

NOVEMBER 6, 2014
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Legislative
Committee Meeting





CONTRACTORS STATE LICENSE BOARD

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STATE OF CALIFORNIA

Governor Edmund G. Brown Jr.

NOTICE OF LEGISLATIVE COMMITTEE MEETING

The Contractors State License Board (CSLB) will hold a Legislative Committee meeting with a teleconference location at 9:00 a.m. on Thursday, November 6, 2014.

The meeting will be held at:

CSLB Headquarters

John C. Hall Hearing Room
9821 Business Park Drive
Sacramento, CA 95827

Teleconference Location

134 West 168th Street
Gardena, CA 90248

There will be a live webcast of the meeting. All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 255-4000 or access CSLB's website at <http://www.cslb.ca.gov>. Action may be taken on any item listed on this agenda, including information-only items. Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

TELECONFERENCE NOTICE (pursuant to Government Code section 11123(b)): One or more Board members may participate in this meeting via teleconference for the benefit of the Board. The public teleconference site(s) are as noticed in this agenda. The meeting is open and the public is invited to attend. Meetings are accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by calling (916) 255-4000 or by sending a written request to the CSLB Executive Office, 9821 Business Park Drive, Sacramento, CA 95827. Providing your request at least five (5) business days prior to the meeting will help ensure accommodation of the request.

CSLB Board Members who are not members of the Committee may attend the meeting.

Legislative Committee Agenda

9:00 a.m.

Legislative Committee Members

Joan Hancock, Chair; Agustin Beltran; Linda Clifford; Paul Schifino; Nancy Springer

- A. Call to Order – Chair's Remarks
- B. Public Comment Session
- C. Update on 2014 Legislation
- D. Review and Consideration of Legislative Proposals for the Upcoming Legislative Session:

1. Amendment to Business and Professions Code section 7011.4 – Notice to Appear Authority
2. Amendment to Business and Professions Code section 7028.6 – Authority to Issue Citations – Collection of Additional Information
3. Amendment to Business and Professions Code section 7059 – Public Works Contracts
4. Amendment to Business and Professions Code section 7083 – Notification by Licensees of Change in Recorded Information
5. Amendment to add Business and Professions Code section 7013.5 – Effect of Disciplinary Action by Another State Agency
6. Amendment to Business and Professions Code section 7137 – Fee Schedule

E. Adjournment

AGENDA ITEM A

Call to Order – Chair’s Remarks

Roll is called by the Committee Chair.

LEGISLATIVE COMMITTEE MEMBERS:

JOAN HANCOCK, CHAIR

AGUSTIN BELTRAN

LINDA CLIFFORD

PAUL SCHIFINO

NANCY SPRINGER

Committee Chair Joan Hancock will review the scheduled Committee actions and make appropriate announcements.



AGENDA ITEM B

Public Comment Session

Members of the public may address the committee at this time.
The Committee Chair may allow public participation
during other agenda items.



AGENDA ITEM C

Update on 2014 Legislation



2014 CSLB Significant Legislation

CA AB 26	AUTHOR: Bonilla [D] TITLE: Construction: Prevailing Wage INTRODUCED: 12/03/2012 ENACTED: 09/30/2014 DISPOSITION: Enacted SUMMARY: Revises the definition for construction to include post-construction phases and clean-up work at the jobsite, for purposes of the requirements in existing law regarding the payment of prevailing wages on public works construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds. STATUS: 09/30/2014 Signed by GOVERNOR. 09/30/2014 Chaptered by Secretary of State. Chapter No. 864
CA AB 1702	AUTHOR: Maienschein [R] TITLE: Professions and Vocations: Incarceration INTRODUCED: 02/13/2014 ENACTED: 09/18/2014 POSITION: WATCH SUMMARY: Provides that an individual who has satisfied requirements needed to obtain a license while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated. STATUS: 09/18/2014 Signed by GOVERNOR. 09/18/2014 Chaptered by Secretary of State. Chapter No. 410
CA AB 1705	AUTHOR: Williams [D] TITLE: Public Contracts: Payment INTRODUCED: 02/13/2014 ENACTED: 09/27/2014 DISPOSITION: Enacted SUMMARY: Amends existing law that authorizes the retention proceeds withheld from any payment by an awarding entity from the original contractor, by the original contractor from any subcontractor, and by a subcontractor from any subcontractor, to exceed a specified percentage on projects that are substantially complex. Requires that the bid documents include details explaining the basis for the finding in addition to the actual retention amount. Requires the description of unique project and why it is unique. STATUS: 09/27/2014 Chaptered by Secretary of State. Chapter No. 670
CA AB 1741	AUTHOR: Frazier [D] TITLE: Public Works: Prevailing Wage Rates: Assessments

INTRODUCED: 02/14/2014
LAST AMEND: 04/07/2014
DISPOSITION: Pending
LOCATION: Assembly Appropriations Committee
SUMMARY:

Relates to the issuance by the Labor Commissioner of a civil wage and penalty assessment for violating laws regulating public works contracts, including the payment of prevailing wages. Specifies that a contractor, subcontractor, or surety may deposit the full amount of the assessment or notice with the Department of Industrial Relations in the form of cash or a bond issued by a surety company admitted to do business in the State in a form acceptable to the Department.

STATUS:
05/23/2014 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee.

CA AB 1870

AUTHOR: Alejo [D]
TITLE: Public Works: Prevailing Wage: Apprenticeship Program
INTRODUCED: 02/19/2014
ENACTED: 09/30/2014
DISPOSITION: Enacted
SUMMARY:

Relates to the prevailing wage. Amends an existing law which requires a contractor to whom a contract is awarded and who employs journeymen or apprentices to contribute to the State Apprenticeship Council the same amount that is determined is the prevailing amount of apprenticeship training contributions in the area of the public works site. Relates to the award of certain grants in cases where there are two or more approved multi-employer apprenticeship programs serving the same craft or trade.

STATUS:
09/30/2014 Signed by GOVERNOR.
09/30/2014 Chaptered by Secretary of State. Chapter No. 890

CA AB 1918

AUTHOR: Williams [D]
TITLE: Energy: Design And Construction Standards
INTRODUCED: 02/19/2014
LAST AMEND: 06/09/2014
POSTION: SUPPORT
LOCATION: Senate Appropriations Committee
SUMMARY:

Amends existing law that requires the State Energy Resources Conservation and Development Commission to prescribe building design and construction standards and energy and water conservation design standards for new buildings. Requires the State Energy Resources Conservation and Development Commission to implement methods to simplify procedures related to compliance. Allows authorizing a program to improve compliance with State Building Standards Code requirements for heating and air conditioning equipment.

STATUS:
08/14/2014 In SENATE Committee on APPROPRIATIONS: Held in

committee.

CA AB 1939

AUTHOR: Daly [D]
TITLE: Public Works: Prevailing Wages: Contractor's Costs
INTRODUCED: 02/19/2014
ENACTED: 07/21/2014
DISPOSITION: Enacted

SUMMARY:

Relates to public works and the prevailing wage. Authorizes a contractor to bring an action to recover from the hiring party that the contractor directly contracts with any increased costs, including labor costs, penalties, and legal fees incurred as a result of any decision by the Department of Industrial Relations, the Labor and Workforce Development Agency, or a court that classifies that the work covered by the project is a public work. Provides exception circumstances.

STATUS:

07/21/2014 Signed by GOVERNOR.
07/21/2014 Chaptered by Secretary of State. Chapter No. 161

CA AB 2396

AUTHOR: Bonta [D]
TITLE: Convictions: Expungement: Licenses
INTRODUCED: 02/21/2014
ENACTED: 09/28/2014
POSITION: OPPOSE
LOCATION: Chaptered

SUMMARY:

Prohibits a vocational or professional licensing board within the Department of Consumer Affairs from denying a license based solely on a conviction that has been dismissed pursuant to certain provisions of existing law. Requires an applicant who has a conviction that has been dismissed pursuant to the provisions of existing law to provide proof of dismissal.

STATUS:

09/28/2014 Chaptered by Secretary of State. Chapter No. 737

CA AB 2471

AUTHOR: Frazier [D]
TITLE: Public Contracts: Change Orders
INTRODUCED: 02/21/2014
LAST AMEND: 08/04/2014
DISPOSITION: Pending
LOCATION: Senate Appropriations Committee

SUMMARY:

Requires a public entity, when authorized to order changes or additions in the work in a public works contract awarded to the lowest bidder, to issue a change order promptly and not later than a specified time period. Requires, if this requirement is not met, the entity to be liable to the original contractor for the completed work. Requires prejudgment interest to accrue. Provides procedural requirements for the submission of change orders by subcontractors.

STATUS:

08/04/2014 From SENATE Committee on APPROPRIATIONS with author's amendments.

08/04/2014 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.
08/04/2014 In SENATE Committee on APPROPRIATIONS: Not heard.

CA SB 315

AUTHOR: Lieu [D]
TITLE: Contractors
INTRODUCED: 02/15/2013
ENACTED: 09/17/2014
POSITION: SPONSOR/SUPPORT
LOCATION: Chaptered
CHAPTER: 392
SUMMARY:

Provides for membership of the Joint Enforcement Strike Force on the Underground Economy. Provides that it is a misdemeanor for a person to engage in the business of, or act in the capacity of, a contractor within this state if the person is not licensed. Authorizes a person who is not licensed as a contractor to advertise for construction work or a work of improvement only under specified circumstances. Authorizes the registrar of contractors to initiate disciplinary action within a specified time period.

STATUS:
09/17/2014 Signed by GOVERNOR.
09/17/2014 Chaptered by Secretary of State. Chapter No. 392

CA SB 1159

AUTHOR: Lara [D]
TITLE: License Applicants: Individual Tax Identification
INTRODUCED: 02/20/2014
ENACTED: 09/28/2014
DISPOSITION: Enacted
LOCATION: Chaptered
CHAPTER: 752
SUMMARY:

Requires professional and vocational licensing boards within the Department of Consumer Affairs to require an applicant to provide an individual tax identification number or Social Security number if the applicant is an individual. Requires the bodies to report to the Franchise Tax Board, and subjects a licensee to a penalty for failure to provide that information. Prohibits denial of licensure based on citizenship or immigration status. Requires regulatory and procedural changes to implement provisions.

STATUS:
09/28/2014 Chaptered by Secretary of State. Chapter No. 752

CA SB 1243

AUTHOR: Lieu [D]
TITLE: Professions and Vocations
INTRODUCED: 02/20/2014
ENACTED: 09/17/2014
DISPOSITION: Enacted
LOCATION: Chaptered
SUMMARY:

Relates to professions and vocations to include board meeting notification procedures, professional advertising in a telephone directory, administrative expense charges and reports, the development of an enforcement academy, the

contents of the Director of Consumer Affairs report regarding complaints against licensees, professional board member training, veterinary assistant and controlled substances, common interest development managers, and the Tax Education Council.

STATUS:

09/17/2014 Signed by GOVERNOR.
09/17/2014 Chaptered by Secretary of State. Chapter No. 395

CA SB 1467

AUTHOR: Lieu [D]
TITLE: Professions and Vocations
INTRODUCED: 03/25/2014
ENACTED: 09/17/2014
DISPOSITION: Enacted
LOCATION: Chaptered

SUMMARY:

Relates to the State Board of Accountancy collection of licensee email addresses and licensure educational requirements, and licensee reporting criminal charges, the Board of Professional Engineers, Land Surveyors, and Geologists licensure examination and registered petroleum engineers. Relates to professional photocopiers as licensed notary public. Requires medical facility and public school construction plans be prepared by a licensed structural engineer.

STATUS:

09/17/2014 Signed by GOVERNOR.
09/17/2014 Chaptered by Secretary of State. Chapter No. 400

AGENDA ITEM D

Review and Consideration of Legislative Proposals for the Upcoming Legislative Session



AGENDA ITEM D-1

Amendment to Business and Professions Code section 7011.4 – Notice to Appear Authority



CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL ANALYSIS

Subject: Enforcement of Licensing Provisions

Relevant Provisions: Business and Professions Code section 7011.4

Summary: This proposal will expand the authority of Enforcement Representatives (ERs) to issue a written notice to appear (NTA) for failure to secure workers' compensation insurance.

Staff Comments:

An NTA is a court order mandating an individual's presence at a hearing, on a specified date, to answer to wrongdoings of misdemeanor crimes.

Under existing law, ERs with the Contractors State License Board (CSLB) have the authority to issue a written NTA.

This proposal would expand the jurisdiction of the Enforcement division to include ensuring payment of compensation that may become due to his or her employees. The proposed language does not reference a specific section of the law, but is similar to that in Labor Code (LC) section 3700.5, regarding workers' compensation (WC) insurance requirements.

According to the Enforcement division, under existing law, staff cannot add an LC section 3700.5 violation for failure to carry workers' compensation to the NTA; therefore, staff must include this violation in a supplemental report along with the NTA. The ability to include the Section 3700.5 violation on the NTA could streamline the district attorney (DA) referral process. CSLB estimates that 20 percent of the NTAs issued for unlicensed practice will include the Section 3700.5 violation (misdemeanor charges filed with the DA for unlicensed activity and no WC policy).

The Department of Industrial Relations' Division of Labor Standards Enforcement (DSLE) issues citations for failure to carry workers' compensation insurance, however, it does not file the LC section 3700.5 violations with the DA; DSLE takes administrative action, whereas CSLB files criminal charges with the DA. The Department of Insurance also takes action against employers for WC violations, but only against those that have WC policies (premium fraud issues), whereas DSLE and CSLB take action for not having a WC policy.

DSLE has sole authority to cite for wage violations.

ERs currently list these violations in their written reports, and DA's determine what charges are filed. This proposal does not significantly change existing practice, as WC violations can be noted in the written reports.

Unlicensed contractors are likely violating other wage and tax laws, but this proposal provides specific authority for ERs to cite for WC violations only.

Date: October 15, 2014

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Enforcement of Licensing Provisions

PROBLEM/SUMMARY:

California's Business and Professions (B&P) Code, Chapter 9, Articles 1 through 9, known as the *Contractors' State License Law*, provides the Contractors State License Board (CSLB) with the authority to license and regulate all forms of construction activity in the State of California.

B&P Code section 7011.4 establishes a separate enforcement division (Statewide Investigative Fraud Team - SWIFT), which shall rigorously enforce laws prohibiting all forms of unlicensed activity. CSLB Enforcement Representatives (ER) assigned to SWIFT investigate active construction sites for license and workers' compensation insurance compliance and conduct undercover sting operations targeting unlicensed and uninsured contractors.

Pursuant to B&P Code section 7028(a) it is a misdemeanor for a person to engage in the business or act in the capacity of a contractor without having a license.

Further, Labor Code section 3700.5 (a) states that the failure to secure the payment of compensation by one who knew, or because of his or her knowledge or experience should have reasonably expected to have known, of the obligation to secure this payment of compensation is a misdemeanor and punishable by county jail, or fine, or both.

B&P Code section 7011.4 provides authority for non-sworn ERs to issue a written notice to appear (NTA) in court for unlicensed practice, but not for failure to secure workers' compensation insurance. An NTA is an order by the court mandating an individual's presence at a hearing, on a specified date, to answer to wrongdoings of misdemeanor crimes.

PROPOSED CHANGE (Include the Related Sections of Law):

The Contractors State License Board requests to amend B&P Code section 7011.4, "*Enforcement of Licensing Provisions.*" The modification will clearly state that CSLB Enforcement Representatives, with designated authority from the Director of Consumer Affairs, may issue an NTA for unlicensed activity pursuant to B&P Code section 7028, and failure to secure workers' compensation insurance pursuant to Section 3700.5 of the Labor Code.

PROPOSED LANGUAGE:

Modify B&P Code section 7011.4 subsection (a) to include the following language:

7011.4.

(a) Notwithstanding Section 7011, there is in the Contractors State License Board, a separate enforcement division which shall rigorously enforce this chapter prohibiting all forms of unlicensed activity and ensuring payment of compensation that may become due to his or her employees.

(b) Persons employed as enforcement representatives in this division and designated by the Director of Consumer Affairs are not peace officers and are not entitled to safety member retirement benefits. They do not have the power of arrest. However, they may issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

AGENDA ITEM D-2

Amendment to Business and Professions Code section 7028.6 – Authority to Issue Citations – Collection of Additional Information



**CONTRACTORS STATE LICENSE BOARD
LEGISLATIVE PROPOSAL ANALYSIS**

Subject: Authority to Issue Citations – Collection of Additional Information

Relevant Provisions: Business and Professions Code section 7028.6

Summary:

This proposal would allow the Contractors State License Board (CSLB) to collect a Social Security number from an individual contracting without a license.

This authority would pertain primarily to individuals identified during an undercover sting operation.

Staff Comments:

This new authority would improve CSLB's ability to collect fines from unlicensed individuals. CSLB participates in the Franchise Tax Board's Intercept Collection Program to assist in the collection of fines from licensees. This program intercepts refunds (including unclaimed state property and lottery winnings) when individuals have delinquent debts to government agencies.

To seek recovery of a debt through the Intercept Collection Program, CSLB must submit a SSN, and with the authority to collect that information from unlicensed individuals CSLB could more likely collect unpaid fines through fuller participation in the program. One of the requirements to participate in the Intercept Collection Program involves at least a 30-day notification to an individual with an unpaid debt to give that person time to dispute or settle the debt.

This proposal could improve the collection rate for citations against unlicensed contractors and, potentially, act as a greater deterrent to engaging in unlicensed activity.

Date: October 20, 2014

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Authority to Issue Citations – Collection of Additional Information

PROBLEM/SUMMARY:

Under existing law, the Contractors State License Board (CSLB) can collect Social Security numbers (SSN) from licensees, but does not have the authority to collect Social Security numbers from individuals who contract without a license.

As a result of enforcement activity, particularly undercover sting operations, CSLB issues citations, often with a fine, to unlicensed individuals. However, since these individuals are not licensed, CSLB has limited ability to enforce the citation and fine. Consequently, the compliance rate for non-licensees is significantly lower than that for licensees. In 2013, CSLB issued 1,139 citations to licensees, and 662 complied. During that same year, CSLB issued 822 citations to non-licensees, and 363 complied.

PROPOSED CHANGE (Include the Related Sections of Law):

This proposal would provide CSLB the authority to collect SSNs from non-licensees for the purpose of pursuing payment of a fine.

PROPOSED LANGUAGE:

Amend Business and Professions Code section 7028.6 as follows:

- (a) The Registrar of Contractors is hereby empowered to issue citations containing orders of abatement and civil penalties against persons acting in the capacity of or engaging in the business of a contractor within this state without having a license in good standing to so act or engage.
- (b) Upon request, the person cited shall provide his or her social security number to the registrar, who shall collect and record it. The social security number shall be used only for the purposes of ensuring payment of a civil penalty assessed and compliance with any order of abatement associated with a citation issued pursuant to this section. The registrar shall take those actions reasonably necessary to prevent the inadvertent or willful disclosure of a social security number.
- (c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

AGENDA ITEM D-3

Amendment to Business and Professions Code section 7059 – Public Works Contracts



CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL ANALYSIS

Subject: Public Works Contracts

Relevant Provisions: Business and Professions (B&P) Code section 7059

Summary: This proposal specifies that for public works contracts, a contractor who performs work out of class is subject to disciplinary action by the Contractors State License Board (CSLB).

Staff Comments:

Under existing law related to public works contracts, the awarding authority is responsible for determining the license classification necessary to bid on and execute the project. The law does prohibit awarding a prime contract to a specialty contractor whose classification constitutes less than a majority of work on the project.

“Public works contract,” as used in this part, means an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

Because existing law grants the awarding agency, not CSLB, responsibility for determining which licensed contractor is suitable to perform construction-related work on public works projects, CSLB cannot take disciplinary action against contractors working outside of their classification on public works projects.

Existing law does not require that, when determining which license classification is necessary to bid and perform work on a public works project, awarding agencies do so according to the laws and regulations related to license classifications.

CSLB’s Licensing division has provided awarding agencies classification determinations for public works projects to ensure that they advertise appropriately and CSLB continues to provide training for contract staff at other state and local agencies.

CSLB’s Enforcement division provided some examples of cases where the Attorney General’s Office (AG) advised CSLB that a citation alleging a violation of Business and Professions Code section 7117.6 (acting as a contractor in an unauthorized classification) cannot be sustained:

1. The awarding agency’s contract stated that either a General “A” or a C-16 (Fire Protection) licensee could bid on the project. A General Engineering contractor that did not have the necessary C-16 Fire Protection classification won the bid. CSLB issued a citation but later withdrew it per the AG that the awarding agency, pursuant to B&P Code section 7059, determined that an “A” contractor could perform the fire protection work.

2. A school district solicited a bid for a contract to install ADA pedestrian ramps in a K-8 school. CSLB's classification deputy reviewed the agency's advertisement and recommended an "A" General Engineering contractor to perform the scope of work. The awarding agency ignored the recommendation and advertised for and awarded the contract to a "B" General Building contractor. The contractor had difficulty performing the required work, resulting in a financial injury to the agency. An accusation was filed and the licensee has stipulated to a revocation of the license.

While CSLB was able to take action against this licensee under current law, it illustrates the potential harm awarding agencies face when they hire contractors operating outside of their classification. The awarding agency disregarded CSLB's recommendation and suffered a significant financial loss because of poor workmanship by the unqualified contractor. In this case, the contractor stipulated to revocation because of the large financial injury involved and other violations.

3. A contractor was awarded a bid to perform work at the John Wayne Airport. CSLB determined that the contractor was working out of class for the scope of work and issued a citation; the contractor appealed. Due to the way the project was advertised and because the awarding agency, per B&P Code section 7059 (b), can determine the required license classification, CSLB agreed to withdraw the citation provided the contractor obtained the appropriate classification.

Date: October 20, 2014

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Public Works Contracts

PROBLEM/SUMMARY:

As written, Business and Professions (B&P) Code section 7059(b) states that the awarding authority “shall” determine which license classification is fit to bid and erect, construct, alter, repair, or improve any public structure, building, road, or other public improvement of any kind needed for a public works project. This rule poses a problem because the word “shall” grants authority to the awarding agency, not the Contractors State License Board (CSLB) to determine which licensed contractor is suitably qualified to perform construction-related work on public works projects.

Pursuant to B&P Code, Chapter 9, Articles 1 through 9, known as the *Contractors’ State License Law*, CSLB licenses and regulates all forms of construction activity in the State of California, which includes that conducted on public works projects. Several references in the Contractors’ State License Law state that CSLB is the authority that determines which license classification is appropriate to perform construction work, among them B&P Code sections 7055 through 7059.1 of Article 4, “*Classifications*,” B&P Code section 7065, “*Investigation, classifications, and examinations*,” and B&P Code section 7059(a), “*Rules and regulations affecting classifications of contractors*.”

As composed, B&P Code section 7059(b) does not ensure that when awarding agencies determine the necessary license classification to bid and perform work on a public works project they do so according to the laws and regulations related to license classifications. Consequently, when CSLB receives a public works-related complaint that a contractor is performing work outside his or her trade, CSLB cannot enforce B&P Code section 7117.6, “*Acting as contractor in unauthorized classifications*.” Legal counsel from the California Attorney General’s Office has advised CSLB that, as currently written, the provisions of B&P Code section 7059(b) are unenforceable.

PROPOSED CHANGE (Include the Related Sections of Law):

The Contractors State License Board requests modification of B&P Code section 7059(b), “*Public Works Contracts*,” to specify that contractors working on public works projects can be disciplined for working outside of their classification.

PROPOSED LANGUAGE:

Modify B&P Code section 7059(b) to add the following language:

(b) In public works contracts, as defined in Section 1101 of the Public Contract Code, the awarding authority shall determine the license classification necessary to bid and perform the project. In no case shall the awarding authority award a prime contract to a specialty contractor whose classification constitutes less than a majority of the project. When a specialty contractor is authorized to bid a project, all work to be performed outside of his or her license specialty, except work authorized by subdivision (a), shall be performed by a licensed

subcontractor in compliance with the Subletting and Subcontracting Fair Practices Act (Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code). *Any contractor acting in the capacity of a contractor in a classification other than that currently held by the licensee constitutes a cause for disciplinary action.*

AGENDA ITEM D-4

Amendment to Business and Professions Code section 7083 – Notification by Licensees of Change in Recorded Information



**CONTRACTORS STATE LICENSE BOARD
LEGISLATIVE PROPOSAL ANALYSIS**

Subject: Notification by Licensees of Changes in Recorded Information

Relevant Provisions: Business and Professions (B&P) Code sections 136 and 7083

Summary:

B&P Code section 136 is a general provision that applies to all Department of Consumer Affairs boards. It requires each licensee to notify the board of an address change within 30 days, unless the board, by regulation, specifies a shorter time.

B&P Code section 7083, in the Contractors' State License Law (CSLL), requires a licensee to notify the Registrar of an address change within 90 days.

Staff Comments:

As these two sections establish different time periods for reporting, one of the provisions should be amended to eliminate any potential confusion.

Staff recommends amending the section within the CSLL, rather than the provision that applies to all DCA boards.

Suggested amendment:

B&P Code section 7083.

Notwithstanding any other provision of law, All licensees shall notify the registrar, on a form prescribed by the registrar, in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in business address, personnel, business name, qualifying individual bond exemption pursuant to Section 7071.9, or exemption to qualify multiple licenses pursuant to Section 7068.1.

Failure of the licensee to notify the registrar of any change to information within 90 days shall cause the change to be effective the date the written notification is received at the board's headquarters office.

Failure to notify the registrar of the changes within the 90 days is grounds for disciplinary action.

Date: October 15, 2014

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Notification by Licensees of Changes in Recorded Information

PROBLEM/SUMMARY:

Business and Professions Code (B&P) sections 136 and 7083 conflict as to the required timeframe for a licensee to report an address change. The Sections currently read as follows:

B&P Code section 136.

(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in his or her mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a licentiate to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

(Added by Stats. 1994, Ch. 26, Sec. 7. Effective March 30, 1994.)

B&P Code section 7083.

All licensees shall notify the registrar, on a form prescribed by the registrar, in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in business address, personnel, business name, qualifying individual bond exemption pursuant to Section 7071.9, or exemption to qualify multiple licenses pursuant to Section 7068.1.

Failure of the licensee to notify the registrar of any change to information within 90 days shall cause the change to be effective the date the written notification is received at the board's headquarters office.

Failure to notify the registrar of the changes within the 90 days is grounds for disciplinary action.

Last modified: March 17, 2014

PROPOSED CHANGE (Include the Related Sections of Law):

B&P Code section 136.

(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in his or her mailing address within 30 days after the change, unless the board has specified by regulations a ~~shorter~~ different time period.

PROPOSED LANGUAGE:

Staff Alternative:

B&P 7083.

Notwithstanding any other provision of law, All licensees shall notify the registrar, on a form prescribed by the registrar, in writing within 90 days of any change to information recorded under this chapter. This notification requirement shall include, but not be limited to, changes in business address, personnel, business name, qualifying individual bond exemption pursuant to Section 7071.9, or exemption to qualify multiple licenses pursuant to Section 7068.1.

Failure of the licensee to notify the registrar of any change to information within 90 days shall cause the change to be effective the date the written notification is received at the board's headquarters office.

Failure to notify the registrar of the changes within the 90 days is grounds for disciplinary action.

AGENDA ITEM D-5

Amendment to add Business and Professions Code section 7013.5 – Effect of Disciplinary Action by Another State Agency



AGENDA ITEM D-6

Amendment to Business and Professions Code section 7137 – Fee Schedule



**CONTRACTORS STATE LICENSE BOARD
LEGISLATIVE PROPOSAL ANALYSIS**

Subject: Fees -- Officer/ Personnel Change Fee; Additional Classification and Replacing the Qualifier Application Fee; Application Priority Processing Fee

Relevant Provisions: Business and Professions Code section 7137

Summary:

Existing law establishes fees for applications, examinations, and related activities.

This proposal would establish a fee to process officer/personnel changes, raise the fee for additional classifications and replacing the qualifier, and establish a fee for processing priority applications.

Staff Comments:

CSLB's Licensing division has identified new workload related to processing applications for personnel changes as well as the increased number of applications to add a classification and to replace a qualifier. In addition, while a process exists for applicants to request expedited application processing, there is no charge to do so. The division is currently reviewing workload and staff time dedicated to this work to determine the appropriate fees for each of these activities; this proposal will then be updated accordingly.

Date: October 16, 2014

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: (1) Officer/ Personnel Change Fee; (2) Additional Classification and Replacing the Qualifier Application Fee; (3) Application Priority Processing Fee

PROBLEM/SUMMARY:

1. Officer/Personnel Change Fee

Contractor licenses are issued to sole owners, partnerships, corporations, limited liability companies (LLC), and joint ventures. Of these business types, partnerships, corporations, and LLCs can change the officers/personnel on their license. When licensees change their personnel, they are required by law, pursuant to Business and Professions Code (B&P) section 7083, to notify CSLB.

In the past, processing applications for changes in personnel was relatively simple and involved verifying that the application was complete and that the new personnel were eligible for licensure. However, in recent years, processing these applications has become significantly more complex.

Since CSLB began fingerprinting applicants for licensure in 2005, processing applications for personnel changes includes fingerprinting and criminal background reviews. This additional licensing requirement adds significant staff time to review and analyze conviction documentation and can lead to the denial of a personnel change application because of a criminal conviction.

In addition, CSLB began licensing LLCs in 2012, which are subject to bond, insurance, and personnel provisions that do not apply to other business entities. When processing a personnel change application for an LLC, the technician must ensure that these other requirements, which can change based on the number of personnel on the license, still are adequately met.

CSLB does not currently charge a fee to process applications to change personnel on a license, nor does it have the legal authority to do so. CSLB cannot continue this work without charging a fee due to the additional staff resources involved in processing applications for personnel changes. , Based on a workload analysis of the time it takes to process such an application, an appropriate application fee would be no more than XX dollars (\$XX).

2. Additional Classification and Replacing the Qualifier Application Fee

Existing licensees can apply to add additional classifications to their license or to replace the qualifying individual on their license.

The processing time for an application to add a classification is comparable to that of an application for an original license: verification of the qualifying individual's experience in the particular classification, and he or she must pass the trade examination for that classification. In addition, any related business name changes must be reviewed and

deemed acceptable. An original license application carries a \$300 processing fee; however, an additional classification application is currently only \$75.

Similarly, the applications to replace the qualifier and to receive an original license involve comparable processing complexity, but vastly different fees. Again, the original license application fee is \$300, but the application fee to replace the qualifier is just \$75.

Since CSLB began fingerprinting applicants for licensure in 2005, processing applications to replace the qualifier includes fingerprinting and criminal background reviews. This additional licensing requirement adds significant staff time to review and analyze conviction documentation and can lead to the denial of a personnel change application because of a criminal conviction.

In addition, CSLB began licensing LLCs in 2012, which are subject to bond, insurance, and personnel provisions that do not apply to other business entities. When processing an application to replace the qualifier for an LLC, the technician must ensure that these other requirements, which can change based on the personnel on the license, are still adequately met.

Due to the complexity and additional staff time involved in processing these applications, the \$75 fee is no longer sufficient. Based on a workload analysis of the time it takes to process such applications, an appropriate application fee for both would be no more than **XX** dollars (\$**XX**).

3. Application Priority Processing Fee

CSLB currently accepts requests to expedite processing applications for licensure. When these requests are approved, usually to support significant job creation, the applications move to the front of the line for initial review and processing. These applicants, like all others, must fulfill relevant licensure requirements, including testing and criminal background review.

Expedited applications receive priority over others and the processing technicians focus their time on processing them thoroughly and promptly.

In 2014, to date, CSLB has received approximately 500 requests to expedite an application, of which **XXX** (**XX**%) have been approved. Between the staff that review and act on the original requests and the technicians that devote significant portions of their workday to processing these applications, CSLB has determined that **XX** PYs are needed for the sole purpose of processing expedited documentation.

Currently, CSLB charges no fee to review requests for expedited service or for processing these applications. Under this proposal, requests for priority processing of applications would not be subject to review for cause but, instead, approved upon submission of a completed request and payment of an adequate fee. Given the workload involved, CSLB has determined that an appropriate cost for priority processing would be no more than **XX** dollars (\$**XX**).

Under certain circumstances, such as a declared emergency or for military personnel, CSLB may need to approve expedited processing of applications based on other

provisions of law for specific purposes. Such cases would be exempt from these new provisions and related fees.

PROPOSED CHANGE (Include the Related Sections of Law):

Amend B&P Code section 7137 as follows:

The board shall set fees by regulation. These fees shall not exceed the following schedule:

(a) The application fee for an original license in a single classification shall not be more than three hundred dollars (\$300).

The application fee for each additional classification applied for in connection with an original license shall not be more than seventy-five dollars (\$75).

The application fee for each additional classification pursuant to Section 7059 shall not be more than ~~seventy-five dollars (\$75)~~ XX dollars (\$XX).

The application fee to replace a responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee pursuant to Section 7068.2 shall not be more than ~~seventy-five dollars (\$75)~~ XX dollars (\$XX).

The application fee to add personnel, other than a qualifying individual, to an existing license shall not be more than ~~XX dollars (\$XX)~~.

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than sixty dollars (\$60).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than sixty dollars (\$60).

(d) The initial license fee for an active or inactive license shall not be more than one hundred eighty dollars (\$180).

(e) The renewal fee for an active license shall not be more than three hundred sixty dollars (\$360).

The renewal fee for an inactive license shall not be more than one hundred eighty dollars (\$180).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall not be more than seventy-five dollars (\$75).

(h) The renewal fee for a home improvement salesperson registration shall not be more than seventy-five dollars (\$75).

(i) The application fee for an asbestos certification examination shall not be more than seventy-five dollars (\$75).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall not be more than seventy-five dollars (\$75).

(k) In addition to any other fees charged to C-10 and C-7 contractors, the board may charge a fee not to exceed twenty dollars (\$20), which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

(l) The application fee for priority processing of applications for licensure shall not be more than XX dollars (\$XX). Approved expedited processing of applications for licensure, as required by other provisions of law, shall not be subject to this paragraph.

(Amended by Stats. 2010, Ch. 698, Sec. 36. Effective January 1, 2011.)

AGENDA ITEM E

Adjournment

