

JUNE 5, 2020
SACRAMENTO, CALIFORNIA



CONTRACTORS STATE LICENSE BOARD

Board Meeting





NOTICE OF PUBLIC BOARD MEETING

Friday, June 5, 2020, 9:00 a.m. – 1:00 p.m. (or until the conclusion of business)

Contractors State License Board and Teleconference

John C. Hall Hearing Room

9821 Business Park Drive

Sacramento, CA 95827

Pursuant to the provisions of Governor Newsom's March 12, 2020 Executive Order N-25-20, neither a public location nor teleconference locations are provided.

Teleconference Information for Members of the Public

<https://cslb.webex.com/cslb/onstage/g.php?MTID=ec32e8ad128c6ebba7787685817895060>

Call-In Number: (415) 655-0002 or (855) 797-9485

Access code: 920 204 334

If participating via teleconference, please keep your computer or phone muted until prompted by the meeting chair to offer public comment.

Meetings are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as "time certain." Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. Action may be taken on any item listed on this agenda, including information-only items. The meeting may be canceled without notice.

Members of the public can address the board during the public comment session. Public comments will also be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the board chair.

- A. Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction
- B. Public Comment for Items Not on the Agenda and Future Agenda Item Requests
(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).
- C. Moment of Silence to Commemorate Those Lost to COVID-19
- D. Joint Discussion with Nevada State Contractors Board (NSCB)
 - 1. Discussion Regarding CSLB and NSCB Operational and Structural Comparison
 - a. Licensing Operations
 - b. Enforcement Operations
 - c. Hearings and Disciplinary Actions
 - d. Public Relations
 - e. Budget and Fees
 - 2. Discussion Regarding CSLB and NSCB Response to COVID-19 and Effects on Board Operations

- a. Licensing Processes and Testing
 - b. Enforcement Investigative Processes
 - c. Telecommuting Programs and Impact on Operations
 - d. Hearings and Disciplinary Actions
 - e. Public Relations
 - f. Budget
- 3. Discussion Regarding Use of Technology to Limit In-Person Meetings
 - a. Administrative Hearing Proceedings
 - b. Public Meetings
 - c. Virtual Site Visits by Staff and Industry Experts
 - 4. Discussion Regarding Licensure Programs
 - a. Removing or Reducing Barriers to Licensure
 - b. Automation of Application Submittal
 - 5. Discussion Regarding Effects of COVID-19 on the Construction Industry
 - a. Construction as an Essential Service
 - b. Job Site Safety
 - c. Changes in Construction Business Practice
 - d. Building Department Inspection Challenges

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- E. Presentation of Certificates of Recognition – May Include Oral Presentations Commemorating Achievements and Service of Board Members David Dias and Michael Layton
- F. Review and Discussion of Statistical Overview of Current CSLB Operations
 - 1. Licensing
 - 2. Enforcement
- G. Licensing
 - 1. Update and Possible Action on Distribution of Construction Management Education Account Disbursements
- H. Legislation
 - 1. Review, Discussion, and Possible Action on 2019-20 Legislation
 - a. AB 2210 (Aguiar-Curry) Contractors: Violations: Disciplinary Actions
 - b. AB 2232 (Grayson) Contractors: Renewal of Licenses
 - c. AB 2471 (Maienschein) Senior citizens: rescission of contracts
 - d. AB 3087 (Brough) Professions and Vocations
 - e. SB 1189 (McGuire) Contracting Business: Home Improvement: Residential Property
 - f. SB 1474 (Senate Business, Professions & Economic Development) Committee Bill
 - g. CSLB Legislative Proposal – Raising Minor Work Exemption from \$500 to \$1,000

2. Review, Discussion, and Possible Action Regarding Previously Board-Approved Proposed Rulemaking to Amend Title 16, California Code of Regulations (CCR) Sections 868, 869, and 869.9 (Criteria to Aid in Determining if Crimes or Acts Are Substantially Related to Contracting Business, Criteria for Rehabilitation, and Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure), to Add Section 868.1 (Criteria to Aid in Determining if Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee or Registrant for the Purpose of Considering Denials of Applications), and to Repeal Section 869.5 (Inquiry into Criminal Convictions)
 - a. Review, Discussion, and Possible Action Regarding Comments Received During the 45-Day Comment Period
 - b. Review, Discussion, and Possible Action Regarding Adoption of Proposed Amendments
- I. Status Update on Hiring a Consultant to Study Which CSLB License Classifications Should Install Battery Energy Storage Systems
- J. Executive
 1. Review and Possible Approval of December 12, 2019 Board Meeting Minutes
 2. Review, Discussion and Possible Action on CSLB Budget
 - a. Update and Discussion of CSLB Budget
 - b. Update and Discussion on Status of Fee Audit Study
 - c. Review, Discussion, and Possible Approval of Process Changes to Reduce Expenditures and Increase Revenue
 3. Election of 2020-21 Board Officers
- K. Adjournment

In addition to teleconference, the board intends to provide a live webcast of the meeting. The webcast can be found at www.cslb.ca.gov or on CSLB's YouTube Channel at <https://www.youtube.com/user/ContractorsBoard/>. Webcast and teleconference availability cannot, however, be guaranteed due to limitations on resources or technical difficulties. The meetings will continue even if the webcast and/or teleconference is unavailable. If you wish to participate or have a guaranteed opportunity to observe, please plan to attend the physical meeting location.

The meetings are accessible to those needing special accommodation. A person who needs a disability-related accommodation or modification in order to participate in the meetings may make a request by contacting Phyliz Jones at (916) 255-4000, or phyliz.jones@cslb.ca.gov, or 9821 Business Park Drive, Sacramento, CA, 95827. Providing your request at least five business days prior to the meetings will help ensure availability of the requested accommodation.



CONTRACTORS STATE LICENSE BOARD

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AGENDA ITEM A

Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

Roll is called by the Board Chair or, in his/her absence, by the Board Vice Chair or, in his/her absence, by a Board member designated by the Board Chair.

Eight members constitute a quorum at a CSLB Board meeting, per Business and Professions Code section 7007.

Board Member Roster

KEVIN J. ALBANESE	DIANA LOVE
FRANK ALTAMURA, JR.	MARLO RICHARDSON
AGUSTIN BELTRAN	JAMES RUANE
DAVID DE LA TORRE	JOHNNY SIMPSON
DAVID DIAS	NANCY SPRINGER
SUSAN GRANZELLA	MARY TEICHERT
MIKE LAYTON	



AGENDA ITEM B

Public Comment Session - Items Not on the Agenda

(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)). Public comments will be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board Chair.

BOARD AND COMMITTEE MEETING PROCEDURES

To maintain fairness and neutrality when performing its adjudicative function, the Board should not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending administrative or criminal action.

- (1) If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be requested to refrain from making such comments.
- (2) If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action:
 - (a) The Board may designate either its Registrar or a board employee to review whether the proper procedure or protocol was followed and to report back to the Board once the matter is no longer pending; or,
 - (b) If the matter involves complaints against the Registrar, once the matter is final or no longer pending, the Board may proceed to hear the complaint in accordance with the process and procedures set forth in Government Code section 11126(a).
- (3) If a person becomes disruptive at the Board meeting, the Chair will request that the person leave the meeting or be removed if the person refuses to cease the disruptive behavior.



AGENDA ITEM C

Moment of Silence to Commemorate Those Lost to COVID-19



AGENDA ITEM D

Joint Discussion with Nevada State Contractors Board (NSCB)



AGENDA ITEM D-1

Discussion Regarding CSLB and NSCB Operational and Structural Comparison

- a. Licensing Operations
- b. Enforcement Operations
- c. Hearings and Disciplinary Actions
- d. Public Relations
- e. Budget and Fees



Comparison of CSLB and NSCB Regulations/Operations—June 2020

	California	Nevada																								
Year Started	1929	1941																								
# of Board Members	15	7																								
Board Member Makeup	Ten Public Members <ul style="list-style-type: none"> • One Labor Representative • One Building Official • One Senior Citizen Organization Five Contractor Members <ul style="list-style-type: none"> • One "A" Engineering Contractor • Two "B" General Contractors • Two "C" Specialty Contractors 	One Public Member Six Contractor Members																								
Board Member Appointing Authority	Governor: 11 Members Senate Pro Tempore: 2 Public Members Assembly Speaker: 2 Public Members <i>All members serve four-year terms</i>	Governor: All 7 members <i>All members serve three-year terms</i>																								
Budget (fiscal year 2018-19)	\$70,102,000	\$7,741,700																								
Staff Size	428	61																								
# of Licensees	<table> <thead> <tr> <th></th> <th>As of 5/1/2020</th> <th>Change from 5/1/2019</th> </tr> </thead> <tbody> <tr> <td>Active:</td> <td>230,380</td> <td>Down 21</td> </tr> <tr> <td>Inactive:</td> <td>53,796</td> <td>Down 1,216</td> </tr> <tr> <td>Total:</td> <td>284,176</td> <td>Down 1,237</td> </tr> </tbody> </table>		As of 5/1/2020	Change from 5/1/2019	Active:	230,380	Down 21	Inactive:	53,796	Down 1,216	Total:	284,176	Down 1,237	<table> <thead> <tr> <th></th> <th>As of 5/1/2020</th> <th>Change from 5/1/2019</th> </tr> </thead> <tbody> <tr> <td>Active:</td> <td>16,431</td> <td>Up 476</td> </tr> <tr> <td>Inactive:</td> <td>472</td> <td>Down 183</td> </tr> <tr> <td>Total:</td> <td>16,903</td> <td>Up 293</td> </tr> </tbody> </table>		As of 5/1/2020	Change from 5/1/2019	Active:	16,431	Up 476	Inactive:	472	Down 183	Total:	16,903	Up 293
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Inactive:	472	Down 183																								
Total:	16,903	Up 293																								
# of New Applications (fiscal year 2018-19)	31,957	2,020																								
Develop Exams / Administer Exams	Yes 8 CSLB-run Test Centers in California	Yes 3 PSI-run Test Centers in Nevada 30 PSI-run Test Centers Nationwide 1,493 CMS exams administered by PSI 1,582 Trade exams administered by PSI																								
# of Renewal Applicants (fiscal year 2018-19)	116,348	7,179																								
Cost of Original Application / Exam / Initial License	Application: \$330 Initial License: \$200	Application: \$300 Initial License: \$600																								
Criminal Background Checks	Yes	Yes																								
Time Until License is Renewed	Two Years	Two Years																								
Cost of Renewal	\$450	\$600																								
Surety Bond	Yes	Yes																								
Workers' Compensation Insurance	Yes	Yes																								
General Liability Insurance	No	No																								
Handyman Exemption	Yes Less Than \$500	Yes Less Than \$1,000																								
Exam Waivers Availabilities "Reciprocity"	Yes – 4 States Arizona, Louisiana, Nevada, Utah	Yes – 12 States Alabama, Arizona, California, Connecticut, Florida, Hawaii, Louisiana, New Mexico, North Carolina, South Carolina, Tennessee, West Virginia																								
# of Complaints (fiscal year 2018-19)	Licensed: 14,484 Unlicensed: 5,047	Licensed: 1,681 Unlicensed: 1,010																								
Recovery Fund	No	Yes Residential																								
Amount of Restitution Recovery / Recovery Funds Awarded (fiscal year 2018-19)	\$41,429,182	\$1,025,487																								
# of Licenses Revoked (fiscal year 2018-19)	649	83																								

AGENDA ITEM D-2

Discussion Regarding CSLB and NSCB Response to COVID-19 and Effects on Board Operations

- a. Licensing Processes and Testing
- b. Enforcement Investigative Processes
- c. Telecommuting Programs and Impact on Operations
- d. Hearings and Disciplinary Actions
- e. Public Relations
- f. Budget



AGENDA ITEM D-3

Discussion Regarding Use of Technology to Limit In-Person Meetings

- a. Administrative Hearing Proceedings
- b. Public Meetings
- c. Virtual Site Visits by Staff and
Industry Experts



AGENDA ITEM D-4

Discussion Regarding Licensure Programs

- a. Removing or Reducing Barriers to Licensure
- b. Automation of Application Submittal



AGENDA ITEM D-5

Discussion Regarding Effects of COVID-19 on the Construction Industry

- a. Construction as an Essential Service
- b. Job Site Safety
- c. Changes in Construction Business Practice
- d. Building Department Inspection Challenges



AGENDA ITEM E

Presentation of Certificates of Recognition
– May Include Oral Presentations
Commemorating Achievements and
Service of Board Members David Dias
and Michael Layton



AGENDA ITEM F

Review and Discussion of Statistical Overview of Current CSLB Operations

1. Licensing
2. Enforcement





CONTRACTORS STATE LICENSE BOARD

STATISTICAL UPDATE—LICENSING

Statistical Update—Licensing

With the use of remote working software and by redirecting staff, staff continue to reduce temporary backlogs created in waiver applications and license certifications. Call Center wait times have increased because the six-foot spacing requirement only allows for 50 percent of staff to be present at any given time. Staff is exploring the technical and fiscal feasibility of creating additional workstations at headquarters that would comply with social distancing requirements. In addition, two dedicated public email accounts were created; all inquiries are responded to within 24 hours.

License Population

The CSLB license population, as of May 1, 2020, was 284,176.

Licensing Statistics

	Nov '19	Dec '19	Jan '20	Feb '20	Mar '20	Apr '20
License Population	286,640	285,596	285,630	285,246	283,971	283,679
Applications Received	2,814	2,402	3,304	3,076	2,796	1,852
Renewals Received	8,854	9,635	6,844	9,038	11,584	11,280
Online Sole Owner Renewals	N/A	N/A	N/A	N/A	3	1,550
Kiosk Renewals	N/A	N/A	N/A	N/A	141	1,151
Call Center Calls Received	10,139	11,286	15,055	13,607	13,095	10,393
Call Center Calls Lost	530	478	1,320	1,110	1,274	2,736
Call Center Average Wait Time	3:15	3:13	6:19	5:52	7:10	26:39

Processing Times

The chart below shows the average number of weeks before an application or document is initially pulled for processing by a technician after it arrives at CSLB.

	Nov '19	Dec '19	Jan '20	Feb '20	Mar '20	Apr '20
Original Exam Apps	2.9	3.4	4.8	4.2	4.4	4.7
Original Waiver Apps	2	2.8	3.7	3.7	4.7	5.5
Add Class Apps	1.2	0.6	2.4	3.2	4.1	4.2
Qualifier Replacer (Exams & Waiver)	1.2	1.5	2.2	3	3.8	3.1
Home Improvement Apps	1.3	1.5	1.9	2.8	4	4.1
Renewal	2	2.4	2.4	2.5	3.1	2.4
Add New Officer	1	1.6	1.6	1	2.1	2.6
Address/Name Change	1.1	1.6	1.2	1.1	2.2	3.0
Bond/Bond Exemption	0.8	1.1	1	0.6	0.6	0.4
Workers' Comp/Exempt	2.6	3.1	3.3	2.2	1.8	2.5
Certified License History	0.9	0	0.3	9	5	4.5
Copies of Documents	0.1	0	0.1	0	1.5	1.1
CORI (Criminal Background) Review	2.4	2.6	2.7	1.8	1.2	1.4



Exam Statistics

As of May 15, 2020, CSLB had 8,330 pending exams. From November 2019 to February 2020, before the health crisis, CSLB averaged 6,838 pending exams on any given day.



CONTRACTORS STATE LICENSE BOARD

STATISTICS SUMMARY BY FISCAL YEAR

Statistics Summary by Fiscal Year

Applications Received

Month	2016-17	2017-18	2018-19	2019-20
July	3,513	2,624	3,478	4,511
August	3,749	3,141	3,761	4,733
September	3,668	3,254	3,418	4,366
October	3,844	3,188	4,550	4,166
November	3,080	2,669	3,736	3,854
December	3,260	2,903	3,682	3,320
January	3,282	3,714	4,232	4,132
February	3,087	3,598	4,428	4,068
March	4,059	4,223	5,157	3,649
April	4,081	3,430	4,761	2,284
Total	35,623	32,744	41,203	39,083

% Change from Prior FY -5.1%

Original Applications Received (includes exam and waivers)

Month	2016-17	2017-18	2018-19	2019-20
July	1,618	1,197	1,454	1,935
August	1,811	1,141	1,815	1,967
September	1,692	1,624	1,595	1,820
October	1,842	1,429	2,182	1,616
November	1,374	1,306	1,763	1,440
December	1,453	1,522	1,697	1,245
January	1,584	1,990	1,972	1,829
February	1,090	1,766	2,047	1,697
March	1,938	1,885	2,211	1,594
April	1,969	1,401	2,217	1,060
Total	16,371	15,261	18,953	16,203

% Change from Prior FY -3.2%

% of Apps Rcvd are Original Apps 41.5%

Original Licenses Issued

Month	2016-17	2017-18	2018-19	2019-20
July	1,245	1,150	1,394	1,426
August	1,334	1,355	1,616	1,331
September	1,329	1,095	1,377	1,293
October	1,403	986	1,580	1,383
November	1,407	1,334	1,250	1,195
December	1,036	1,170	1,244	1,181
January	1,241	1,170	1,441	1,263
February	1,072	1,065	1,374	1,118
March	1,423	1,446	1,342	1,102
April	1,111	1,438	1,416	940
Total	12,601	12,209	14,034	12,232

% Change from Prior FY -12.8%

% Licenses Issued of Original Apps Rcvd 75.5%

**Licenses Renewed**

Month	2016-17	2017-18	2018-19	2019-20
July	10,394	8,153	8,307	11,234
August	11,069	9,283	10,544	9,631
September	9,215	9,534	8,173	9,409
October	9,842	8,805	13,154	7,901
November	7,618	5,651	7,563	6,003
December	9,147	9,651	7,362	7,846
January	8,958	7,593	11,000	9,582
February	8,800	11,586	9,698	7,163
March	12,317	9,760	11,700	12,059
April	11,853	9,830	9,011	13,174
Total	99,213	89,846	96,512	94,002

% Change from FY 2017-18 4.6%

Original HIS Registrations Issued

Month	2016-17	2017-18	2018-19	2019-20
July	350	302	476	677
August	581	420	422	526
September	391	405	442	634
October	552	495	549	579
November	428	419	415	594
December	359	385	437	519
January	377	468	570	429
February	382	396	400	457
March	448	433	590	350
April	499	502	656	400
Total	4,367	4,225	4,957	5,165

% Change from Prior FY 4.2%

HIS Registrations Renewed

Month	2016-17	2017-18	2018-19	2019-20
July	188	213	328	408
August	271	402	435	497
September	252	302	354	421
October	257	280	461	387
November	168	203	342	212
December	285	434	302	534
January	235	110	381	319
February	196	424	321	294
March	561	266	432	571
April	354	382	436	408
Total	2,767	3,016	3,792	4,051

% Change from Prior FY 6.8%

**License Population by Status**

Status	Apr 2017	Apr 2018	Apr 2019	Apr 2020
Active	225,344	226,151	230,401	230,380
Inactive	58,007	55,866	55,012	53,796
Total	283,351	282,017	285,413	284,176

% Change from Prior FY -.43%

HIS Registration Population by Status

Status	Apr 2017	Apr 2018	Apr 2019	Apr 2020
Active	17,062	17,308	18,930	20,912

% Change from Prior FY 10.5%



Statistical Overview—Enforcement

General Fiscal Year Complaint Handling Statistics (July 2019-March 2020)

Complaints Received

- For the current fiscal year (FY), CSLB is receiving an average of 1,562 complaints per month.
- To date, CSLB has received 764 fewer complaints this fiscal year than in the prior fiscal year.

Complaints Received per Month

Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
1,617	1,580	1,660	1,701	1,390	1,453	1,583	1,677	1,405

Pending Investigations

- At present staffing levels, the optimum Enforcement division caseload is 4,005 pending complaints. As of May 2020, the pending caseload was 3,766.

Enforcement Representative Production Goals

- Currently, the weighted monthly Investigative Center closing average is nine per Enforcement Representative. The board goal is a weighted average of 10 closures per month.

Complaint-Handling Cycle Time

- The board’s goal is to appropriately disposition all but 100 complaints within 270 days of receipt. As of April 2020, 78 of the 3,766 open complaints—or 2 percent—exceeded 270 days in age.

Restitution to Financially Injured Persons

- CSLB continues to assist consumers and help licensees resolve non-egregious consumer complaints. Current fiscal year complaint-negotiation efforts by Enforcement division staff have resulted in more than \$20 million in restitution to financially injured parties.

Investigative Center Legal Actions

- The Investigative Centers have referred 32 percent, or 444, of the 1,370 legal action investigations for criminal prosecution.

**Case Management Activities (July 2019 – March 2020)**

- **Arbitration**
 - 668 cases initiated, resulting in over \$2 million in restitution to injured parties
 - 66 licenses revoked for non-compliance

- **Citations**
 - 1,085 citations issued (668 licensee, 417 non-licensee)
 - 508 citations appealed (329 licensee, 179 non-licensee)
 - 935 citations complied with (615 licensee, 320 non-licensee)

- **Civil Penalties Assessed and Collected**
 - Licensee Citation Civil Penalties
 - Assessed – \$1,087,366
 - Informal settlement conferences conducted – 182
 - Civil penalties collected – \$696,689
 - Restitution – \$696,689

 - Non-Licensee Citation Civil Penalties
 - Assessed – \$670,233
 - Informal settlement conferences conducted – 161
 - Civil penalties collected – \$670,233

- **Accusations**
 - Accusations filed – 291
 - License revocations – 231
 - Restitution paid to injured parties – \$737,323
 - Cost recovery collected – \$338,880



Statewide Investigative Fraud Team

CSLB's Statewide Investigative Fraud Team (SWIFT) performs proactive investigation at active construction sites to confirm compliance with license and workers' compensation requirements.

From July 1, 2019 to March 31, 2020, SWIFT conducted 52 sting operations, participated in 216 sweep days, and responded to 730 leads. SWIFT closed 2,760 cases as a result of stings, sweeps, and leads, of which 883 resulted in an administrative or criminal legal action, as well as the issuance of 720 advisory notices for minor violations.

District Attorney Referrals

From July 1, 2019 to March 31, 2020, SWIFT referred 600 cases to local district attorneys' offices for criminal prosecution – 526 for contracting without a license and 74 against licensees, primarily for failure to secure workers' compensation insurance.

Administrative Actions

From July 1, 2019 to March 31, 2020, SWIFT issued 278 licensee and non-licensee citations, filed five accusations, and assessed \$291,950 in non-licensee citation civil penalties. Administrative violations include working out of classification, working under a suspended or expired license, failing to obtain permits, and other license law violations that do not warrant a criminal referral

Stop Orders

A Stop Order is a legal demand to cease all employee labor at any jobsite due to workers' compensation insurance violations until an appropriate policy is obtained. Failure of a contractor to comply with a Stop Order is a misdemeanor criminal offense, punishable by up to 60 days in county jail and/or a fine of up to \$10,000. From July 1, 2019 to March 31, 2020, SWIFT issued 236 Stop Orders to licensed and unlicensed individuals for using employee labor without having a valid workers' compensation policy.

Outstanding Tax and State Agency Liability Suspensions

CSLB can suspend a license if the licensee is delinquent in paying outstanding liabilities owed to CSLB or other state agencies. The table below summarizes liabilities owed to state agencies that were collected or resolved to avoid a license suspension or to reinstate a suspended license.

**Amounts Collected or Resolved**

	2017	2018	2019	2020 (to March 31)
CSLB	\$123,507	\$138,182	\$114,880	\$28,178
EDD	\$14,000,400	\$12,912,299	\$15,091,585	\$5,800,013
DIR-Cal/OSHA	\$445,698	\$2,085,120	\$3,270,360	\$845,483
DIR-DLSE	\$1,639,923	\$1,315,519	\$1,423,337	\$994,509
FTB	\$7,141,353	\$7,491,602	\$6,490,225	\$1,053,761
Totals	\$23,350,880	\$23,942,722	\$26,390,386	\$8,721,944

Labor Enforcement Task Force

The Labor Enforcement Task Force (LETF) is comprised of investigators from CSLB, the Department of Industrial Relations (DIR) Division of Labor Standards and Enforcement, the DIR Division of Occupational Health and Safety, and the Employment Development Department. LETF combats the underground economy in California. Ensure that workers receive proper payment of wages and are provided a safe work environment;

LETF July 1, 2019 - March 31, 2020

CATEGORY	RESULT
Number of Contractors Inspected	180
Number of Contractors Out of Compliance	160
Percentage of Contractors Out of Compliance	89%
Total Initial Assessments	\$684,050

Note: The results reflect joint LETF inspections with Cal/OSHA, CSLB, DLSE & EDD. Total initial assessments reflect the amount assessed by Cal/OSHA and DLSE at the time of the inspection. These amounts are subject to change.

AGENDA ITEM G

Licensing



AGENDA ITEM G-1

Update and Possible Action on Distribution of Construction Management Education Account Disbursements





CONTRACTORS STATE LICENSE BOARD

CONSTRUCTION MANAGEMENT EDUCATION ACT 2020 DISBURSEMENTS

Construction Management Education Act—2020 Disbursements

Background

Under the Construction Management Education Sponsorship Act of 1991, the legislature has charged the Contractors State License Board (CSLB) with responsibility for collecting funds to award grants to specified institutions that offer construction management education programs.

Purpose

This grant program is designed to “prepare graduates for the management of construction operations and companies regulated” by CSLB. The enabling legislation continues:

Although construction management programs do exist within the state university system, these programs are woefully underfunded and insufficiently funded to provide training on state-of-the-art management information systems for either graduates or extension programs for continuing education of licensed contractors. Construction industry associations have provided some assistance through direct grants and scholarships, but the industrywide service of these programs and the need for additional assistance mandates broad based industrywide support.

...

This assistance will enable greater development of construction management curricula and will improve the overall quality of construction by providing construction management training to California licensed contractors and their current and future management personnel.

Award Procedure

Currently, as authorized in the Governor’s Annual Budget, CSLB can disburse \$100,000 each year to institutions. Staff are seeking to increase that appropriation in future years. The current balance in the CMEA fund is approximately \$337,000.

Typically, each year in late July, the Licensing division notifies accredited construction management education programs to prepare an application for funds in the coming year. Applications are usually due near the end of October. Staff then review the applications and confirm the applying institutions remain properly accredited. Staff then propose an award amount for all qualifying institutions based on the number of students that graduated the prior year. This proposal is then forwarded to the Construction Management Education Advisory Committee. Staff responds to all committee questions and, if there are no objections or requests from members, send the proposal to the registrar for review.

The 2018-2021 Construction Management Education Advisory Committee

ASSOCIATION	REPRESENTATIVE	COMPANY
Associated General Contractor of CA (AGC); Associated General Contractors of San Diego (AGC)	Jamie Khan	The Apex Group
Associated Builders & Contractors (ABC)	Ed Duarte	Aztec Consultants
California Building Industry Association (CBIA)	Nick Cammarota	CBIA
National Electrical Contractor Association (NECA)	Vincent Bernacchi	Schetter Electric, Inc.
Plumbing Heating Cooling Contractor Association (PHCC)	Patrick Wallner	Wallner Plumbing
Southern California Contractor Association (SCCA)	Paul Von Berg	Construction Industry Consultant
United Contractors (UCON)	Emily Cohen	UCON
Engineering Contractors Association (ECA)	Brendan Slagle	J.F. Shea Construction, Inc.
Sheet Metal & Air Conditioning Contractors National Association (SMACNA)	Chris Walker	CAL SMACNA
CSU / UC Construction Management Programs	Mikael Anderson	CSU, Sacramento

After the registrar reviews and approves the proposal, it is forwarded to board members, who are given 30 days to accept or reject the proposal. Typically, this period ends with the end of the calendar year. The award amounts are then sent to the Department of Consumer Affairs and the awards are sent to the institutions sometime in the spring of the following year.

Procedural Change

Upon further review of the current awarding procedure, staff is seeking board approval to alter the procedure for future grant cycles. Instead of providing board members a 30-day timeline to accept or reject the award amount, the CMEA Committee’s recommendation, including proposed grant amounts, will be presented at the annual December board meeting for board approval.

Proposed Disbursement for Spring 2020

In 2019, CSLB received grant applications from four institutions. The Construction Management Education Advisory Committee expressed no concerns over the proposed award amounts. The registrar then forwarded these recommendations to all board members and received no requests for changes.



Staff Recommendation

1. Board approval to issue the following grant awards:

Institution	Number of Applicable Graduates	Award Amount per Graduate	Grant Award
CSU Chico	110	\$350.87	\$38,595.70
CSU Sacramento	56	\$350.87	\$19,648.72
CSU Fresno	24	\$350.87	\$8,420.88
Cal Poly, San Luis Obispo	95	\$350.87	\$33,332.65
Total	285	\$350.87	\$99,997.95

2. Modify the procedures for future grant cycles where the CMEA Committee's recommendation would be submitted to the board annually for approval at its December meeting.

AGENDA ITEM H

Legislation



AGENDA ITEM H-1

Review, Discussion, and Possible Action on 2019-20 Legislation

- a. AB 2210 (Aguiar-Curry) Contractors: Violations: Disciplinary Actions
- b. AB 2232 (Grayson) Contractors: Renewal of Licenses
- c. AB 2471 (Maienschein) Senior citizens: rescission of contracts
- d. AB 3087 (Brough) Professions and Vocations
- e. SB 1189 (McGuire) Contracting Business: Home Improvement: Residential Property
- f. SB 1474 (Senate Business, Professions & Economic Development) Committee Bill
- g. CSLB Legislative Proposal – Raising Minor Work Exemption from \$500 to \$1,000





CONTRACTORS STATE LICENSE BOARD

LEGISLATIVE BILL ANALYSIS

BILL NUMBER: AB 2210 (Aguiar-Curry)

leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2210

STATUS/LOCATION: Set for hearing: Assembly Committee on Business and Professions, May 21, 2020

SPONSOR: Contractors State License Board

SUBJECT: Contractors: violations: disciplinary actions

CODE SECTION: Amend Business and Professions Code §§ 7109.5 and 7110.5

SUMMARY: Require the Department of Industrial Relations' (DIR) Division of Occupational Safety and Health (DOSH) to forward to CSLB their finding of a contractor's violation of DIR Tree Safety Orders, regardless of the severity of injury. Provides additional time for CSLB to investigate and initiate disciplinary action in such cases.

EXISTING LAW: Provides that a contractor's violation of any safety provision in the Labor Code that results in death or serious injury to an employee is a cause for disciplinary action. Also requires the CSLB registrar to initiate disciplinary action against a licensee within 180 days of notification from the Labor Commissioner of a contractor's violation of the Labor Code.

THIS BILL: Provides that, in addition to the existing requirement that a contractor's violation of any safety provision in the Labor Code is a cause for disciplinary action, it is also a cause for discipline if the contractor violates any of the provisions in California's Tree Safety Orders administered by DOSH. Provides the registrar 18 months, instead of 180 days, to take corresponding disciplinary action.

COMMENT/ANALYSIS: The additional 18 months was provided because: 1) it is consistent with CSLB's existing statutory period in which it is authorized to take disciplinary action for its own cases; and 2) 180 days is often not enough time to investigate and file an administrative disciplinary action..

FISCAL IMPACT: Minor and absorbable.

SUPPORT:

West Coast Arborists

Southern California Center for Contract Compliance.

STAFF RECOMMENDATION: SUPPORT. This is a CSLB-sponsored measure.



CONTRACTORS STATE LICENSE BOARD

LEGISLATIVE BILL ANALYSIS

BILL NUMBER: AB 2232 (Grayson)

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2232

STATUS/LOCATION: Set for hearing: Assembly Committee on Business and Professions, May 21, 2020

SPONSOR: Associated General Contractors (AGC)

SUBJECT: Contractors: renewal of licenses

CODE SECTION: Amend Section 7141.5 of the Business and Professions Code

SUMMARY: Requires the registrar to reinstate an expired contractor's license if a completed license renewal application is received with the appropriate fees within 90 days of the license expiration date.

EXISTING LAW: Allows the registrar to only grant the retroactive renewal of an expired license if the licensee requests the retroactive renewal within 90 days and petitions the registrar with a showing that the failure to renew the license was due to circumstances beyond licensee's control.

THIS BILL: Provides that if a licensee is otherwise eligible, pays the appropriate fees, and submits a complete renewal that is postmarked within 90 days of the expiration date, the registrar shall accept the renewal and reinstate the license back to the expiration date.

COMMENT/ANALYSIS: The effect of this bill is to remove the "break" in license history of a licensee whose renewal is received within 90 days of the expiration date. It also ends the requirement that forces staff to determine if a licensee had a reason beyond the licensee's control for being late, which will decrease processing time and get all parties back to work sooner. A licensee will still be considered unlicensed until the expiration is remedied.

FISCAL IMPACT: Minor and absorbable.

STAFF RECOMMENDATION: SUPPORT. A renewal received within 90 days of the expiration date is usually the result of a busy construction operation not completing necessary paperwork or collecting the needed signatures for a renewal over the days leading up to the license expiration. It is a common issue among otherwise law-abiding licensees. The resulting break in licensure of an expired license for even a day can cost a contractor millions of dollars (BPC § 7031 prohibits an unlicensed contractor from compensation on a contract). It is reasonable to authorize restoration of the history of a licensee whose late renewal is received within 90 days, along with the appropriate fees.



CONTRACTORS STATE LICENSE BOARD

LEGISLATIVE BILL ANALYSIS

BILL NUMBER: AB 2471 (Maienschein)

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=2019202000AB2471

STATUS/LOCATION: In Judiciary Committee May 7, 2020. Hearing postponed.

SPONSOR: County of San Diego Office of the District Attorney

SUBJECT: Senior citizens: rescission of contracts

CODE SECTION: Amends sections 7150, 7159, and 7159.10 of the Business and Professions Code, and select sections of the Civil Code and Streets & Highways Code

SUMMARY: Extends the right to cancel certain contracts for people 65 years of age or older from three business days to five.

EXISTING LAW: Authorizes a buyer who cancels certain home solicitation contracts or offers until midnight of the 3rd business day after the day on which the buyer signs an agreement or offer to purchase that complies with specified requirements. Provides specific requirements for home improvement contracts and service and repair contracts that required them to include a notice regarding the buyer's three-day right to cancel.

THIS BILL: Extends by statute the right to cancel contracts for people 65 years of age or older from three business days to five for the following types of contracts: 1) home solicitation contracts; 2) seminar sales contracts; 3) home improvement contracts; 4) service or repair contracts (that do not fall under the service and repair exemption); and 5) Property Assessed Clean Energy ("PACE") assessment contracts.

COMMENT/ANALYSIS: These comments are from the author's fact sheet for the bill:

- "Many times, seniors sign contracts due to high-pressure sales tactics or they sign despite not fully comprehending the difference between the verbal presentation and the actual terms of the written contract. These contracts can have dire consequences, not only financially, but also psychologically for seniors who unknowingly place their home – their largest financial asset – at risk to foreclosure due to assessments."
- "This bill was inspired by the civil law enforcement action filed by the Office of District Attorneys in six counties and the City Attorney of San Diego... [The] suit alleged that one of the largest PACE companies in California misled tens of thousands of homeowners about their Home Energy Renovation Opportunity (HERO) loan. [Among other requirements] the company was also ordered that, going forward, it must implement the right to cancel the contract for a number of energy efficient home improvements for people 65 and older from three business days to five business days."



STAFF RECOMMENDATION: SUPPORT. The purpose and intent of this bill aligns with CSLB's objective for its Joint Agency Solar Task Force on the issue of solar consumer protections.



CONTRACTORS STATE LICENSE BOARD

LEGISLATIVE BILL ANALYSIS

BILL NUMBER: AB 3087 (Brough)

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB3087

STATUS/LOCATION: Set for hearing: Assembly Committee on Business and Professions, May 21, 2020

SPONSOR: Contractors State License Board

SUBJECT: Contractors State License Law (license examinations).

CODE SECTION: Section 7065 of the Business and Professions Code (BPC)

SUMMARY: This bill would clarify CSLB's authority to contract with a third-party vendor for the administration of its licensing examinations.

EXISTING LAW: Requires the registrar to "qualify licenses by written examination."

THIS BILL: Would authorize the registrar to make arrangements with a public or private organization to conduct or administer its license examinations and authorize the registrar to contract for materials or services related to the examination.

COMMENT/ANALYSIS: Examination development and its associated occupational analyses processes would remain unchanged under this bill. Many Department of Consumer Affairs boards and bureaus already contract with third party agencies to administer their exams. According to legal counsel, CSLB does not have this authority as a result of language in BPC § 7065. This bill borrows from existing language that grants this authority to other boards and bureaus to authorize the registrar to contract out administration of its examinations.

FISCAL IMPACT: Would save CSLB approximately \$624,000 per year. "In house" examination administration costs approximately \$3.2 million a year, or \$73 per exam. Contracting with a third-party vendor would result in annual costs of approximately \$2.6 million, or \$59 per exam.

ECONOMIC IMPACT: The cost to individual applicants, set by statute, would not change. However, this bill will ease scheduling and traveling burdens that currently exist for applicants because of greatly increased third-party examination locations and provide expanded customer service hours.

STAFF RECOMMENDATION: SUPPORT – this is a CSLB-sponsored measure.



CONTRACTORS STATE LICENSE BOARD

LEGISLATIVE BILL ANALYSIS

BILL NUMBER: SB 1189 (McGuire) (Coauthors: Senator Dodd, Asm. Low)
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1189

STATUS/LOCATION: Re-referred to Senate Committee on Business, Professions and Economic Development after second reading (May 6, 2020)

SOURCE: The CSLB is partnering with Senator McGuire on this bill

SUBJECT: Contracting business: home improvement: residential property

CODE SECTION: Amends sections 7055 and 7151 of, and adds section 7057.5 to the Business and Professions Code

SUMMARY: Creates a new classification of licensed contractor as a subdivision within the existing General Building Contractor classification, called “Residential remodeling contracting.” Also clarifies that home improvement projects that are undertaken in declared disaster zones are subject to home improvement contract consumer protections laws.

EXISTING LAW: Provides that a general building contractor’s principal contracting business is in connection with a structure that requires in its construction at least two unrelated building trades or crafts. Provides that a general building contractor may take a prime contract or subcontract for a framing or carpentry project but may not contract for trades other than framing or carpentry unless: 1) the contract requires two additional unrelated trades; or 2) the contractor is appropriately licensed; or 3) the contractor subcontracts with the appropriate licensee to do the work.

THIS BILL: Provides that a residential remodeling contractor is a contractor whose principal contracting business is in connection with any project to make improvements to, on, or in an existing residential wood frame structure, and the project requires the use of at least three unrelated building trades or crafts for a single contract. Among other specified restrictions, also provides that the residential remodeling contractor cannot contract to make structural changes of a building or contract for rough electrical or plumbing.

This bill also adds text establishing that home reconstruction in a declared disaster area is subject to home improvement consumer protections as defined: “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 pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.”

COMMENT/ANALYSIS: This bill removes barriers to licensure for multi-trade contractors who perform residential remodeling without regularly performing framing or



rough carpentry and insures that home improvement contract laws are followed in declared disaster zones.

FISCAL IMPACT: Minor/absorbable costs, and increased revenue from a new license class.

STAFF RECOMMENDATION: SUPPORT. CSLB partnered with the author on this bill.



CONTRACTORS STATE LICENSE BOARD

LEGISLATIVE BILL ANALYSIS

BILL NUMBER: SB 1474 (McGuire) (Senators Glazer (Chair), Archuleta, Chang, Dodd, Galgiani, Hill, Leyva, Pan, and Wilk)

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB1474

STATUS/LOCATION: March 16, 2020 – to Senate Rules for Assignment

SOURCE/SUBJECT: Senate Business and Professions Committee’s annual omnibus bill to make technical, non-substantive changes to the law

CODE SECTIONS: Amends multiple sections of the Business and Professions Code (BPC), including sections of the contractors’ state license law

SUMMARY: As the committee’s annual omnibus bill, SB 1474 makes several changes to the law unrelated to CSLB. This document reviews only those changes related to CSLB.

THIS BILL: Incorporates the following recommendations for technical, non-substantive changes to the contractors’ state license law approved by the board at the December 12, 2020 meeting:

1. Remove the apostrophe from the following official titles in the law: Contractors’ State License Law, Contractors’ State License Board, and the Contractors’ License Fund.
2. Replace a previously existing provision of the contractors’ state license law that was accidentally deleted by CSLB-sponsored AB 3087 (Brough, 2018; relating to cash deposits in lieu of a contractor’s bond.)
3. Place CSLB’s authority to issue a letter of admonishment (Business and Professions Code section 7099.2) into its own section of law (BPC section 7099.9)

COMMENT/ANALYSIS: The first change will remove confusion among administrative law judges and other parties preparing formal documentation for CSLB about the use of the apostrophe in CSLB’s various titles, as it is not used in daily practice by CSLB in any of its publications or materials.

The second change is a “clean up” to a 2018 bill sponsored by CSLB that will reinstate an inadvertently removed section of law that prohibited a cash deposit from being released if the board is notified of a civil action against the deposit.

The third change will make the CSLB’s letter of admonishment law easier to read and understand by removing it from a section that involves civil penalties and putting into its own section, similar to the program for informal citation settlement conferences.



CSLB

LEGISLATIVE BILL ANALYSIS

STAFF RECOMMENDATION: SUPPORT. These changes will improve the contractors' state license law.

AGENDA ITEM H-2

Review, Discussion, and Possible Action Regarding Previously Board-Approved Proposed Rulemaking to Amend Title 16, California Code of Regulations (CCR) Sections 868, 869, and 869.9 (Criteria to Aid in Determining if Crimes or Acts Are Substantially Related to Contracting Business, Criteria for Rehabilitation, and Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure), to Add Section 868.1 (Criteria to Aid in Determining if Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee or Registrant for the Purpose of Considering Denials of Applications), and to Repeal Section 869.5 (Inquiry into Criminal Convictions)

- a. Review, Discussion, and Possible Action Regarding Comments Received During the 45-Day Comment Period
- b. Review, Discussion, and Possible Action Regarding Adoption of Proposed Amendments





COMMUNITY
LEGAL SERVICES
IN EAST PALO ALTO



Center for
Employment
Opportunities

April 27, 2020

Via Email

California Department of Consumer Affairs
California Contractors State License Board
ATTN: Betsy Figueira and Michael Jamnetski
9821 Business Park Drive
Sacramento, CA 95827
Email: Betsy.Figueira@cslb.ca.gov
Michael.Jamnetski@cslb.ca.gov

RE: Comments in Response to Dept. of Consumer Affairs, California Contractors State License Board Regulatory Action Concerning the Implementation of AB 2138, Proposal to Amend Sections 868, 868.1, 869, 869.9, of Article 7 of Division 8 of Title 16, of the California Code of Regulations

Dear Betsy Figueira and Michael Jamnetski:

Thank you for the opportunity to submit comments to the Department of Consumer Affairs (“DCA”), Contractors State License Board (“Board”) regarding proposed regulations to implement AB 2138.

Assembly Bill 2138 was authored by Assemblymembers David Chiu and Evan Low to help formerly incarcerated people have a fair chance at obtaining occupational licensure. AB 2138 was sponsored by the Anti-Recidivism Coalition, East Bay Community Law Center, Legal Services for Prisoners with Children, Root & Rebound and supported by a coalition of 50 organizations. Thanks to the passage of AB 2138 in 2018, the roughly 1 in 3 or 8 million Californians with arrest or conviction records will face fewer barriers to employment and will help to fill the much needed occupational employment gaps in the State.

Formerly incarcerated workers strive to obtain permanent, stable, and living wage jobs, however around 30% of jobs require licensure, clearance, or oversight by a governing body. This oversight, while intended to protect public safety, disproportionately impacts people of color, low-income, and indigent communities of people. These communities have been disproportionately impacted by over-policing and over-criminalization resulting in contacts with law enforcement that bar these applicants from later obtaining the licensure they require to pursue employment under DCA’s regulation. Moreover, applicants have been deterred by the lengthy process, lack of clarity, and obstacles to obtaining licensure – problems that AB 2138 seeks to rectify to offer a fair chance to all people.

However, across the state of California, there are only a handful of organizations that support low-income and indigent people seeking occupational licensure. Licensure applicants look for help answering questions about general eligibility, the initial application, appeals, probationary and restricted licenses, and license revocations or suspensions. The lack of clarity in this process and lack of low-cost or free service providers, leads many people facing differing levels of adversity to give up entirely. We believe that our direct experience with clients who are undergoing this difficult process, along with our involvement in the drafting and passage of AB 2138, makes us equipped to understand the proper implementation of this bill.

The undersigned organizations write to you regarding the implementation of AB 2138 which will reduce discrimination against people of color in California, who are disproportionately denied job opportunities because of occupational licensing-related conviction background checks. We support amendments to Sections 868, 868.1, 869, and 869.9, of Article 7 of Division 8 of Title 16, of the California Code of Regulations to reflect the passage of Assembly Bill 2138, Chiu, but believe the current language should be clarified and go further in order to fully implement the intention and spirit of the AB 2138 text.

The proposed regulations leave some gaps in the regulatory scheme under the changes to CA Business and Professions Code sections 480, 481, 482, and 493 as modified by AB 2138. These

proposed regulations fail to meet and implement CA B&P Code sections 480, 481, 482, and 493 and are not, as currently written, valid. The proposed regulations also fall short of the intent of the bill, which includes combating discrimination against people with records that have demonstrated rehabilitation and seek to establish themselves professionally.

Specifically, the proposed regulations do not comply with AB 2138 as follows:

- Section 868 lists certain crimes, professional misconduct, acts and defines them as substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of AB 2138 Business and Professions Code section 481. AB 2138 allows the Board discretion to determine which crimes are substantially related on an individual basis. Moreover, section 868 fails to note that criminal history and the acts underlying a conviction that resulted in the applicant obtaining a Certificate of Rehabilitation, pardon, dismissal per Penal Code section 1203.4 *et seq.*, or an arrest that resulted in a disposition other than a conviction **shall** not be denied a license. See Business and Professions Code section 480(b)-(d).
- Section 868.1 states that crimes or attempted crimes involving direct financial harm or a direct financial benefit shall be considered directly and adversely related to the fiduciary qualifications, functions, or duties of a license or registrant.

We urge you to consider and incorporate the Department of Fair Employment and Housing (DFEH)'s regulations regarding consideration of criminal history in employment decisions found at Section 11017.1 of Article 2, Subchapter 2, Chapter 5, of Division 4.1, of Title 2 of the California Code of Regulations.¹ Specifically, Section 11017.1(e) states that a "criminal conviction consideration policy or practice needs to bear a demonstrable relationship to successful performance on the job...and measure the person's fitness for the specific position(s)." A policy must be tailored and take into account: 1) the nature and gravity of the offense or conduct, 2) the time that has passed since the offense or conduct and/or the completion of the sentence, and 3) the nature of the job held or sought.

The current language is missing this criteria and is not tailored to allow for an assessment of the individual circumstances, the amount of time that has passed, nor is it related to the functions of the license or registration. **In particular, the Board should only consider felony financial crimes that are directly and adversely tied to the qualifications, duties, and/or functions of a contractor's license or registration in accordance with existing regulations.**

- Section 869 and 869.9 as written, rely too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms

¹ Cal. Code Regs. tit. 2, Section 11017.1 (2017).

that the current language does not fully embrace. Please see number 5 below for examples of rehabilitation to expand the proposed regulations.

Specifically, section 869.9 should allow denied applicants a chance to re-apply before the reapplication date. If the applicant chooses to reapply, the Registrar must advise applicants that they may submit documentation in accordance with section 869.9(5)-(11) and that the Registrar must consider this evidence.

Further, we urge the Board to incorporate the full extent of AB 2138 by including the following provisions:

1. The proposed regulations should include the 7 year washout period for consideration of convictions or discipline which are not statutorily considered serious felonies under the Cal. Penal Code. 1192.7. See Cal Business and Professions Code section 480(a).
2. The proposed regulations should provide that a person with a criminal history **shall not** be denied a license if the applicant has obtained a Certificate of Rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, or an arrest which led to an infraction/citation or a disposition other than a conviction, or juvenile adjudication. See Cal Business and Professions Code section 480(b)-(d).
3. The proposed regulations fail to include that the board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. See Cal Business and Professions Code section 480(f)(2).
4. The proposed regulations fails to include that the board shall notify the applicant in writing if the applicant is denied or disqualified from licensure. The Board must provide procedures describing the process for the applicant to challenge the decision or to request re-consideration, that the applicant has a right to appeal the board's decision, and the process of requesting a complete conviction history. See Cal Business and Professions Code section 480(f)(3).
5. The intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. Merely looking to law enforcement will not adequately show how an applicant would do on the job.

Rather, rehabilitation can and does take many forms that extend beyond mere law enforcement supervision. To better define rehabilitation, we recommend that the board provide examples of evidence of mitigating circumstances and rehabilitation efforts to assist both the Board and licensing applicants.

For instance, the Board should consider adding the following rehabilitation criteria:

- Volunteer service;
- Successful employment in a related field;
- A history of work experience in an employment social enterprise;
- Unpaid work in the community;
- Furthered education;
- Abstinance from controlled substances and/or alcohol;
- Stability of family life, fulfillment of parental and familial responsibilities;
- New and different social and business relationships from those which existed at the time of the underlying charges at issue;
- Change in attitude of the applicant as evidenced by:
 - Personal testimony,
 - Evidence of rehabilitation submitted by the applicant,
 - Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes, and;
- Other markers of rehabilitation.

6. The proposed regulations fail to include any mention of requirements to obtain statistical information on the number of applicants with a criminal record who apply and receive notice of denial/disqualification of licensure, provided evidence of mitigation or rehabilitation, the final disposition of the application, and demographic information. See Cal Business and Professions Code section 480(g).

Adequate implementation of the changes to California Business and Professions Code sections 480, 481, 482, and 493 will go a long way toward restoring hope and opportunity for the nearly 1 in 3 or 8 million Californians who have an arrest or conviction record. Thank you for your consideration.

If you have any questions regarding the content of these comments, please contact Faride Perez-Aucar (Root and Rebound) or Vinuta Naik (Community Legal Services in East Palo Alto).

Sincerely,

/s/ Faride Perez-Aucar

Faride Perez-Aucar
510-279-4662
fperez@rootandrebond.org

/s/ Vinuta Naik

Vinuta Naik
650-326-6440
vnaik@clsepa.org

Organizations:

A New Way of Life Reentry Project
Californians for Safety and Justice
Center for Employment Opportunities
Center for Living and Learning
Community Legal Services in East Palo Alto
Criminal Justice Clinic, UC Irvine School of Law
East Bay Community Law Center
Legal Aid at Work
Legal Services for Prisoners with Children, All of Us or None
Los Angeles Regional Reentry Project
National Association of Social Workers, California Chapter
REDF
The Record Clearance Project, San Jose State University
Root and Rebound
Rubicon Programs
Underground Scholars Initiative



Proposed Rulemaking Related to Title 16—Response to Comments

In response to Assembly Bill 2138 (Chiu, 2018), CSLB was obligated to amend its regulations related to the discipline of contractors or denial of applicants who have been convicted of a crime. At its September 2019 meeting, the Board approved proposed regulatory text for submission to various control agencies that authorized the registrar to take all steps necessary to initiate the rulemaking process and set the rulemaking matter for a hearing.

That public hearing was held on April 28, 2020. The Board did not receive any oral comments at that hearing; however, the Board did receive written comments in advance of the hearing.

The law requires that the Board respond to these written comments; the comments and proposed responses are included below.

If the Board approves the responses, they will be incorporated into the Board's Final Statement of Reasons for this rulemaking and included in the final rulemaking file.

PROPOSED RULEMAKING

Title 16, Division 8, California Code of Regulations Sections 868, 868.1, 869, 869.5, and 869.9

45-DAY COMMENT PERIOD – COMMENTS AND RESPONSES

On April 27, 2020, the Board received a joint letter from A New Way of Life Reentry Project; Californians for Safety and Justice; Center for Employment Opportunities; Center for Living and Learning; Community Legal Services in East Palo Alto; Criminal Justice Clinic, UC Irvine School of Law; East Bay Community Law Center; Legal Aid at Work; Legal Services for Prisoners with Children, All of Us or None; Los Angeles Regional Reentry Project; National Association of Social Workers, California Chapter; REDF; The Record Clearance Project, San Jose State University; Root and Rebound; Rubicon Programs; and Underground Scholars Initiative on the Board's proposed regulations implementing AB 2138. Below are the Board's responses to the comments made therein.



Comment 1

Comment Summary:

This comment states that the proposed regulations leave some gaps in the regulatory scheme pursuant to the changes to BPC sections 480, 481, 482, and 493 as modified by AB 2138. The comment states that the proposed regulations fail to meet and implement these statutes. Additionally, the comment states that the proposed regulations fall short of the intent of the bill, which includes combating discrimination against people with records who have demonstrated rehabilitation and seek to establish themselves professionally.

Response:

The Board rejects this comment. The purpose of the proposed regulations is to clarify substantial relationship criteria and criteria for rehabilitation, as required by AB 2138. (BPC, § 481.) Consistent with the requirements enacted by AB 2138, these regulations would adopt all of the following criteria, which would assist the Board in implementing a balanced approach to evaluating an applicant's eligibility for licensure:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of a contractor or home improvement salesperson.

Clarifying how to determine whether a crime is substantially related and clarifying the factors that will be considered when evaluating rehabilitation should assist applicants and licensees with demonstrating their rehabilitation.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 2

Comment Summary:

Section 868 lists certain crimes, professional misconduct, and acts and defines them as substantially related regardless of the time that has passed or the nature and gravity of the offense in contravention of BPC section 481. AB 2138 allows the Board discretion to determine which crimes are substantially related on an individual basis.

Moreover, section 868 fails to note that criminal history and the acts underlying a conviction that resulted in the applicant obtaining a certificate of rehabilitation, pardon, dismissal per Penal Code section 1203.4, *et seq.*, or an arrest that resulted in a disposition other than a conviction, shall not result in the denial of a license.

**Response:**

The Board rejects this comment.

As explained below, the inclusion of each of these categories of conduct reflects a Board determination that they evidence the present or potential unfitness of a person holding a license to perform the functions authorized and/or mandated by the license. Passage of time does not lessen the qualitative nexus between an act, professional misconduct, or crime and a substantial relationship to the functions and duties of a profession. While courts have looked to the type of work performed by a licensee in determining whether or not a nexus exists, they have not created time limits for when a crime, professional misconduct, or act becomes “no longer” related.

- (1) Any violation of the provisions of Chapter 9 of Division 3 of the Code or other state or federal laws governing contractors or home improvement salespersons.

This category recognizes that a violation of the California laws governing these professionals and other state or federal laws or regulations governing these professionals are indicative of potential issues with the individual’s competence, personal or professional judgment, or ability to practice in a manner consistent with the health, safety, and welfare of the public

- (2) Failure to comply with the provisions of the California Code of Regulations, Title 16, Division 8.

This category recognizes that the requirements of the cited regulations, which apply to licensees and registrants, are directly related to the duties of licensure. Therefore, to the extent a licensee violates these requirements, it evidences the unfitness of a person holding a license to perform the functions authorized and/or mandated by the license.

- (3) Crimes, professional misconduct, or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another.

Contractors and home improvement salespersons work in settings where they personally accept payment for services rendered on a regular basis. Honesty in financial transactions services is a duty required by licensees. Conduct involving fiscal dishonesty erodes trust that the services will be accurately billed. Furthermore, these professionals are entrusted to faithfully comply with safety standards in construction. Therefore, to enhance trust in the profession, dishonesty, fraud, deceit, or theft are deemed substantially related to the duties of licensure.



(4) Crimes, professional misconduct, or acts involving physical violence.

Contractors and home improvement salespersons may work in consumers' homes in the course of their duties. If these professionals have engaged in physical violence, this would endanger the public with whom they may be required to work in private settings.

(5) Crimes, professional misconduct, or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

Contractors and home improvement salespersons must be trusted to comply with safety standards in the course of their work. Accordingly, the repeated disregard for health, safety, or welfare of the public indicates an inability or unwillingness to protect the public.

As for the comment in the second paragraph of Comment 2, please see response to Comment 6.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 3

Comment Summary:

Section 868.1 states that crimes or attempted crimes involving direct financial harm or a direct financial benefit shall be considered directly and adversely related to the fiduciary qualifications, functions, or duties of a license or registrant. The comment urges the Board to consider and incorporate the Department of Fair Employment and Housing (DFEH)'s regulations regarding consideration of criminal history in employment decisions found at Section 11017.1 of Article 2, Subchapter 2, Chapter 5, of Division 4.1, of Title 2 of the California Code of Regulations. Section 11017.1(e) states that a "criminal conviction consideration policy or practice needs to bear a demonstrable relationship to successful performance on the job...and measure the person's fitness for the specific position(s)."

A policy must be tailored and take into account: 1) the nature and gravity of the offense or conduct, 2) the time that has passed since the offense or conduct and/or the completion of the sentence, and 3) the nature of the job held or sought. The current language is missing these criteria and is not tailored to allow for an assessment of the individual circumstances or the amount of time that has passed, nor is it related to the functions of the license or registration. The Board should only consider felony financial crimes that are directly and adversely tied to the qualifications, duties, and/or functions of a contractor's license or registration in accordance with existing regulations.

**Response:**

The Board rejects this comment. The Board incorporates by reference its response to Comment 2, with respect to the substantial relationship crimes, professional misconduct, or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another and their nexus to the functions and duties of these professions.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 4**Comment Summary:**

Section 869 and 869.9 rely too heavily on law enforcement's reports and determination of the applicant's progress. Rehabilitation can and does take many forms that the current language does not fully embrace. The comment refers the reader to Comment 9 for examples of rehabilitation to expand the proposed regulations.

The comment states that section 869.9 should allow denied applicants a chance to reapply before the reapplication date. If the applicant chooses to reapply, the registrar must advise applicants that they may submit documentation in accordance with section 869.9(5)-(11) and the registrar must consider this evidence.

Response:

The Board rejects this comment. As addressed more fully in the Board's response to Comment 9, section 869 permits the applicant to offer evidence of rehabilitation that can encompass any of the forms of rehabilitation proposed in the letter. Accordingly, the Board believes that the proposed language is consistent with legislative intent.

BPC section 486 provides that, where the Board has denied an application for licensure, the earliest date on which the applicant may reapply for a license is generally one year from the effective date of the decision or the mailing of a denial notice, unless the Board prescribes an earlier date. (Bus. & Prof. Code, § 485, subd. (a).)

In existing regulatory language, the Board has established the minimum required reapplication date at one year. If the Board were to allow applicants to reapply before the one-year minimum reapplication period, applicants would have to pay the application fees again, but their proof of rehabilitation and demonstrated fitness for licensure would likely not have changed in such a short period of time, and they would have paid the fees unnecessarily. For these reasons, the Board believes that one year is an appropriate minimum timeframe.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

**Comment 5****Comment Summary:**

This comment requests the proposed language include a “7 year washout period” for consideration of convictions or discipline that are not statutorily considered serious felonies under Penal Code section 1192.7. (BPC, § 480, subd. (a)(1), effective July 1, 2020.)

Response:

The Board rejects this comment. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) The seven-year period during which a board can deny a license for a conviction or formal discipline is fully described in BPC section 480(a)(1)(A) and (B), effective July 1, 2020. As this is already included in statute, adding this provision is duplicative of section 480(a)(1). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 6**Comment Summary:**

This comment states that the regulations should provide that a person with a criminal history shall not be denied a license if the applicant has obtained a certificate of rehabilitation, dismissal per Penal Code section 1203.4, 1203.4a, 1203.41, or 1203.42, an arrest that led to an infraction/citation or a disposition other than a conviction, or a juvenile adjudication. (BPC, § 480, subds. (b)-(d).)

Response:

The Board rejects this comment. Regulations should not indiscriminately incorporate statutory language. (Gov. Code, § 11349, subd. (f).) BPC section 480(c), effective July 1, 2020, already states that a license may not be denied based on a conviction, or on the basis of the underlying acts, if it has been dismissed pursuant to Penal Code section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425, or otherwise dismissed or expunged. In addition, BPC section 480(b), effective July 1, 2020, prohibits license denial if the applicant has obtained a certificate of rehabilitation, was granted clemency or a pardon, or has made a showing of rehabilitation per BPC section 482. BPC section 480(d), effective July 1, 2020, prohibits license denial based on an arrest that resulted in something other than a conviction, such as an infraction, citation, or juvenile adjudication. Since these provisions are already specifically addressed in statute, adding them again in regulation would be duplicative.

Accordingly, the Board is making no changes to the regulations in response to this comment.

**Comment 7****Comment Summary:**

This comment states that the regulations fail to state that the Board shall not require an applicant to disclose any information or documentation regarding the applicant's criminal history. (BPC, § 480, subd. (f)(2).)

Response:

The Board rejects this comment. Section 480(f)(2), effective July 1, 2020, provides that a board cannot require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. As this is already provided by statute, adding this provision is duplicative of section 480(f)(2). Therefore, it is not necessary to repeat it in the regulations.

Accordingly, the Board is making no changes to the proposed regulations in response to this comment.

Comment 8**Comment Summary:**

This comment states that the proposed language fails to include that the Board must notify the applicant in writing if the applicant is denied a license or is disqualified from licensure. The comment states that the Board must provide procedures describing the process for an applicant to challenge a decision or request consideration, a procedure stating that the applicant has a right to appeal the Board's decision, and a process for requesting a complete conviction history. (BPC, § 480, subd. (f)(3).)

Response:

The Board rejects this comment. BPC sections 480(f)(3) and 485 through 487 and the Administrative Procedure Act, at Government Code section 11500, *et seq.*, already contain these requirements, including requirements for providing the legal and factual basis for the denial, service of the denial on the applicant, and notice to the applicant regarding the opportunity to request a hearing to challenge the decision. Restating these requirements would be duplicative of the statutes. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.



Comment 9

Comment Summary:

This comment states that the intent of AB 2138 was not to incorporate mere probation or parole reports into the occupational licensing determinations. The letter states that rehabilitation can and does take many forms that extend beyond law enforcement supervision. Therefore, the letter recommends that the Board consider adding the following rehabilitation criteria:

- Volunteer service;
- Successful employment in a related field;
- A history of work experience in an employment social enterprise;
- Unpaid work in the community;
- Furthered education;
- Abstinence from controlled substances and/or alcohol;
- Stability of family life, fulfillment of parental and familial responsibilities;
- New and different social and business relationships from those which existed at the time of the underlying charges at issue;
- Change in attitude of the applicant as evidenced by:
 - Personal testimony,
 - Evidence of rehabilitation submitted by the applicant,
 - Evidence from family, friends, and/or other persons familiar with the applicant's previous behavior patterns and subsequent attitude and behavioral changes; and
- Other markers of rehabilitation.

Response:

The Board rejects this comment. BPC section 482, effective July 1, 2020, requires boards to develop criteria to evaluate rehabilitation and to consider whether an applicant or licensee has made a showing of rehabilitation if either the criminal sentence has been completed without violation of probation or parole, or if the board otherwise finds the applicant rehabilitated.

The final text for proposed Section 869 articulates a two-step process for evaluating rehabilitation:

1. First, the Board must determine if the completion of the criminal sentence with no violations constitutes rehabilitation. Consistent with the direction in AB 2138, to consider rehabilitation if an applicant completes the criminal sentence at issue without a violation of parole or probation, specific criteria are being added to section 869(a) to help the Board determine whether sentence completion demonstrates rehabilitation. Criteria include the nature and gravity of the crime(s), the length(s) of the applicable parole or probation period(s), the extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the



period was modified, the terms and conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation, and the extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification. If the Board finds rehabilitation, no further information needs to be provided.

2. The second step, if rehabilitation is not demonstrated based on sentence completion, section 869(b) requires the Board consider certain other criteria to evaluate rehabilitation. A general category permitting submission of any rehabilitation evidence allows an applicant to offer evidence relating to the proposed categories suggested above. As the Board can and already does give serious consideration to these factors when considering whether an individual is rehabilitated, the Board believes that the proposed language is consistent with legislative intent.

Accordingly, the Board is making no changes to the regulations in response to this comment.

Comment 10

Comment Summary:

The comment states that the proposed regulations fail to state the requirements set forth in BPC section 480(g)(2), effective July 1, 2020, including, that a board retain the number of applicants with a criminal record who received notice of denial or disqualification of licensure, the number of applicants with a criminal record who provided evidence of mitigation or rehabilitation, and the final disposition and demographic information.

Response:

The Board rejects this comment. These requirements are already set forth in statute. (BPC, § 480, subd. (g)(2), effective July 1, 2020.) Stating them in regulation would be duplicative of the statute. (Gov. Code, § 11349, subd. (f).)

Accordingly, the Board is making no changes to the regulations in response to this comment.

Staff Recommendation: That the Board approve the responses (as drafted) to the public comments received on April 27, 2020 on the Board's proposed rulemaking regarding Title 16, Division 8, California Code of Regulations, Sections 868, 868.1, 868, 869.5, and 869.9 and authorize staff to make any nonsubstantive changes to the Board's comments for inclusion in the Final Statement of Reasons.



Proposed Rulemaking Related to Title 16—Proposed Amendments

The board approved proposed regulatory text related to meeting the requirements of Assembly Bill 2138 (Chiu, 2018) at its September 2019 meeting, and a public hearing was held on April 28, 2020. Following that hearing, legal counsel recommended modifications to the originally approved and noticed text, which are below.

If the board approves the proposed modifications to the text, the changes will be sought through a 15-Day Notice of Modified Text and the proposed descriptions will be incorporated into the board's Final Statement of Reasons for this rulemaking, which will be included in the final rulemaking file, along with the modified text.

CONTRACTORS STATE LICENSE BOARD ORIGINALLY PROPOSED LANGUAGE

California Code of Regulations Title 16, Division 8

MODIFIED TEXT

Section 868

- A. Insertion in subdivision (a) of “,” after “141” and deletion of “or.”

Because the Board is proposing to add the Business and Professions Code (BPC) sections enumerated in B., *infra*, it proposes to add a comma after “141,” and eliminate “or” because the amendment outlined in B. creates an additional list item.

- B. Insertion in subdivision (a) of “, or Sections 7073 or 7123.”

The cited sections refer to grounds for denial and discipline listed in the Board's practice act for "substantially related" offenses. They are proposed to be added here so that references to substantial relationship are addressed together in one regulation. This amendment will add clarity to this subdivision.

Section 868.1A. Deletion in introductory paragraph of “was” and insertion of “has been.”

The Board proposes to delete “was” and replace it with “has been” because “has been” is used to refer to something that started in the past and is still continued in the present tense. “Was,” on the other hand, is used to refer to some action that was going on at some time in the past. The Board prefers to use “has been” to include the present tense, so the relevant time period for a conviction includes the past up to the present.

Section 869A. Deletion in subdivision (a) of “was” and insertion of “has been.”

The Board proposes to delete “was” and replace it with “has been” because “has been” is used to refer to something that started in the past and is still continued in the present tense. “Was,” on the other hand, is used to refer to some action that was going on at some time in the past. The Board prefers to use “has been” to include the present tense, so the relevant time period for a conviction includes the past up to the present.

B. Deletion in subdivisions (a) and (b)(1) of “eligible or.”

The Board proposes to delete this phrase from subdivision (a) and (b)(1) of section 869 because “eligible” could be seen as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure. Deletion of this phrase will clarify the regulation.

Below is the final regulatory text for the Board’s approval. If approved, the **highlighted** changes will be sought through a 15-Day Notice of Modified Text.

**California Code of Regulations
Title 16, Division 8****Article 7. Special Provisions**

Proposed amendments to the regulatory language are shown in single underline for new text and single ~~strikethrough~~ for deleted text.

Modifications to the proposed regulatory language are shown in double underline for new text and double ~~strikethrough~~ for deleted text.



Amend Section 868 as follows:

§ 868. Criteria to Aid in Determining if Crimes, Professional Misconduct, or Acts Are Substantially Related to ~~Contracting Business~~ Qualifications, Functions, or Duties of a Licensee or Registrant.

(a) For the purposes of denial, suspension, or revocation of a license or registration pursuant to Section 141, ~~or~~ Division 1.5 (commencing with Section 475), or Sections 7073 or 7123 of the eCode, a crime, professional misconduct, or act, ~~as defined in Section 480 of the code~~, shall be considered to be substantially related to the qualifications, functions, or duties of a licensee or registrant (under Division 3, Chapter 9 of the eCode) if it evidences present or potential unfitness of an applicant, ~~or licensee,~~ or registrant to perform the functions authorized by the license or registration in a manner consistent with the public health, safety, and welfare. ~~The crimes or acts shall include, but not be limited to, the following:~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the Board or Registrar shall consider the following criteria:

(1) The nature and gravity of the offense.

(2) The number of years elapsed since the date of the offense, and

(3) The nature and duties of a contractor or home improvement salesperson.

(c) For purposes of subdivision (a), substantially-related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

(a1) Any violation of the provisions of Chapter 9 of Division 3 of the eCode or other state or federal laws governing contractors or home improvement salespersons.

(b2) Failure to comply with the provisions of the California Administrative Code of Regulations, Chapter 8, Title 16, Division 8.

(e3) Crimes, professional misconduct, or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another.



(d4) Crimes, professional misconduct, or acts involving physical violence against persons.

(e5) Crimes, professional misconduct, or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

Note: Authority cited: Sections 481, 493 and 7008, Business and Professions Code.

Reference: Sections 141, 480, 481, 490, 493, 7066, 7069, 7073, 7090, 7123, and 7124, Business and Professions Code.

**Add Section 868.1 as follows:**§ 868.1. Criteria to Aid in Determining if Financial Crimes Are Directly and Adversely Related to Fiduciary Qualifications, Functions, or Duties of a Licensee or Registrant for the Purpose of Considering Denials of Applications.

For the purpose of determining whether there are grounds to deny a license or registration to an applicant who ~~was~~ **has been** convicted of a financial crime currently classified as a felony pursuant to Section 480 of the Code, the crime shall be considered to be directly and adversely related to the fiduciary qualifications, functions, or duties of a licensee or registrant if it involves dishonesty, fraud, deceit, or theft that resulted in: (i) direct financial benefit to the applicant or another person or entity, (ii) direct financial harm to another person or entity, or (iii) an attempt to obtain direct financial benefit or cause direct financial harm to another person or entity. The felony financial crimes shall include, but not be limited to, the following:

(a) Crimes involving the acquisition or provision of false, altered, forged, counterfeit, or fraudulent document(s), or the acquisition or provision of false or fraudulent statement(s).

(b) Crimes involving the use of personal identifying information for an unlawful purpose, including for the purpose of illegally obtaining money, credit, goods, services, real property, or medical information of another person (also known as identify theft).

(c) Crimes involving stolen property, embezzlement, grand theft, larceny, burglary, monetary transactions in property derived from a specified unlawful activity (also known as money laundering), or crimes related to obtaining money, labor, or property under false or fraudulent pretenses.

(d) Crimes involving an attempt or conspiracy to commit such crimes listed in subsections (a), (b), or (c).



(e) For the purposes of this section, “personal identifying information” has the meaning set forth in Penal Code section 530.55.

Note: Authority cited: Sections 480 and 7008, Business and Professions Code.

Reference: Sections 7.5, 480, 7069, 7073, 7090, and 7124, Business and Professions Code; Section 530.55, Penal Code.

Amend Section 869 as follows:

§869. Criteria for Rehabilitation.

(a) When considering the denial, suspension, or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the eCode on the ground that the individual ~~was~~ **has been** convicted of a crime, the Board or Registrar shall consider whether the applicant, licensee, or registrant made a showing of rehabilitation and is presently **eligible** or fit for a license or registration if the applicant, licensee, or registrant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board or Registrar ~~in evaluating the applicant's or licensee's rehabilitation and present eligibility for a license~~ will consider the following criteria:

(1) The nature and gravity of the crime(s);

(2) The length(s) of the applicable parole or probation period(s);

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified;

(4) The terms or conditions of parole or probation, and the extent to which they bear on the applicant's rehabilitation; and

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subsection (a) is inapplicable, or the Board or Registrar determines that an applicant, licensee, or registrant did not make a showing of rehabilitation based on the



criteria in subsection (a), the Board or Registrar shall apply the following criteria in evaluating an applicant's, licensee's, or registrant's rehabilitation:

(1) Subject to the provisions of subsection (a)(2), an applicant or licensee may be determined to be rehabilitated if he or she meets the following criteria. The Board or Registrar shall find that an applicant, licensee, or registrant made a showing of rehabilitation and is presently ~~eligible or~~ fit for a license or registration if, after considering the following criteria and the provisions of subsection (b)(2), the Board or Registrar finds that the individual is rehabilitated:

Denial Based on Felony Convictions Within Seven Years of Application

(A) When considering the denial of a license or registration, the Board or Registrar may consider the applicant rehabilitated if the applicant was convicted of a felony within the preceding seven (7) years from the date of application that is substantially related to the qualifications, functions, or duties of a licensee or registration as defined in Section 868, and five (5) years have passed from the time of the applicant's release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, professional misconduct, acts, or omissions that also could be grounds for denial. This subsection does not apply to any crimes listed in subsection (b)(1)(B).

Denial Based on Serious Felonies, Felonies Requiring Sex Offender Registration, or Felony Financial Crimes Directly and Adversely Related to the Qualifications, Functions, or Duties of a Licensee or Registrant

(B) When considering the denial of a license or registration on the ground that the applicant was convicted of a crime identified in Section 480(a)(1)(A) of the Code or a felony financial crime as defined in Section 868.1, the Board or Registrar may consider an applicant rehabilitated if seven (7) years have passed from the time of the applicant's release from incarceration or completion of probation if no incarceration was imposed, and the applicant committed no additional substantially-related criminal activity, professional misconduct, acts, or omissions that also could be grounds for denial.



Discipline Based on Felony Convictions

(AC) When considering the suspension or revocation of a license or registration, the Board or Registrar may consider a licensee or registrant rehabilitated if the licensee or registrant was convicted of a ~~For~~ felony convictions that ~~are~~ is substantially related to the qualifications, functions, or duties of a licensee or registrant as defined in Section 868, and seven (7) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, ~~or substantially-related acts, or omissions that also could be grounds for suspension or revocation.~~

Denial or Discipline Based on Misdemeanor Convictions

(BD) When considering the denial, suspension, or revocation of a license or registration, the Board or Registrar may consider an applicant, licensee, or registrant rehabilitated if the applicant, licensee, or registrant was convicted of a ~~For~~ misdemeanor convictions that ~~are~~ is substantially related to the qualifications, functions, or duties of a licensee or registrant as defined in Section 868, and three (3) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, ~~or substantially-related act(s), or omission(s) that also could be grounds for denial, suspension, or revocation.~~

Denial or Discipline Based on Professional Misconduct, Acts, or Omissions

(GE) For professional misconduct or acts that are substantially related to the qualifications, functions, or duties of a licensee or registrant as defined in Section 868, or for other acts or omissions that are grounds for denial, suspension, or revocation, the Board or Registrar may consider the applicant, licensee, or registrant rehabilitated if three (3) years have passed from the time of commission of the professional misconduct, act(s), or omission(s) without the occurrence of additional substantially-related criminal activity, professional misconduct, ~~or additional-substantially-related act(s), or omission(s) that also could be grounds for denial, suspension, or revocation.~~



(2) The amount of time needed to demonstrate rehabilitation under subsection ~~(a)~~(b)(1) may be increased or decreased by taking into account the following:

(A) The nature and severity of the crime(s), professional misconduct, ~~act(s)~~, or omission(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(B) Evidence of any crime(s), professional misconduct, ~~act(s)~~, or omission(s) committed subsequent to the crime(s), professional misconduct, ~~act(s)~~, or omission(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation, which also could be considered as grounds for denial, suspension, or revocation.

(C) The time that has elapsed since commission of the crime(s), professional misconduct, ~~act(s)~~, or omission(s) that are under consideration as, or that were, the grounds for denial, suspension, or revocation.

(D) The extent to which the applicant, ~~licensee~~, or registrant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant, ~~licensee~~, or registrant.

(E) Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, or subsequent to the time of commission of the professional misconduct, ~~act(s)~~, or omission(s).

(F) Documents or testimony from credible individuals who have personal knowledge of the applicant's, ~~licensee's~~, or registrant's life and activities subsequent to the time of commission of the crime(s), professional misconduct, ~~act(s)~~, or omission(s) who can attest to the applicant's, ~~licensee's~~, or registrant's present fitness for licensure or registration.

(G) If applicable, evidence of ~~expungement proceedings~~ a plea of guilty or of nolo contendere, a verdict of guilty, or a conviction having been withdrawn, set aside, or dismissed, and records having been sealed pursuant to Section 1203.4, 1203.4a, ~~or 1203.41, 1203.42, or 1203.425 of the Penal Code.~~



(H) Other relevant evidence, if any, of rehabilitation submitted by the applicant, ~~or licensee, or registrant.~~ For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion or diversion program if the crime(s), professional misconduct, ~~or act(s),~~ or omission(s) related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s), professional misconduct, ~~or act(s),~~ or omission(s) demonstrated the applicant's, ~~or licensee's, or registrant's~~ inability to control one's temper.

(bc) When considering a petition for reinstatement of the license of a contractor or the registration of a home improvement salesperson, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsections (a) and (b) relating to licensees or registrants.

Note: Authority cited: Sections 482 and 7008, Business and Professions Code.

Reference: Sections 7.5, 141, 480, 481, 482, 488, 490, 493, 496, 7066, 7069, 7073, 7090, 7102, 7123, and 7124, Business and Professions Code; Sections 1203.4, 1203.4a, 1203.41, 1203.42, and 1203.425, Penal Code.

Repeal Section 869.5 as follows:

~~§ 869.5. Inquiry into Criminal Convictions.~~

~~The Board may conduct an inquiry into the circumstances surrounding the commission of a crime in order to fix the degree of discipline or to determine if the crime is substantially related to the qualifications, functions, and duties of a licensee by requiring the applicant or licensee to provide documents including, but not limited to, certified court documents, certified court orders or sentencing documents.~~

~~Note: Authority cited: Sections 480, 481 and 7008, Business and Professions Code.~~

~~Reference: Sections 480, 481, 493, 7066, 7069 and 7073, Business and Professions Code.~~



Amend Section 869.9 as follows:

§869.9. Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure or Registration.

(a) For an applicant who is denied licensure or registration pursuant to ~~subdivision~~section (a) of Section 480 of the Business and Professions Code, the date of reapplication shall be set by the ~~r~~Registrar at not less than one (1) year nor more than five (5) years after the denial. When computing the date for reapplication, the time shall commence from the effective date of the decision if an appeal is made or from the service of the notice of denial under Section 485(b) if a request for hearing is not made. The ~~r~~Registrar will consider the following criteria when setting the reapplication date of an individual who was denied a license or registration:

(1) For felony convictions listed in Section 869(b)(1)(B) that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, seven (7) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, professional misconduct, or substantially-related act(s), or omission(s) that also could be grounds for denial.

(2) For felony convictions not listed in Section 869(b)(1)(B) that are substantially related to the qualifications, functions, or duties of a licensee as defined in Section 868, five (5) years have passed from the time of the applicant's release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, professional misconduct, act(s), or omission(s) that also could be grounds for denial.

(~~2~~3) For misdemeanor convictions that are substantially related to the qualifications, functions, or duties of a licensee or registrant as defined in Section 868, three (3) years have passed from the time of release from incarceration or completion of probation if no incarceration was imposed, without the occurrence of additional substantially-related criminal activity, professional misconduct, or substantially-related act(s), or omission(s) that also could be grounds for denial.



~~(34)~~ For ~~acts~~ professional misconduct that ~~are~~is substantially related to the qualifications, functions, or duties of a licensee or registrant as defined in Section 868, or for other acts or omissions that are grounds for denial, three (3) years have passed from the time of commission of the professional misconduct, act(s), or omission(s), without the occurrence of substantially-related criminal activity, professional misconduct, or substantially-related act(s), or omission(s) that also could be grounds for denial.

~~(45)~~ The nature and severity of the crime(s), professional misconduct, or act(s), or omission(s) that were the grounds for denial.

~~(56)~~ Evidence of any crime(s), professional misconduct, or act(s), or omission(s) committed subsequent to the crime(s), professional misconduct, or act(s), or omission(s) that were the grounds for denial, which also could be considered as grounds for denial.

~~(67)~~ The time that has elapsed since commission of the crime(s), professional misconduct, or act(s), or omission(s) that were the grounds for denial.

~~(78)~~ The extent to which the applicant ~~or licensee~~ has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant in connection with the crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial.

~~(89)~~ Consistent work history subsequent to the release from incarceration, or the completion of probation if no incarceration was imposed, or subsequent to the ~~time~~date of commission of the crime(s), professional misconduct, act(s), or omission(s) that were the grounds for denial.

~~(910)~~ Documents or testimony from credible individuals who have personal knowledge of the applicant's life and activities subsequent to the ~~time~~date of commission of the crime(s), professional misconduct, or act(s), or omission(s) that were the grounds for denial and who can attest to the applicant's present fitness for licensure or registration.

~~(10)~~ If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.



(11) Other relevant evidence, if any, of eligibility for reapplication submitted by the applicant. For example, relevant evidence may include evidence of recovery from drug and/or alcohol addiction or abuse or completion of a drug and/or alcohol aversion or diversion program if the crime(s), professional misconduct, or act(s), or omission(s) that were the grounds for denial related to or involved drug and/or alcohol use; or evidence of completion of an anger management program if the crime(s), professional misconduct, or act(s), or omission(s) demonstrated the applicant's ~~or licensee's~~ inability to control one's temper.

(b) Nothing in this section shall preclude the ~~Registrar~~ from denying the license or registration of an applicant who was previously denied a license or registration and who is eligible for reapplication in accordance with this section.

Note: Authority cited: Sections 482, 7008, and 7073, Business and Professions Code.

Reference: Sections 480, 482, 485, 486, 496, 7066, 7069, 7073, and 7124, Business and Professions Code.

Staff Recommendation: That the board direct staff to take all steps necessary to complete the rulemaking process, including sending out the modified text for an additional 15-day public comment period. If, after the 15-day public comment period, no further comments are received, authorize the registrar to make any non-substantive changes to the proposed regulation and adopt the proposed regulations as described in the modified text notice.

AGENDA ITEM I

Status Update on Hiring a Consultant to Study Which CSLB License Classifications Should Install Battery Energy Storage Systems





Status Update on Consultant to Study Battery Energy Storage Systems

At its December 12, 2019 meeting, the board directed staff to retain an outside consultant to study the appropriate contractor classifications to install solar-paired battery energy storage systems. On March 4, 2020, CSLB published a request for proposal to contract with a consultant for this study, with a submission deadline of May 6, 2020.

On April 30, 2020, the California Department of Finance issued budget letter 20-11 that, among other things, precludes departments from entering into new service contracts.

In response to the budget letter, on May 11, 2020, the Department of Consumer Affairs requested an explanation from CSLB about the critical nature of this contract. That same day, CSLB submitted a formal request that this consultant contract be exempt from the budget letter prohibitions. As of May 13, 2020, the date of this writing, the exemption request is under review.

If the exemption is approved, staff will move forward with reviewing the bids and selecting a consultant. If the exemption is denied, DCA will notify the bidders about the status of the request for proposal.

AGENDA ITEM J

Executive



AGENDA ITEM J-1

Review and Possible Approval of December 12, 2019 Board Meeting Minutes





CONTRACTORS STATE LICENSE BOARD

BOARD MEETING MINUTES

Board Meeting Minutes

A. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM AND CHAIR'S INTRODUCTION

Board Chair Johnny Simpson called the meeting of the Contractors State License Board (CSLB) to order at 9:00 a.m., Thursday, December 12, 2019 at the Contractors State License Board, John C. Hall Hearing Room, 9821 Business Park Drive, Sacramento, CA 95827.

Board Member David De La Torre led the board in the Pledge of Allegiance. A quorum was established.

Board Members Presents

Johnny Simpson, Chair

David De La Torre, Vice Chair

Kevin Albanese

Frank Altamura, Jr.

Augie Beltran

David Dias

Susan Granzella

Diana Love

Jim Ruane

Nancy Springer

Mary Teichert

Board Members Excused

Michael Layton

Marlo Richardson

CSLB Staff Present

David Fogt, Registrar

Tonya Corcoran, Chief Deputy Registrar

Wendi Balvanz, Chief of Testing

Kevin Durawa, Public Affairs Staff

Claire Goldstene, Public Affairs Staff

Michael Jamnetski, Chief of Legislation

Phyliz Jones, Executive Staff

Mike Melliza, Chief of Administration

Justin Paddock, Chief of Licensing

Stacey Paul, Budget Manager

Missy Vickrey, Chief of Enforcement

DCA Staff Present

Jason Hurtado, Legal Affairs

Michelle Angus, Legal Affairs

Brianna Miller, Executive Office

Heidi Lincer-Hill, OPES

Kristy Schieldge, Legal Counsel



Public Visitors

Eddie Bernacchi, Politico Group
Cindi Christenson
Phil Coccianti, License Guru
Courtney Corda, Corda Solar
Brad Heavner, CALSSA
Martin Herzfeld, Contractor
Jim Jenner, Fusion Power Design

Deborah Kulaus, PHCC of CA
Richard Markuson, Pacific Advocacy
Rick Pires, Basic Crafts
Frank Raniolo, Green Constructors
Phil Vermeulen, Contractors License
Center

Board Chair Johnny Simpson welcomed three new board members: Mary Teichert, Jim Ruane, and Diana Love. Ms. Teichert is serving as the “A” General Engineering Contractor. Jim Ruane is the former mayor of San Bruno and is serving as a specialty contractor. Diana Love is serving as a senior public member.

B. PRESENTATION OF CERTIFICATES OF RECOGNITION – MAY INCLUDE ORAL PRESENTATIONS COMMEMORATING ACHIEVEMENTS AND SERVICE OF CSLB STAFF

No certificates were presented.

C. PUBLIC COMMENT SESSION FOR ITEMS NOT ON THE AGENDA AND FUTURE AGENDA ITEM REQUESTS

Frank Raniolo, Green Constructors, who has a general building contractor license and is applying for a general engineering contractor license expressed his dissatisfaction with Business and Professions Code language as it relates to minimum experience licensing requirements.

D. ENFORCEMENT

Enforcement Committee Chair Nancy Springer thanked Board Member Mike Layton for chairing the November 7, 2019 Enforcement Committee meeting in her absence.

1. Review and Possible Approval of November 7, 2019 Enforcement Committee Meeting Summary Report

MOTION: To approve the November 7, 2019 Enforcement Committee Meeting Summary Report. Augie Beltran moved; David Dias seconded. The motion carried unanimously, 10–0.



YEA: Johnny Simpson, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Kevin Albanese, Mike Layton, Marlo Richardson

2. Enforcement Program Update

Chief of Enforcement Missy Vickrey reported on measures taken within the Enforcement division to reduce expenditures. She noted that with approval of the emergency fee regulations all 18 vacancies will be filled, with priority given to consumer services representative positions. Enforcement has increased the use of letters of admonishment, with 165 issued between January and September 2019, which resulted in the issuance of 119 fewer citations during the same time period in the prior year

Registrar Fogt, Chief of Enforcement Missy Vickrey, and Deputy Chief of Enforcement Jessie Flores met with the supervising assistant attorney general and presiding administrative law judge in October to discuss ensuring that civil penalties assessments are sufficient to comply with disciplinary guidelines.

In January 2019, CSLB was authorized to conduct informal citation conferences, which have proven effective in reducing the time to schedule citation conferences and minimizing the costs of attorney general representation.

Enforcement Committee Chair Nancy Springer reported that CSLB staffed Local Assistance Centers for the Sandalwood, Saddle Ridge, Kincade, and Getty fires. In October, the SWIFT unit, with the assistance of the Sonoma County and Marin County District Attorney's Offices, conducted a sting operation in the Coffey Park area of Santa Rosa. The sting resulted in 12 notices to appear for unlicensed practice and one stop order for lack of workers' compensation. A video was shown about CSLB's disaster response efforts.

Enforcement Committee Chair Nancy Springer reviewed the investigation highlights. She reported that a contractor abandoned a bathroom remodel project after receiving over \$150,000. The San Mateo County District Attorney is pursuing two felony charges and three misdemeanors against the contractor. The contractor, Hans Dornseif, has been placed on the CSLB Most Wanted list and was subject to an arrest warrant issued on June 24.

Chief of Enforcement Missy Vickrey reported that caseloads are manageable, and that staff have successfully obtained \$18 million in restitution for injured parties between



January 2019 and September 2019. Also, between January 2019 and September 2019, 638 arbitration cases were initiated, resulting in \$3 million in monetary awards. She updated the board on SWIFT's activities as part of the Labor Enforcement Task Force.

3. Review, Discussion, and Possible Action to Pursue Legislation to Amend Business and Professions Code Section 7099.2

Enforcement Committee Chair Nancy Springer reviewed two items for board consideration: 1) the desire to increase the civil penalty assessment threshold amount; and 2) allowing letters of admonishment to include more than one violation.

BPC 7099.2(b) places a \$5,000 maximum civil penalty for most violations. Exceptions include aiding, abetting, or conspiring to hire an unlicensed contractor, which have a \$15,000 maximum civil penalty. The maximum cap on civil penalty assessments was last increased in 2003 and does not reflect changes to the consumer price index. To reflect CPI changes, the general cap would be set to \$7,400 and the violation specific cap to \$28,000.

Currently, BPC section 7125.4 disciplines contractors with employees for not providing workers' compensation with a maximum civil penalty of \$5,000. The insurance rate for workers' compensation premiums is far greater than the cost of paying the civil penalties.

Staff propose raising the civil penalty general cap to \$8,000 and the violation specific cap, including violations of BPC section 7125.4, to \$30,000.

Public Comment:

Richard Markuson, Plumbing Heating Cooling Contractors, asked if the civil penalties should also include a floor so that the penalty would cover the board's investigation costs.

Legal Counsel Comment:

Kristy Schieldge mentioned that the registrar or board has the discretion to reject the penalty amount an administrative law judge recommends.

MOTION: To pursue a legislative proposal to:

1. Amend Business and Professions Code §7099.2(b) to increase the maximum civil penalty assessments specified from \$5,000 to \$8,000, and from \$15,000 to \$30,000 for violations of Business and Professions Code §7114 and §7118; and
2. Add violations of Business and Professions Code §7125.4 to the violation-specific penalty assessments listed in the statute.



This is a fully formed motion from the Enforcement Committee. The motion carried unanimously, 10–0.

YEA: Johnny Simpson, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Kevin Albanese, Mike Layton, and Marlo Richardson

Enforcement Committee Chair Nancy Springer explained that currently BPC section 7099.2(c)(6) prevents issuing a letter of admonishment if there are multiple violations. This is to ensure that a letter of admonishment is not issued when a citation or accusation may be more appropriate. However, this limitation comes with unintended consequences when, for example, a field investigator believes a letter of admonishment is appropriate in a particular case but must include only one violation even if multiple violations are established. Further, the additional violations are then not logged into the CSLB database and cannot inform possible future investigations. Lastly, to get around this limitations, non-egregious violators would be issued a citation for multiple violations, which is costly and delays consumer restitution.

MOTION: To pursue a legislative proposal to eliminate the “multi-violation” restriction for letters of admonishment in Business and Professions Code section 7099.2(c). This is a fully formed motion from the Enforcement Committee. The motion carried unanimously, 10–0.

YEA: Johnny Simpson, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Kevin Albanese, Mike Layton, Marlo Richardson

4. Review and Discussion Regarding Strategies to Address Unlicensed Contracting

Board Member David Dias shared his experience identifying unlicensed contracting. He noticed that within his neighborhood unlicensed contractors or independent contractors are being used. He mentioned that this is a major issue throughout the state, and he believes it is mainly because contractors are not caught performing these violations.



Enforcement Committee Chair Nancy Springer mentioned that to combat the underground economy CSLB, in collaboration with CALBO, has established a pilot program with six building departments. Through this program, SWIFT will work to identify how significant the unlicensed activity is in each participating jurisdiction. SWIFT will be in contact with building officials, attend staff meetings, review suspicious owner-builder permits, and identify potential sting locations.

5. Review and Discussion of Enforcement 2019-21 Strategic Plan Objectives

Chief of Enforcement Missy Vickrey reported on items 2.7 and 2.9 of the Enforcement Strategic Plan Objectives, found on page 39 of the meeting packet.

Item 2.7: In an effort to improve morale and staff knowledge, Legal Counsel Kristy Schieldge held a training course for supervisors and managers on how to prosecute violations of Business and Professions Code sections 7114, 7117, and 7118. The training was well received.

Item 2.9: Two staff members attended a career fair at Sacramento State University on September 30 and October 1, 2019, where they shared information about employment opportunities at CSLB and how to become a licensed contractor.

E. LICENSING

1. Review and Possible Approval of November 7, 2019 Licensing Committee Meeting Summary Report

MOTION: To approve the November 7, 2019 Licensing Committee Meeting Summary Report. Augie Beltran moved; David De La Torre seconded. The motion carried unanimously, 10–0.

YEA: Johnny Simpson, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Kevin Albanese, Mike Layton, Marlo Richardson

2. Licensing Program Update

Chief of Licensing Justin Paddock reported that Licensing received 35,543 applications for licensure in 2019 (as of mid-December). Most units are processing applications in



two weeks; the Exam Application unit is processing at three weeks. He also reported that 107,000 renewals had been received as of October 2019. Processing times for the Criminal Background unit have decreased as vacancies were filled and Call Center wait times remain under six minutes. He also mentioned that Licensing is making changes in the processing units to improve the process to obtain a license.

Board Member Comment:

Board Member Nancy Springer asked how licensees are encouraged to renew their license. Mr. Paddock responded that CSLB sends a letter 60 days before the renewal is due, and that licensees are to sign the renewal paperwork and return it with a check. This process can be confusing for more complex businesses, especially when determining who needs to sign the renewal. To help relieve confusion CSLB is trying to implement an online renewal for sole owner licenses starting February 2020; however, legislation is required to address the multiple signature requirement. He added that if a licensee requests it, a renewal can be sent via email.

Board Member Augie Beltran asked how many renewals are received in a month and if it is feasible to follow-up by calling the licensee. Mr. Paddock answered that CSLB receives approximately 10,000 a month, and that with eight staff members in the Renewal unit conducting follow-up calls may be difficult. Mr. Beltran suggested doing robo-calls or automatic telephone messages to follow-up on renewal letters. Board Member Frank Altamura suggested that if Call Center staff have down-time they could make follow-up calls for renewals.

Staff Comment:

Budget Manager Stacey Paul reported that for the first four months of the current fiscal year there was a 6 percent increase in renewals compared to two years prior and noted that the statistics reported in the Licensing Program Update are on the calendar year. She added that spring is usually a peak season for renewals.

Public Comment:

Frank Raniolo suggested breaking down the A General Engineering and B General Building licenses into more specified classifications for residential and other types of structural building. He also suggested setting tiered licensing fees for those classifications.

3. Testing Program Update

Chief of Licensing Justin Paddock reported that item banking is being developed for the A General Engineering, B General Building, and C-36 Plumbing trade examinations.



4. Update, Discussion, and Possible Action Regarding Outsourcing CSLB Exam Administration and Possible Legislative Change to Grant CSLB Authority to Outsource Exam Administration

Chief of Licensing Justin Paddock reviewed the staff report. CSLB worked with the Department of Consumer Affairs, their exam vendor PSI Exams, and the CSLB Budget Office to determine the financial data. Conducting in-house exam administration costs approximately \$3.2 million annually; outsourcing administration is approximately \$2.6 million annually. Outsourcing exams would result in a 19 percent savings, but staff would have to be moved to different units or surplus. If the board chooses to outsource the exams, implementation would happen in phases.

Board Member Comment:

Board Member Susan Granzella asked if the cost analysis included estimates for transitioning from in-house administration to the vendor's testing locations. Mr. Paddock responded that there would not be a noticeable cost difference because of how the transition would occur.

Board Member Nancy Springer encouraged outsourcing exams because of the various benefits, such as more scheduling options; secure monitoring; and increased accessibility that could result in more people taking exams.

Board Member Frank Altamura asked when phasing out the test centers if rent was the only factor considered. Mr. Paddock mentioned that vacancies were also a factor and explained that it is difficult to recruit and retain staff at test centers. For existing staff, many of the test centers are located near or within a CSLB Investigation Center and if there are no vacancies at these locations, employees would need to go through the surplus process.

Board Member David De La Torre asked what would happen to surplus staff should this process be implemented. Chief Deputy Registrar Tonya Corcoran replied that CSLB would work with DCA, CalHR, and the appropriate unions to find placement for employees. While there would be no guarantee that all employees would be placed, those going through the process would be placed on the SROA list, which provides hiring preference for their classification and comparable classifications for all state agencies.

Public Comment:

Frank Raniolo expressed his support for outsourcing the exam and noted that the California exams are not as stringent as they could be compared to those in other states.



MOTION: To direct staff to pursue a legislative change to give CSLB the authority to outsource exam administration, but not exam development. Once legislative authority becomes effective, direct staff to take all steps necessary to implement outsourcing of exam administration to an outside vendor. Augie Beltran moved; Kevin Albanese seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese*, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

*Kevin Albanese arrived at approximately 9:50 a.m.

5. Review, Discussion, and Possible Action Regarding Feasibility of Creating a CSLB License Applicant Satisfaction Survey

Licensing Committee Chair David Dias reported that this item evolved from a question at the September 2019 board meeting about surveying license applicants. Staff have developed several potential survey questions, which are located on page 91 of the meeting packet.

Board Member Comment:

Board Member Frank Altamura asked if the board would have to approve changes to the survey questions or if staff will have the flexibility to alter the questions as necessary. After board deliberations, there was a second motion to address Mr. Altamura’s question.

MOTION: To adopt the proposed survey and direct staff to present the results to the board annually at the same time that staff report the results of the enforcement satisfaction survey. This is a fully formed motion from the Licensing Committee. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson



MOTION: To allow staff to update questions on the applicant survey as staff deem appropriate and report any changes at the next board meeting. Johnny Simpson moved; Jim Ruane seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

6. Update on Distribution of Construction Management Education Funds

Chief of Licensing Justin Paddock reported that when a licensee renews their license they have the option to donate to the Construction Management Education account. CSLB tracks the funds in this account and distributes them in the forms of grants to schools with Construction Management programs throughout the state. Four schools applied for grants this fiscal year; grants are scheduled to be disbursed in Spring 2020.

Board Member Comment:

Board Member Nancy Springer asked if the board can see the language of the grant. Mr. Paddock responded that he will provide a copy for review.

7. Review, Discussion, and Possible Action to Amend Licensing 2019-21 Strategic Plan Objectives

Chief of Licensing Justin Paddock reported on item 1.7 of the Licensing Strategic Plan Objectives, found on pages 99-101 of the meeting packet.

Item 1.7: Online renewals for sole owner licenses with no additional RME are scheduled for implementation in February 2020. Staff is requesting to change the deadline for online original license application December 2019 to July 2020.

Public Comment:

Phil Coccianta, License Guru, asked for an update on item 1.3. Mr. Paddock answered that the board has already approved the proposal for the remodeling classification and is pursuing legislation next year. Chief of Legislation Mike Jamnetski added that Senator McGuire may carry the bill and Assemblymember Low may co-author the bill, and that he expects to have additional information about this in early 2020.



MOTION: To amend the Licensing 2019-21 strategic plan objective 1.7 target date from December 2019 to July 2020. Diana Love moved; David De La Torre seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

The Board recessed at 10:26 a.m.

The Board reconvened at 10:36 a.m.

F. PUBLIC AFFAIRS

1. Review and Possible Approval of November 7, 2019 Public Affairs Committee Meeting Summary Report

MOTION: To approve the November 7, 2019 Public Affairs Committee Meeting Summary Report. Augie Beltran moved; David De La Torre seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson, Nancy Springer

2. Public Affairs Program Update

Public Affairs Supervisor Claire Goldstene reported on completion of the digital media center, which will allow staff to produce more video and audio content. She also reported that staff is developing a blog-style website for licensees and is working with staff from Information Technology (IT) and the Office of Information Services to resolve



some technical issues. Subscribers among all social media channels continue to grow and PAO created a second Twitter account for media only. Ms. Goldstene noted that numerous press releases will be released in conjunction with the multiple stings SWIFT conducted this week and that CSLB cohosted a press conference in Fresno on September 19, 2019, on the topic of solar. Staff is also finalizing the 2020 *California Contractors License Law & Reference Book*, which is scheduled for distribution in late January; staff will send out an industry bulletin about new contracting laws that go into effect January 1, 2020.

3. Review, Discussion, and Possible Action on 2020-22 Communications Plan

Public Affairs Committee Chair Susan Granzella reviewed CSLB's 2020-22 Communications Plan. This plan is developed every three years and consists of the board's internal and external communication priorities, strategies, and goals. The plan also serves as the basis for the Public Affairs strategic plan objectives.

MOTION: To approve CSLB's 2020-22 Communications Plan. This is a fully formed motion from the Public Affairs Committee. The motion carried unanimously, 11-0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

4. Update, Discussion, and Possible Action to Amend Public Affairs 2019-21 Strategic Plan Objectives

Public Affairs Committee Chair Susan Granzella reported on the Public Affairs strategic plan objectives, found on pages 137-139 of the meeting packet.

Item 4.1: Complete.

Item 4.2: Complete.

Item 4.3: No longer needed.

Item 4.4: Two suspects were arrested in August 2019. A third suspect has been added to the Most Wanted list and two suspects were submitted to be added to the list.



Item 4.5: Research is complete, and staff is working with IT and DCA's Office of Information Services on technical delays regarding security and content management. Staff is requesting the target date be moved from March 2020 to December 2020.

Item 4.6: Public Affairs staff has generated and compiled materials for a contractors' website. IT is working with DCA to develop a system to host the website and streamline the posting of materials.

Item 4.7: After meeting with the IT Advisory Committee staff is prioritizing development of online renewals rather than the online original application. Staff is requesting to move the target date from December 2019 to June 2020.

Item 4.8: Now assigned to the new TV Specialist in Public Affairs.

Item 4.9: In compliance with the Americans with Disabilities Act (ADA) the website content is being updated.

Item 4.10: The TV Specialist is assigned to this item. The first training course should be completed by the end of the year.

Board Member Comment:

Board Member Susan Granzella asked to see the training courses developed by the Public Affairs staff. Board Member Nancy Springer mentioned that local building officials helped to develop the training video and look forward to seeing the final product.

MOTION: To amend the target date of Public Affairs 2019-21 strategic plan objective 4.5 from March 2020 to December 2020, and item 4.7 from December 2019 to June 2020. This is a fully formed motion from the Public Affairs Committee. The motion carried unanimously, 11-0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson



G. LEGISLATION

1. Review and Possible Approval of November 7, 2019 Legislative Committee Meeting Summary Report

MOTION: To approve the November 7, 2019 Legislative Committee Meeting Summary Report as amended (changing “Diaz” to “Dias”). David De La Torre moved; Mary Teichert seconded. The motion carried unanimously, 10–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson, and Nancy Springer

2. Review, Discussion, and Possible Action to Replace Paper Bill Text with a Website Link in Future Committee and Board Packets

Chief of Legislation Mike Jamnetski explained that in order to save paper as well as printing and mailing costs that staff could provide board members with website links to legislative bill text, in addition to including bill summaries and analysis in meeting packets.

MOTION: To direct staff to replace copies of legislative bill text with a reference to a website link in future committee and board meeting packets. This is a fully formed motion from the Legislative Committee. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

3. Update on Action to Initiate an Emergency Rulemaking, Adopt a Finding of Emergency, and Possibly Initiate a Regular Rulemaking to Amend Title 16, California Code of Regulations (CCR) Section 811 Regarding Increasing Renewal Fees



Chief of Legislation Mike Jamnetski reported that on December 3, 2019 the rulemaking related to the emergency renewal fee increase was published for public comment and that no comments were received. The regulation package was submitted to the Office of Administrative Law (OAL) on December 11, and public comment for OAL ends December 16. The OAL must approve the rulemaking, which is then filed with the Secretary of State. Although the regulations are technically effective after filing, the board does not intend to put them into effect until February 2020, to provide ample notice to licensees. The emergency rulemaking was intended to raise three existing fees to their existing statutory maximums and is expected to generate \$2.5 million in increased revenue for FY 2019-20.

4. Review, Discussion and Possible Action Regarding CSLB's 2019-20 Legislative Proposals

Chief of Legislation Mike Jamnetski reported that because 2019 was a sunset year for CSLB, there were no CSLB-sponsored bills for the year. Mr. Jamnetski reviewed the legislative proposals the board approved in the last couple of years for which he is seeking authorship:

Residential Remodeling/Home Improvement Classification: Legislation may be carried by Senator McGuire and co-authored by Assemblymember Low; expected to be introduced in January 2020.

Tree Care and Safety: Assemblymember Aguiar-Curry is interested in authoring the proposal but has not confirmed; she is submitting the proposal to the legislative council.

Minor Work Exemption from Contractor Licensure: Assemblymember Cooper has sent the proposal to legislative counsel but is not currently backing it.

Construction Management Education Account (CMEA): There is interest from various members, but it is still being shopped around.

Retroactive Renewals: The board is working with industry to seek authorship for this proposal.

Board Member Comment:

Board Member Kevin Albanese asked about any work regarding the proposal to prohibit workers' compensation exemptions for certain license classifications. Mr. Jamnetski responded that the concept was approved in the Sunset Bill but not specific proposal language. Stakeholder meetings have been held to determine which classifications should be included in the proposal: D-49 (Tree Service), C-8 (Concrete), and C-20



(HVAC) are being discussed. Registrar Fogt added that a stakeholder meeting is scheduled for January 15, 2020 to discuss this matter further with industry.

5. Discussion and Possible Action on Staff Recommendations for Legislative Proposals to Make Minor, Technical, or Non-Substantive Changes to the Contractors State License Law (Omnibus Bill, Clean-Up Request)

Chief of Legislation Mike Jamnetski reviewed the recommended technical, non-substantive changes to contractors' state license law. The changes include moving the language for the letter of admonishment to its own section under 7099, as well as a proposal to replace statutory language that was accidentally removed when repealing the statute that authorized cash deposits in lieu of a contractor's bond. Other changes include abolishing the unnecessary Contractors Deposit fund created by the legislature with the passage of AB 3126 (2018) and removing the apostrophe from "Contractors" within the board title, the title of Contractors State License Law, and the title of the State Contractors License Fund.

Legal Counsel Comment:

Kristy Schieldge clarified the board did not eliminate the ability to retain cash deposits, it eliminated the ability of the contractor to place these cash deposits in a private bank or trust as a certificate of deposit (CD), which in staff's experience led to contractors illegally removing the funds for that deposit before the statute of limitations expires for a consumer to make a claim against the deposit. The registrar can still accept cash deposits, but the deposits are held by the board not by a private bank. Staff is requesting to clean up the bill language because the ability to consider all the claimants per court order in the distribution of the deposit was inadvertently removed in the last legislative amendments to this section.

Mr. Jamnetski clarified that the cash deposits that the board may now accept are cashier's checks only, not cash/certificates of deposit.

Public Comment:

Richard Markuson expressed appreciation that staff is making the proposed legislation and changes in the omnibus bill.

MOTION: To authorize staff to submit to the Senate Business, Professions, and Economic Development Committee the technical, non-substantive proposals for changes to contractors' state license law that would:

- Make the letter of admonishment its own section of law;



- Restore requirements that bonds or cash deposits not be released except as determined by a court and delete references in Business and Professions Code section 7071.4 to a “Contractors’ Deposit Fund”; and
- Delete the apostrophe in the formal title of the Contractors’ State License Board.

Kevin Albanese moved; David Dias seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

6. Update, Discussion, and Possible Action on 2019-21 Legislative Strategic Plan Objectives

Chief of Legislation Mike Jamnetski reported on items 3.1 and 3.6 of the Legislative Strategic Plan Objectives, found on pages 179-180 of the meeting packet.

Item 3.1: The next industry meeting will be January 15, 2020 to discuss mandatory workers’ compensation.

Item 3.6: Due to amendments made to BPC section 7099.2 regarding civil penalties, this item is now statutory as well as regulatory and will, consequently, take longer to complete than the original target date.

MOTION: To accept the changes to the strategic plan description for item 3.6 to include the needed statutory changes and to change the target date from March 2021 to December 2021. David Dias moved; Susan Granzella seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson



H. EXECUTIVE

1. Review and Possible Approval of September 24, 2019 Board Meeting Minutes

MOTION: To approve the September 24, 2019 Board Meeting Minutes. David De La Torre moved; Nancy Springer seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

2. Budget Update

a. CSLB Budget Update and Statistics Summary

Budget Manager Stacey Paul reported the board has spent approximately 30 percent of its FY 2019-20 budget, which is less than expected. Revenue is up over the prior year by 4.5 percent, which is a slight improvement. She then discussed the fund condition and the structural imbalance of expenditures and revenue. In FY 2019-20 the board is projected to expend \$73 million, however revenue is projected at \$66 million, which highlights why the emergency fee increase was pursued to ensure solvency in the coming years. She also mentioned that through the CMEA fund \$100,000 will be distributed to four schools and that the fund is healthy enough to continue this trend in future years.

b. Disaster Response Funding

Budget Manager Stacey Paul reported that the board will receive \$165,000 in General Fund reimbursement for the 2018-19 disaster response overtime and travel expenses. CSLB’s disaster response expenses are reviewed monthly, and for FY 2019-20 there has been \$54,000 in wildfire response costs.

Board Member Comment:

Board Member Kevin Albanese asked if the current projections include the emergency rulemaking fee increases. Ms. Paul responded that they do not, but that by FY 2021-22 there should be about 0.2 months in reserves, or less than one week. Chief Deputy



Registrar Corcoran added that the board is conducting a fee audit study for all other fees, beginning in February 2020, which should be complete in approximately six months.

Board Member Frank Altamura asked about the largest decrease in renewals the board has seen within the last 20 years. Mr. Paddock mentioned that these numbers are not immediately available, but that the license population has varied greatly over the years, decreasing to about 200,000 around 2009.

Board Member David Dias asked if there are statistics on record before 2009 and if the board has recovered from the economic crash at the time. Registrar Fogt mentioned that at one point the board had over 300,000 licensees. Currently, there has been an increase in the number of original applications and the approval rating for applications has increased to about 75 percent, which is approximately 10 percent greater than last year. Mr. Albanese added that with the new remodeling classification being proposed in the upcoming legislative session there should be a dramatic increase in the license population.

3. Information Technology Update

Board Member Susan Granzella said that she participated in the interview process for the new IT Chief and that the IT Advisory Subcommittee will meet with the new chief once they are selected.

Chief Deputy Registrar Tonya Corcoran reported that IT is focusing on cost saving measures. The Public Data Portal has launched and the automated web servers have been largely successful among utility companies and other agencies looking-up license information. The CSLB website is maintaining ADA compliance and new material added to the website is also compliant. IT is currently seeking to restructure the Intranet website architecture. The target date for completing the CSLB website is December 2019 or early January 2020. Staff is at about 30 percent complete in its compliance with the military audit findings. For November and December 2019 staff is focusing on IT projects, implementing the \$20 fee increase for C-10 Electrician renewals, online renewals, and emergency fee increase for February 2020.

a. Update and Discussion of Information Technology 2019-21 Strategic Plan Objectives

Chief Deputy Registrar Tonya Corcoran reported on the Information Technology Strategic Plan Objectives, found on pages 227-229 of the meeting packet.

Item 5.12: Focus was shifted to sole owner online renewals due to the volume of renewals received (approximately 67,000 annually) compared to sole owner



applications (about 12,000 a year). Additionally, the target date to be able to pay citations online is December 2020.

Item 5.13: Staff requested a change in the description and to change the target date from December 2019 to December 2021. Staff are researching all software options.

Item 5.14: Staff will be researching products that allows multiple signatures and the ability to create an online account.

Item 5.15: Moving the target date to July 2020 for online original application.

MOTION: To accept the changes to the strategic plan descriptions and target dates for item 5.12, 5.13, 5.14 and 5.15. David Dias moved; David De La Torre seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

4. Administration Update Regarding Personnel and Facilities

Chief of Administration Mike Melliza reported that for FY 2019-20 that Personnel completed 34 personnel transactions. He also noted that the board has averaged 26 vacancies a month; most of the tenant improvements to Sacramento headquarters are nearly complete; there is a contract for CPS HR Consulting to conduct a fee audit study and one with CHP to provide security at CSLB meetings and test centers. Also, as of November 1, 2019, DCA implemented a virtual card number to pay for lodging for employees and board members traveling for state business.

5. Registrar's Report

a. Tentative Board Meeting Schedule

Registrar David Fogt reviewed the tentative 2020 board meeting schedule:

- March 30 - San Francisco Bay Area
- June 4-5 - Orange County, with the Nevada State Contractors Board



- September 1 - San Diego, during the National Association of State Contractors Licensing Agencies (NASCLA) Conference

6. Update and Discussion on Outreach and Enforcement Strategies to Address Consumer Solar Complaints

a. Consumer Protection Government Taskforce – Department of Business Oversight, California Public Utilities Commission, and CSLB

Registrar David Fogt summarized the October 30, 2019 Joint Solar Task Force meeting with Department of Business Oversight (DBO) and California Public Utilities Commission (CPUC). The meeting focused on Property Assessed Clean Energy (PACE) funding. Typically, the money from a PACE loan is paid directly to the contractor. Often the individual negotiating the loan, who is regulated by DBO, is also the person negotiating the home improvement contract, and must be a registered Home Improvement Salesperson with CSLB. The agencies must regulate and share information regarding who is negotiating the financial and construction contract in the consumers' homes. A bulletin has been developed to help prepare and protect consumers considering installing solar or performing other home improvements. The bulletin was initially directed to central California, primarily the Fresno County area, as there were many low-income victims identified in the area. CSLB has a link on the board's website titled "Solar Smart," which educates consumers about hiring a solar contractor.

Registrar Fogt summarized the afternoon session of the October 30 meeting, noting that PACE administrators were present as well as consumers with complaints about PACE. With PACE loans, it can be difficult to identify who the contract is with or who is being paid. PACE loans and the related construction contract are often authorized electronically, and many consumers claim they did not approve using an electronic signature. In addition, the contractor is not always identified, thus it is unknown to the consumer to whom the payments are being made and often the contracted work is not completed. The PACE administrators claim that a statute prevents them from identifying who receives the loan payments. Registrar Fogt mentioned that during a phone call, made shortly before the December board meeting, a PACE administrator clarified that PACE administrators cannot provide bank account numbers but can provide information to identify who received the funds, the contractor's license number, and the amount paid.

b. Discussion Regarding Proposed California Public Utilities Commission Rulemaking 14-07-002/Application Number 16-07-015 (enhance consumer protection for solar energy customers)



Chief of Legislation Mike Jamnetski reported that CPUC is concerned about complaints in which consumers cannot identify who sold or installed the system. According to CSLB's research, this scenario primarily occurs with PACE financed contracts. A recent CPUC rulemaking recommended creating a new registration process to identify all individuals involved with a contract to connect to the grid. However, CSLB believes that CPUC's concerns can be addressed using existing resources, available to all the agencies reviewing this issue. A decision on the rulemaking is expected in January 2020. Registrar Fogt added that CSLB continues to work with the solar and electrical industry to help clarify when a salesperson should be registered or if they are required to be a licensed contractor.

c. CSLB Solar Taskforce, Investigations, and Prioritizing Property Assessed Clean Energy (PACE) Administrator Cases

Chief of Enforcement Missy Vickrey reported that following the October 30, 2019 Joint Solar Task Force Meeting, CSLB formed a subcommittee of investigators to focus on PACE financing complaints. Staff have identified 239 complaints from the last 18 months that involve PACE financing. In these complaints, PACE administrators are paying unlicensed contractors and unregistered home improvement salespersons. She discussed concerns about payments made directly to the contractor before the work is complete and not identifying who receives the PACE payments.

d. CSLB Lead Generator and Solar Brokers Industry Bulletin

Registrar Fogt mentioned that CSLB works with the solar and electrical industries to help clarify when a salesperson should be registered or when they fall under the definition of a contractor. In collaboration with CPUC and the Office of the Attorney General, a bulletin was developed on lead generation and solar broker restrictions to help guide industry.

Chief of Legislation Michael Jamnetski clarified that lead generation involves obtaining the names and information of consumers with potential interest in solar. The information is then sold to companies who use it to solicit customers, whereas solar brokering involves individuals who sell pending solar contracts to companies that can install the product. The bulletin helps to identify when HIS registration is required for a transaction.

Board Member Comment:

Board Member Kevin Albanese asked about agency responsibility over PACE. Registrar Fogt replied that DBO has direct authority over PACE and regulates the five PACE administrators.

Board Member David Dias commented that on some government websites he has identified contractors without a valid CSLB license who are listed as licensed on other



websites, noting that records need to be updated. Registrar Fogt mentioned that CPUC may have access to the contracts of those permitted to connect to the grid and they should be checking if the contractors are licensed. Records between CSLB, CPUC, and DBO need to be compared.

Public Comment:

Richard Markuson thanked CSLB for their actions to try and identify the responsible parties among the utilities.

Brad Heavner, CALSSA, stated that the organization strongly supports CSLB efforts in resolving these issues. He agrees that the CPUC rulemaking would be duplicative and unnecessary. He would like CSLB to increase enforcement and issue citations to those engaged in misrepresentation.

Board Member Comment:

Board Member Kevin Albanese asked for clarification about what the PACE representative does after negotiating the financial agreement. Registrar Fogt responded that the contract negotiator typically represents the PACE administrator and the licensed contractor simultaneously. Mr. Albanese asked if the contractor enters into a contract with the homeowner or PACE administrator. Registrar Fogt replied that many consumers believe they are contracting to have the PACE administrator install the solar system; however, a home improvement contract is required to install the system. Mr. Albanese added that through contractors' state license law and home improvement contract requirements there should be a way to identify the contractor or the PACE agent as the contractor. Registrar Fogt mentioned that CPUC Commissioner Martha Guzman Aceves is attempting to take that approach by using information obtained when a solar system is connected to the electrical grid. If the contractor is unlicensed Business and Professions Code section 7031 (compensation prohibited if contractor not duly licensed) may be an additional tool to help free consumers from their loans. Mr. Jamnetski added that the law requires PACE solicitors and PACE solicitor agents to be either a licensed contractor or a registered HIS. He suggested that many of the Central Valley victims at the core of the CPUC rulemaking were victimized before many of the new PACE laws were established.

7. Review, Discussion, and Possible Action to Direct Staff to Identify and Retain an Outside Consultant or Expert to Study Energy Storage System (ESS) Information Received and ESS Installation Issues Including Safety Concerns and Appropriate Contractor Classifications to Install ESS and Provide General Guidance about the Scope of the Report and Estimated Cost Parameters

Board Member Augie Beltran reported on the Legislative Committee's recommendation to hire an outside consultant to study battery energy storage systems. After numerous



meetings and hearing testimony from hundreds of individuals CSLB believes further study is needed because of a number of concerns, including public safety; the committee's request for more information regarding the complexity and size of the battery; building official concerns about code compliance; and potential economic impact to the marketplace. Before the board can make a sound and fair decision in this matter, research conducted by an independent party should be considered.

a. Discussion regarding state contracting process

Chief of Administration Mike Melliza reported that DCA has delegation authority for all contracts and that they will work with CSLB to ensure procurement and evaluation procedures are legally conducted in accordance with state procurement policy. Contracts are prepared and written to safeguard CSLB and generate competitive solicitations by developing, reviewing, providing feedback, and finalizing the acquisition documents. DCA will serve as a liaison to Department of General Services (DGS) Procurement Division and Office of Legal Services, as well as obtain DGS required approvals. The contract mechanism is determined by the scope of work. How CSLB states its specific needs, requirements, goals, and objectives will determine the contract mechanism used to select a consultant. The estimated time to hire a consultant and execute the contract is between 8 and 10 months. The cost to conduct the study has a recommended range between \$20,000 and \$100,000. A contract can be awarded in one of two ways: 1) By offering to the lowest responsible proposer; or 2) by a point system determined by elements within the solicitation package and where the contract is offered to the proposer with the highest score. The board can also utilize any other existing contract mechanism to evaluate noneconomic aspects of the study.

Board Member Comment:

Board Member Nancy Springer asked about the basis of the estimated 8 to 10 month period. Mr. Melliza responded that it is based on DGS' steps for the solicitation process and is provided in the state contracting manual. Ms. Springer asked if deliverables can be set to specific times. Mr. Melliza said a schedule can be set for deliverables that proposers will have to meet. Ms. Springer also asked, regarding the point method, if the proposer with the highest score can be selected within a set monetary requirement for the contract. Mr. Melliza answered that proposers are evaluated on different elements, that the proposers are provided these elements and must meet each element, and, further, that a committee will be assigned to provide a score for each element, and then reward the contract to the highest scorer. Ms. Springer asked if there will be staff assigned to monitor the hiring process and ensure its progression. Mr. Melliza said usually there is an executive sponsor who works with staff to develop an evaluation team.

Board Member Jim Ruane asked who establishes the scoring criteria. Mr. Melliza responded that after the scope of work is developed, DCA will work with CSLB staff to



develop evaluation criteria as the solicitation package is being assembled. Registrar Fogt added that CSLB staff will work with DCA to review all the information and develop the criteria, if the board chooses this method, and that staff will work to develop the criteria.

Board Member David Dias asked if board members will be involved. Mr. Melliza said it would be unusual for board members to be involved in the contracting process at that level because of issues with the Open Meeting Act. Mr. Dias said he would prefer the point system method over the lowest bid method to select the consultant.

Board Member Susan Granzella requested that the update provided at the board meetings include an update on the hiring process. Mr. Dias added that if the board adds items during the process it will increase costs.

Board Member Augie Beltran commented that the board already has a direction for the study and any interested proposers will likely be closer to the maximum bid rate. He asked for clarification on the process and DCA's role. Chief Deputy Registrar Corcoran explained that CSLB is under DCA, who has the delegation authority given by the control agency, which is DGS. As a result, DCA will execute the contract and work with DGS directly. CSLB is obtaining feedback from the board in order to work with DGS legal and DCA to develop a scope and criteria and to ensure it complies with public contracting codes.

Board Member David Dias asked what happens if the consultant is unable to finish within the deadline. Mr. Melliza mentioned there is an amendment process and that a request must be made to amend the contract to extend the timeframe.

Board Member Nancy Springer asked if this is the quickest method to complete this process. Mr. Melliza said this would be the quickest method. Mr. Beltran added that this would also be the cleanest method.

Public Comment:

Eddie Bernacchi, Politico Group, encouraged the board to hire a consultant.

Phil Vermeulen, CLC, suggested that, in light of the budget issues, that the board bill the solar and electrical industries for the cost of the consultant. Legal Counsel Kristy Schieldge responded that the board does not have authority to take such action and that such action is not currently before the board. This item is before the board because they and the registrar are legally responsible for the budget and the staff, therefore, need authority to expend the funds to retain the expert.

Courtney Corda, Corda Solar, encouraged hiring a consultant in the hopes to prove C-46 contractors can safely install batteries. Due to the recent power outages many of her



customers were unable to use their solar systems and asked to have a battery retrofitted to their systems. She had to inform her customers that she cannot install a battery in an existing system. She has been unable to find a C-10 contractor to refer to her customers. She suggested the consultant reach out to the manufacturers because of the extensive training they provide.

Brad Heavner appreciates that the board recognizes that the ESS issue needs to be carefully studied. He mentioned that when talking to his organization's members there is common concern about the lack of available labor, adding that this proposal will only increase costs.

Jim Jenner, Fusion Power Design, encouraged the board to conduct the study.

MOTION: To direct staff to identify and retain an outside consultant(s) or expert to consider energy storage system information received, perform additional fact finding as necessary, and provide an analysis regarding ESS installation issues, including safety concerns and the appropriate contractor license classification or classifications to install battery energy storage systems, and that staff provide a timeline at the next board meeting. This is a fully formed motion from the Legislative Committee. The motion carried unanimously, 10–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: David De La Torre, Mike Layton, Marlo Richardson

Board Chair Johnny Simpson reviewed each of staff's recommended general parameters for the consultant's work, found on pages 257 and 258 of the meeting packet.

- Battery energy storage system risk, hazard, size, and complexity considerations with respect to public safety; particularly, what harm will be fixed by enacting a regulation, either existing or prospective harm.
- Applicability of state and national standards and codes to these inquiries.
- Economic impact analysis of a restriction on the C-46 classification.
- Whether the C-46 classification should be limited to a building occupancy classification (commercial, residential, etc.) when installing a BESS, and if so to what extent/in what way.

Board Member Comment:



Board Member Kevin Albanese suggested that this item include “predictive or likelihood of” prospective harm. He believes the consultant should research the likelihood of the harm, as stated by the industries, and whether it is likely to actually occur. A predictive factor would be important for analysis. Legal Counsel Kristy Schieldge asked if the request was to include “potential” harm. Mr. Albanese responded that the potential harm is known, i.e. that either the system will explode, or nothing will happen and that, rather, he would like to know the likelihood of these events happening. Ms. Schieldge asked for clarity about the meaning of predictive harm. Mr. Albanese clarified that he would like to include the “likelihood of potential harm.”

Board Chair Johnny Simpson read California Code of Regulations 832.46 on the C-46 classification: “A solar contractor installs, modifies, maintains, and repairs thermal and photovoltaic solar energy systems. A licensee classified in this section shall not undertake or perform building or construction trades, crafts, or skills, except when required to install a thermal or photovoltaic solar energy system.”

Chair Simpson suggested adding additional language as follows: “Whether the C-46 classification should be authorized in regulation to install a Battery Energy Storage System, and if so to what extent or in what way.”

Board Member Kevin Albanese asked if the current regulatory interpretation is that C-46 contractors cannot install battery energy storage and suggested that if the board believes that C-46 contractors should have the ability to install BESS that that be added as an amendment to the parameters. Chair Simpson commented that his amendment would replace the staff’s second recommendation.

Legal Counsel Comment:

Ms. Schieldge suggested keeping the amendment without referencing the regulation about whether the C-46 should be installing battery storage so that the consultant is not limited and can provide more information on how they think the battery should be installed. This would allow a full, complete analysis of the issue by the expert prior to the board considering any amendments to the regulation.

Board Member Comment:

Mr. Albanese stated that it seems that a C-46 currently cannot install a BESS and that staff is trying to determine if they can. Ms. Schieldge clarified that the recommendation to hire a consultant is to get an opinion on whether C-46 contractors should or should not install battery storage and amendments to the regulation can be made based on that recommendation.

Board Member Nancy Springer asked if the amendment removed “limited to a building occupancy classification (commercial, residential, etc.)” from the original



recommendation. Chair Simpson replied that this language was removed to prevent limiting the consultant.

Board Member Mary Teichert mentioned that her interpretation was similar to that of Mr. Albanese in that the Chair's amendment appears to re-evaluate whether the C-46 should install ESS at all. Mr. Simpson clarified that the amendment would state that if the consultant finds that C-46 contractors can install batteries, the question would then be whether or not to add it to the regulation. Ms. Teichert asked if the amendment restricts anything the classification is currently performing. Mr. Simpson replied, no. Ms. Schieldge added that the focus is on whether or not C-46 contractors should install an energy storage system at all, and if so, under what conditions.

Board Member Kevin Albanese stated that it appears the discussion centered on a current interpretation of the regulation that C-46 contractors cannot install BESS when it is not installed at the same time as a solar system and that the board request that the consultant determine if the C-46 should or should not be able to install ESS.

Legal Counsel Comment:

Kristy Schieldge explained that her interpretation of the Chair's amendment is to allow the consultant to provide the board with an opinion regarding whether C-46 should or should not be authorized to install ESS and that the consultant would determine any recommendation about any circumstances or conditions for installation. The consultant should be given broad discretion to form their opinion.

Board Member Comment:

Board Member David Dias stated that the decisions made today will not change the status quo.

Board Member Kevin Albanese agreed with Ms. Schieldge's comments that if the board is going to change its interpretation there should be solid evidence to support changes.

Board Member Augie Beltran noted that nothing has changed since the last Legislative Committee meeting and that the board is conducting further research. He emphasized that there is no change to the code or interpretation of the code occurring at this meeting.

Board Chair Johnny Simpson recommended adding the following parameters:

- Analyzing knowledge, skills and training
- Cost shall not exceed \$100,000



MOTION: To approve the parameters as amended for staff to use as a guide to identify and retain an expert or consultant:

- Battery energy storage system risk, hazard, size, and complexity considerations with respect to public safety; particularly, what harm or potential harm will be fixed by enacting a regulation
- Whether the C-46 classification should be authorized in regulation to install a battery energy storage system and, if so, to what extent or in what way
- Applicability of state and national standards and codes to these inquiries
- Economic impact analysis of a restriction on the C-46 classification
- Analyzing knowledge, skills and training
- Cost shall not exceed \$100,000

David Dias moved; Nancy Springer seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

b. Timeline for possible rulemaking to effectuate proposed changes to license classification(s)

Discussed earlier in the agenda.

I. ADJOURNMENT

Board Member Comment:

Board Member Nancy Springer asked if the board needed a motion to distribute the CMEA funds discussed earlier in the meeting.

Registrar Fogt responded that there has been a process in place since 2002 that did not include board approval for distributing CMEA funds, but that after recent discussions with Legal Counsel that process will change, and the distribution of funds will be on future meeting agendas for board consideration and approval. Licensing Chief Justin



Paddock added that the earlier CMEA discussion was informational and that the funds have not yet been distributed.

MOTION: To adjourn the December 12, 2019 board meeting. Kevin Albanese moved; David Dias seconded. The motion carried unanimously, 11–0.

YEA: Johnny Simpson, Kevin Albanese, Frank Altamura, Augie Beltran, David De La Torre, David Dias, Susan Granzella, Diana Love, Jim Ruane, Nancy Springer, Mary Teichert

NAY: None

ABSENT: Mike Layton, Marlo Richardson

Board Chair Johnny Simpson adjourned the meeting at approximately 12:50 p.m.

Johnny Simpson, Chair

Date

David Fogt, Registrar

Date

AGENDA ITEM J-2

Review, Discussion and Possible Action on CSLB Budget

- a. Update and Discussion of CSLB Budget
- b. Update and Discussion on Status of Fee Audit Study
- c. Review, Discussion, and Possible Approval of Process Changes to Reduce Expenditures and Increase Revenue





CSLB Budget

Budget Overview and Summary for Fiscal Year 2019-20

CSLB Governor's Budget (includes Mandatory External Costs)–\$75 Million

The Contractors State License Board's (CSLB) budget is established by the governor. For fiscal year 2019-20, CSLB's budget was \$70.1 million. In addition to the governor's budget, CSLB has mandatory external costs in the amount of \$5.5 million (i.e., statewide pro rata and pensions). Therefore, CSLB's spending authority for FY 2019-20 is \$75.6 million.

CSLB Expenses–\$72 Million

Cost cutting measures have enabled CSLB to keep expenses for fiscal year 2019-20 approximately **\$3 million** less than CSLB's authorized spending authority of \$75.6 million.

CSLB Revenue Received–\$68 Million

CSLB is a Special Fund entity, rather than General Fund. General Fund entities receive funding equivalent to that allocated in the governor's budget. However, CSLB receives no general fund money and relies, instead, on licensing fees and enforcement civil penalties/cost recovery for all revenue.

CSLB's revenue from July 1, 2019 through April 30, 2020 was \$55.4 million, averaging \$5.5 million per month. Since the renewal fee increase was implemented in March 2020, the monthly average has been \$6.8 million. Therefore, CSLB is projecting \$68 million in revenue by the end of FY 2019-20.

CSLB Fund Balance Reduced by \$4 Million in FY 2019-20; \$6 Million Remains

Six million dollars is equivalent to one-month of operating expenses. Generally, a two-month fund reserve is considered healthy.

Plan to Increase Revenue and Reduce Expenses

Staff propose strategies to increase revenue and reduce expenses. The board is being asked to consider approving process changes to reduce anticipated FY 2020-21 expenses by \$7.1 million.

Fee Audit with CPS Consultant

CSLB entered into contract with CPS HR Consulting to conduct its fee audit. The audit began in March 2020, and is scheduled to conclude in October 2020. Because of health concerns with COVID-19, the work is being done virtually and electronically, as staff work to keep the contract on schedule. Once completed, CPS will present the report at the December 2020 board meeting. CPS is expected to recommend increasing fees to a level that will provide a five-to-six month reserve over the next five years.



Fiscal Year (FY) 2019-20 CSLB Budget and Expenditures

Through March 31, 2020, CSLB spent or encumbered \$49 million, roughly 70 percent of its FY 2019-20 budget. Through June 30, 2020, CSLB projects \$72.9 million in total expenditures this fiscal year, which includes the \$5.5 million in external costs. This chart details CSLB’s FY 2019-20 budget, including expenditures through March 2020:

EXPENDITURE DESCRIPTION	FY 2019-20 FINAL BUDGET	MARCH 2020 EXPENSES	BALANCE	% OF BUDGET REMAINING
PERSONNEL SERVICES				
Salary & Wages (Staff)	28,092,000	18,857,573	9,234,427	32.9%
Board Members	16,000	6,300	9,700	60.6%
Temp Help	800,000	481,517	318,483	39.8%
Exam Proctor	101,000	134,939	-33,939	-33.6%
Overtime	146,000	86,043	59,957	41.1%
Staff Benefits	15,437,000	10,912,864	4,524,136	29.3%
TOTALS, PERSONNEL	44,592,000	30,479,236	14,112,764	31.6%
OPERATING EXPENSES AND EQUIPMENT (OE&E)				
Operating Expenses	16,246,000	13,144,134	3,101,866	19.1%
Exams – Subject Matter Experts	436,000	287,208	148,792	34.1%
Enforcement	9,181,000	5,528,196	3,652,804	39.8%
TOTALS, OE&E	25,863,000	18,959,538	6,903,462	26.7%
TOTALS	70,455,000	49,438,774	21,016,226	29.8%
Scheduled Reimbursements (i.e., fingerprint, public sales)	-353,000	-103,264	-249,736	
Unscheduled Reimbursements (i.e., invest. cost recovery)		-341,429	341,429	
GRAND TOTALS	70,102,000	48,994,081	21,107,919	30.1%

Revenue

CSLB received the following revenue amounts through April 30, 2020, and projects \$68 million through June 30, 2020:

Revenue Category	Through 04/30/2020	Percentage of Revenue	Change from prior year (04/30/2019)*
Duplicate License/Wall Certificate Fees	\$98,016	0.2%	-11.2%
New License and Application Fees	\$11,732,251	21.2%	-7.1%
License and Registration Renewal Fees	\$39,708,130	71.6%	3.0%
Delinquent Renewal Fees	\$2,123,153	3.8%	-2.9%
Penalty Assessments	\$1,515,890	2.7%	-15.1%
Misc. Revenue	\$248,998	0.5%	4.6%
Total	\$55,426,438	100.00%	-0.3%

* License & Registration Renewal Fees are based on 2-year cycle (comparative data is from FY 2017-18, a non-peak renewal year).



Fund Condition – Board Expenditure Reductions

This fund condition assumes the following:

- **Revenue** – No increases in the number of renewals or new applications. Assumes new applications are same as prior year; assumes renewals are same as 2-year cycle, with increased renewal fees.
- **Board Expenditures** – Reduction in board expenditures starting in FY 20-21

<i>(Dollars in thousands)</i>	Final FY 2018-19	Projected FY 2019-20	Projected FY 2020-21
Beginning Balance <i>(Fund/Savings Account)</i>	\$15,165	\$10,359	\$5,772
Revenues and Transfers			
Revenue	\$65,991	\$68,264	\$70,696
Total Resources <i>(Revenue + Fund/Savings Acct.)</i>	\$81,156	\$78,623	\$76,468
Expenditures			
Board Expenditures *	\$66,032	\$67,400	\$74,008
External Costs **	\$4,765	\$5,451	\$5,460
			-\$7,100
Total Expenditures	\$70,797	\$72,851	\$72,368
Ending Balance <i>(Fund/Savings Account)</i>	\$10,359	\$5,772	\$4,100
Months in Reserve	1.7	1.0	0.7
Dollars in Reserve	\$10.4 M	\$5.8 M	\$4.1 M

* Board Expenditures includes staff pay, benefits, and operating expenses

** External Costs include statewide pro rata and pensions



FY 2020-21 Expenditure Reduction Plan

Licensing and Testing

ACTION	SAVINGS
<ul style="list-style-type: none"> Conduct subject matter expert workshops via Webex or other technology platform to reduce travel costs 	\$250,000

Executive and Administrative

ACTION	SAVINGS
<ul style="list-style-type: none"> Delay filling positions – maintaining 45 vacant positions 	\$4.5 million
<ul style="list-style-type: none"> Delay replacing three vehicles in Enforcement 	\$100,000

Information Technology

ACTION	SAVINGS
<ul style="list-style-type: none"> Reduce ADA compliance contract from \$250,000 to \$50,000, and have CSLB staff assume more ADA remediation functions 	\$200,000
<ul style="list-style-type: none"> IT contract and purchases savings 	\$250,000

Enforcement

ACTION	SAVINGS
<ul style="list-style-type: none"> Hold Attorney General’s Office at \$7 million for the year (roughly \$580,000 monthly) 	\$1.0 million
<ul style="list-style-type: none"> Hold the Office of Administrative Hearings at \$1.2 million (roughly \$100,000 monthly) 	\$300,000
<ul style="list-style-type: none"> Modify processes to reduce arbitration costs by 40% (from \$900,000 to \$550,000) 	\$350,000
<ul style="list-style-type: none"> Modify procedures to reduce expenditures for industry expert consultants by 20% (from \$750,000 to \$600,000) 	\$150,000
TOTAL SAVINGS	\$7.1 million



Enforcement Process Changes to Reduce Expenses

To reduce field investigation costs and related expenses, staff proposes process changes to achieve necessary savings. Specifically, complaints that meet all of the following criteria would be referred to small claims court, with a recommendation that the complainant pursue the contractor's license bond.

- Licensee does not have a history of repeated acts; and
- CSLB mediation attempts have not been successful; and
- The estimated financial injury is less than \$10,000.

The board-approved approved complaint prioritization chart on the following page remains unchanged.



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



Staff Recommendation:

- 1) That the board approve the outlined expenditure cost reductions of \$7.1 million. This recommendation projects that the fund would be solvent at the end of FY 2020-21, with \$4.1 million in the reserve.

- 2) Authorize staff to refer consumers to small claims court and the license bond when the licensee does not have a history of repeated acts, CSLB mediation attempts have not been successful, and the estimated financial injury is less than \$10,000.

AGENDA ITEM J-3

Election of 2020-21 Board Officers



AGENDA ITEM K

Adjournment

