, does not issue bonds or make profit on bonds, and has no discretion to release cash deposits without an order from the court.

Separately, and prior to the *Karton* decision, CSLB sponsored Assembly Bill 3126 in 2018 to eliminate all cash deposits by 2020. The CSLB-sponsored proposal would have eliminated all bond alternatives, effectively requiring all contractors to file a surety bond, but the final bill retained a cashier's check option for contractors based on issues concerning insufficient credit or lack of social security numbers. There are currently approximately 300 cashier's checks on file with CSLB that could be subject to a consumer claim in civil court and to a *Karton* argument that CSLB should pay attorneys' fees and costs because CSLB holds the cashier's check.

RECOMMENDED SOLUTION: There is a need to clarify in the law that CSLB is not liable for attorneys' fees or costs for holding statutorily mandated cash deposits for contractors that cannot be released without a court order.



ISSUES NO LONGER RECOMMENDED FOR 2024 SUNSET REVIEW - EXPLANATION

ISSUE: Requirements and Restrictions for Qualifiers on Multiple Licenses

BACKGROUND: Contractors licenses must be “qualified” by individuals who are referred to in the law as qualifiers. Below is a chart showing the type of entity CSLB will issue a license to and the name of the qualifier for that license. In all cases, the qualifier is the individual who has construction knowledge and experience (they have worked in the field or been on a contractor’s license for several years and have passed the requisite examinations).

License Type	Qualifier Name(s)
Sole Proprietorship	Individual Owner or Responsible Managing Employee (RME)
General Partnership	General Partner (or Qualifying Partner) or RME
Limited Partnership	General Partner (or Qualifying Partner) or RME
Corporation	Responsible Managing Officer (RMO) or RME
Limited Liability Company (LLC)	RMO, RME, Responsible Managing Manager, or Responsible Managing Member

For consumer protection, the law places restrictions on the number of licenses an individual can qualify, or the number of unrelated companies they can be a qualifier for. Generally, an individual can qualify for an additional individual or firm where there is common ownership of 20% between the companies, or the additional company is a subsidiary of the first, or the majority of officers on the companies are the same.

While it is easy to confirm common members of personnel between the multiple licensees an individual wants to qualify, CSLB has no practical way to verify declared common ownership or percentage ownership. There are too many ways to set up a business, and



too little government documents to verify the setup. The qualifier bond requirement in law is an attempt to control for this, by requiring qualifiers that do not own a significant portion of their business (10%) to have “skin in the game” by putting up a bond for themselves (qualifier bond) separate and in addition to the regular contractor license bond. But the qualifier bond requirement runs into the same problem – there is not a reliable way for CSLB to confirm 10% ownership claims.

RECOMMENDED SOLUTION: This issue was posed for consideration to determine if there are ways CSLB can retain the structure that allows individuals to qualify licenses for the same or different companies while selecting a different way to verify the relationships between individual qualifiers and entities. The proposal initially would have replaced the ownership provisions with an additional bonding requirement. Unfortunately, it is not clear that mandating additional bonds for contractors will solve the problem and may create unforeseen issues with the current license population. Staff recommend tabling the issue until additional research is performed. A stakeholder meeting will be scheduled in the next 90 days to obtain clarity on these points of concern.

Separately, the Board has already approved a proposed change to the same section of law implicated by this issue (Business and Professions Code Section 7068.1). That proposal involves removing the requirement that a qualifier supply an employment duty statement with their application for licensure. The provision was recently added by new legislation and was deemed to be duplicative of existing authority and unnecessary. For more information on this board approved proposal, see page 130 of the March 2023 Board Meeting Packet

<https://www.cslb.ca.gov/Resources/BoardPackets/2023/March%2021,%202023%20Board%20Packet.pdf>

ISSUE: Workers' Compensation Certificates to be Submitted by Applicants, Licensees, or Insurers.

BACKGROUND: Several CSLB license classes must have proof of workers' compensation insurance on file as a condition of licensure.

By 2026, all CSLB license classes (approximately 280,000 contractors) must have a certificate of workers' compensation insurance on file as a condition of licensure. The law provides that the license of a contractor who is required to have workers' compensation insurance be suspended within 45 days of the insurance expiring.

Proof of insurance is demonstrated by filing a certificate of insurance (COI) with CSLB. The COI can be “filed” by submitting the COI by mail, facsimile, email, or online. The law as currently written requires that a COI be “issued and filed...by an insurer duly licensed to write workers' compensation insurance in the state.” CSLB is not concerned with who “submits” a COI by mail, facsimile, or email, because it receives these and processes these



COIs in the ordinary course of business upon receipt without regard to who sent them. However, in integrating the automatic online COI submission into its website, CSLB allows only the insurer to submit the COI due to how the law is written. Insurers are reluctant to or do not use the online submission, causing occasional delays that may affect the status of licenses.

This proposal was conceived as an effort to encourage more COI submissions into the online portal and reduce mail, email, and facsimile submissions.

RECOMMENDED SOLUTION: This issue was presented in concept to the Board on September 14, 2023, but after conducting more research, the staff recommendation is to table this proposal for now because it is not clear that it is necessary. CSLB will accept and post to the CSLB license record a certificate of insurance from a recognized insurer by the California Department of Insurance regardless of who sent it.

ISSUE: Removal or Deletion of C-61 / D-49 Tree Service Contractor License

BACKGROUND: CSLB has been issuing a C-61/D-49 Tree Service contractor license for several decades. Because it is a C-61 "Limited Specialty" classification, the D-49 contractor is not required to take a trade examination. After several stakeholder meetings concerning tree safety violations and injuries, the board approved the creation of a C-49 Tree Service license that would require a trade examination that focuses on tree safety. The intent of the Board and the initial regulatory language was to allow all D-49s to be "grandfathered in" to the C-49 classification once it took effect, but the Office of Administrative Law would not approve the regulation until that provision was removed.

The regulation was approved, and the C-49 takes effect January 2024. CSLB will stop accepting D-49 applications after January 1, 2024, so over time the D-49 population will decline. Nonetheless, D-49s will still be able to renew and maintain their licenses. Currently approximately 2,500 contractors holding the D-49 license will be encouraged to sit for the C-49 examination and qualify for the C-49 license, however, they are not required to do so. This leaves potential issues relating to a continuing D-49 contracting population coexisting with a substantially similar C-49 classification that has more established minimum qualifications.

RECOMMENDED SOLUTION: This issue was presented in concept to the Board on September 14, 2023, but after conducting more research, the staff recommendation is to not include this as a "new issue" because there is no precedent for canceling or not renewing existing licensees. The D-49 classification will be eliminated through attrition.