



to the media, consumer organizations, hospitals, and coroners' offices to empower consumers with the information they need to protect themselves at their most vulnerable times; the Consumer Information Center has transferred the existing telephone lines from the Board's former offices, expanded the number of incoming lines, and is providing initial consumer intake and information assistance; the Mediation Division is screening all incoming consumer complaints and mediating or handling those complaints that do not require formal investigation; and the Enforcement Division and Division of Investigation are investigating the backlog of consumer complaints, and developing a strategy for aggressive enforcement in the areas of consumer vulnerability, specifically economic loss from misuse of ECTFs. Additionally, DCA's Office of Examination Resources has scored the three previous exams administered by the Board and has begun the task of developing new and valid exams to administer; for this reason, no exams are presently being administered and applications for new personal licenses are on hold.

While DCA has acted quickly to resolve many of the short-term problems it inherited from the Cemetery Board, it has also been researching alternatives for the best regulatory structure of the death services industry for the long term. It has contacted 44 states and is currently considering various alternative structures. Absent a legislative extension, DCA's authority to perform the functions of the Board expires on July 1, 1996, or upon the enactment of AB 597 or another merger bill.

License Fees Raised to Statutory Maximums. On June 15, the Office of Administrative Law approved the Board's regulatory changes to sections 2310-24 (nonconsecutive), Title 16 of the CCR; these changes, approved by the Board in May 1994, increase virtually all of the fees it charges to the statutory maximums established in Business and Professions Code sections 9750-70. [15:2&3 CRLR 48; 14:4 CRLR 48] The new fees took effect on July 15.

LEGISLATION

AB 910 (Speier), as amended July 29, is an urgency bill providing that if the Cemetery Board and BFDE are not consolidated or otherwise restructured by January 1, 1996, DCA will succeed to and be vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the boards; further, the bill authorizes the Controller to transfer the necessary amount of funds from the 1995-96 Budget Act, originally allocated to the merged board, to DCA for expenditure in accordance with the proper performance of its assumed duties. This bill was signed by the Governor on August 3 (Chap-

ter 381, Statutes of 1995), and expires on July 1, 1996 or upon the creation of a merged board.

AB 597 (Speier), as amended September 1, would abolish the Cemetery Board and BFDE, create the Board of Funeral and Cemetery Services (BFCS), and transfer all power, authorities, and funds previously vested with the Cemetery Board and BFDE to BFCS. [15:2&3 CRLR 48] As the bill was approaching its third reading in the Senate on its way to passage, Assemblymember Speier withdrew it and made it a two-year bill; Speier was concerned that, due to the explosion of newly discovered cemetery problems around the state (see MAJOR PROJECTS), even a merged board would not have the resources to adequately investigate and prosecute violations. With the passage of AB 910, DCA—with its greater resources—would assume the responsibilities of the Board and give policymakers an opportunity to further research the best structure for death services industry regulation in California. [S. Inactive File]

LITIGATION

On June 15, the Attorney General's Office issued *Attorney General's Opinion 95-109*, in response to a request by the county counsel for Placer County whether a public cemetery district may use the income from its endowment care trust fund to maintain the roads located within the boundaries of the cemetery. The AG responded in the affirmative. Citing sections 8729 and 8736 of the Health and Safety Code, the AG noted that the income from an ECTF is to be used for the "care, maintenance, and embellishment" of cemeteries, in order to prevent them "from becoming unkept and places of reproach and desolation in the communities in which they are situated." Maintaining the roads within a cemetery provides safe access to burial plots, which permits groundskeepers to care for them and the public to visit them. Therefore, so long as costs do not exceed income, the AG opined that maintaining the roads within a cemetery is a proper use of ECTF interest.

FUTURE MEETINGS

To be announced.

CONTRACTORS STATE LICENSE BOARD

Registrar: Gail W. Jesswein

(916) 255-3900

Toll-Free Information Number:

1-800-321-2752

The Contractors State License Board (CSLB) licenses contractors to work

in California, handles consumer complaints, and enforces existing laws pertaining to contractors. The Board is authorized pursuant to the Contractors State License Law (CSLL), Business and Professions Code section 7000 *et seq.*; CSLB's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR).

The thirteen-member Board—consisting of seven public members, two B-general building contractors, two C-specialty contractors, one A-general engineering contractor, and one member from a labor organization representing building trades—generally meets four times per year. The Board currently has five committees: administration/public information, enforcement, licensing, legislation, and executive.

On July 17, Governor Wilson reappointed Sharon Kowitz and Nina Tate to CSLB for second terms expiring June 1, 1999. Kowitz, who owns Kennison, Inc., a mechanical and electrical contracting firm in Huntington Beach, has been a Board member since 1993; Tate is president of Nationwide Construction Co., and has served on the Board since 1992. Governor Wilson also appointed new public member Minerva Lopez-Baffo to a four-year term on CSLB; Lopez-Baffo is a corporate manager from Los Angeles.

MAJOR PROJECTS

Development of Sunset Review Report. SB 2036 (McCorquodale) (Chapter 908, Statutes of 1994) establishes a Joint Legislative Sunset Review Committee (JLSRC) to conduct a comprehensive review of the need for and performance of all occupational licensing boards within the Department of Consumer Affairs (DCA), including CSLB. The bill established a "sunset" date for each board, on which it will cease to exist unless the legislature reviews the board and enacts a bill extending that date; CSLB's sunset date is July 1, 1998. [14:4 CRLR 20, 49] SB 2036 requires each board to prepare an analysis and submit a report to the JLSRC no later than one year plus 90 days prior to the January 1st of the year during which the inoperative date for the board occurs. This bill also requires the JLSRC to hold public hearings during the interim recess preceding the date the board becomes inoperative to receive testimony from the board, the public, and the regulated industry. Most importantly, the bill requires the JLSRC to evaluate and determine whether each board has demonstrated a public need for its continued existence in accordance with enumerated factors and standards. In other words, the Committee will deter-



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mine whether continued regulation by the board is necessary to protect the public health, safety, and welfare.

Thus, CSLB must submit a comprehensive sunset review report to the JLSRC by October 1, 1996, and is subject to a public hearing later in the fall of 1996. To assist it in completing its sunset review report, the Board has hired Dorothy Place of the California State University system's Real Estate and Land Use Institute to assist CSLB staff in its preparation. Staff will provide CSLB with periodic progress reports on the development of the sunset review report, and will submit the initial draft report for the Board's review by July 24. Although legislation to continue the Board's existence is not required until the 1997-98 session, CSLB is currently attempting to find a legislator who is willing to author the necessary legislation.

Defining "Structural Defect." AB 3302 (Speier) (Chapter 1135, Statutes of 1994) amended Business and Professions Code section 7091 to extend the statute of limitations for the filing of a complaint against a CSLB licensee for a latent structural defect to ten years; the bill also required CSLB to define the term "structural defect" in regulation by December 31, 1995. [15:2&3 CRLR 52; 14:4 CRLR 49-50]

On June 2, CSLB published notice of its intent to adopt new section 861.5, Title 16 of the CCR, to define the term "structural defect" as a failure in the load-bearing portions of a structure, which is not constructed in compliance with the codes in effect at the time for the location of the construction, and results in the uninhabitability and unuseability of the structure, provided that such failure is due to the primary fault of the contractor who constructed the load-bearing portions of the structure and is independent of and not attributable, in whole or in part, to a flaw, error, or omission in the drawings, building materials, testing procedures, or other responsibilities associated with the design.

On July 19, CSLB held a public hearing in Irvine on the proposed new language. The California Public Interest Research Group (CalPIRG) submitted a letter in opposition to the proposed language; according to CalPIRG, CSLB's narrow definition of the term "structural defect" to include only those situations that result in the uninhabitability and unuseability of the structure would greatly limit a consumer's ability to seek repair and redress when structural problems arise that are serious in nature, but do not rise to the level of uninhabitability. Some in attendance at the hearing opined that CalPIRG may be confusing the terms "structural

defect" and "construction defect," and argued that structural defects are more limited in scope than construction defects.

At its October 26 meeting, CSLB modified the proposed definition to provide that a structural defect is a failure in the load-bearing portions of a structure which is not constructed in compliance with the codes in effect at the time for the location of the construction, provided such failure results in the uninhabitability or unuseability of the affected portion of the structure as determined by an inspection or analysis completed by two civil engineers registered in California. CSLB directed staff to release the modified text for an additional 15-day public comment period. At this writing, the proposal awaits review and approval by the Office of Administrative Law.

Contractor Education. Currently, there are no educational requirements for the issuance or renewal of a contractor's license. To determine whether education should be a requirement for a contractor's license, CSLB's Licensing Committee established the Contractor Education Task Force, which has been attempting to determine whether CSLB should develop educational requirements (either pre- or post-licensure), whether they should be voluntary or mandatory, and how they would be implemented. In performing its review, the Task Force has acknowledged that any such proposals must enhance consumer protection without hindering the construction industry with "unnecessary" government regulation.

To date, the Task Force has evaluated contractor education requirements from other states and held several hearings on the issue in order to receive comments from the industry and the public; over fifty individuals and businesses offered testimony in the form of written or oral comments.

Those opposing educational requirements noted that continuing education courses are already available and used by contractors who wish to better educate themselves, and that the addition of CSLB educational requirements would not help alleviate the serious unlicensed contractor problem in this state. Those favoring required contractor education contend that it is necessary for staying current with the continual changes occurring in the industry; it is necessary to realize specific trade overlaps with other trades; and it will benefit the consumer by helping the contractor to develop the skills needed to improve the quality of work. Aside from the general arguments favoring education, the Seismic Safety Commission recently opined that continuing education for contractors is crit-

ical for minimizing earthquake damage in this state; the Commission stated that if contractors paid more attention to seismically-critical details in construction, which can only be obtained through some sort of continuing education program, there would be a significant reduction in all factors relating to earthquake damage.

On September 15, the Task Force presented its final findings and recommendations to the Licensing Committee; based on the written and oral testimony provided, the Task Force recommended that no education requirements be implemented at this time. Although acknowledging that education is beneficial to contractors in general, the Task Force did not find that implementing specific educational requirements would be beneficial to either consumers or contractors at this time. However, as a means to help educate contractors to the ever-changing requirements of the construction industry, the Task Force recommended that CSLB expand its quarterly newsletter to include more educational articles and a "legislative alert" section; produce a summary of legislation during the previous year that affects contractors; compile all the CSLB videos and develop a video library in each district office for use by industry to educate contractors; have the Enforcement Committee look into the possibility of requiring or allowing continuing education as proof of rehabilitation by a contractor who has been disciplined and is applying for reinstatement of his/her license; and ensure that the experience claimed by licensure applicants is verified on 100% of the applications for original licenses. [14:4 CRLR 52-53; 14:2&3 CRLR 52] The Licensing Committee approved these recommendations, and submitted them to CSLB at its October 26 meeting; following discussion, the Board adopted the recommendations.

Classification and Regulation Task Force Recommendations. CSLB's Classification and Regulation Task Force was created by the Board's Licensing Committee to research the possible establishment of a separate license classification for home improvement contractors and the potential impact of such an action on B-general building contractor regulations. In carrying out this directive, the Task Force solicited public comments at three fact-finding hearings, and received public comments until May 1.

At CSLB's July 20 meeting, the Task Force presented its summary of findings, which consisted of the following four recommendations: CSLB should (1) study a new certification for home improvement work; (2) seek legislation to raise the dollar limit of the home solicitation contract



provision in Civil Code section 1689.5 to \$1,500, specifying that it only applies to a contractor who is duly licensed and responding to a customer call, and to raise the dollar limit of the home improvement contract form in Business and Professions Code section 7159 to \$2,500; (3) direct staff to prepare an issue paper on framing experience, to clarify whether a contractor with only framing or only carpentry experience would qualify for a "B" license once the new C-5 carpentry classification is implemented; and (4) direct staff to develop a pamphlet which explains, in detail, what contractors must provide to homeowners in home improvement notices and contract documents for the purpose of consumer and contractor education. Following discussion, CSLB accepted the Task Force's recommendations.

Regarding (3) above, staff presented the issue paper on framing experience to the Licensing Committee at its September meeting. Staff concluded that, under existing section 834(b), Title 16 of the CCR, a C-5 carpentry contractor (once that licensure category becomes available) with only framing or only carpentry experience would qualify for a B-general building contractor license. Staff noted that the Committee and the Board have two options: (1) make no changes to the "B" classification, thus permitting an applicant with only framing or only carpentry experience to take the exam for either the C-5 carpentry or B-general building contractor classification; or (2) amend section 834(b). On September 15, the Licensing Committee voted to recommend option (1) above, with the understanding that it is the intent of the Board to eventually amend section 834(b) as recommended in option (2) above, once the *Home Depot* case is resolved (see LITIGATION).

LEGISLATION

SB 432 (Hughes). Existing law provides that a home improvement contract must contain specified information, including information regarding the contractor, work to be done, payment provisions, and disclosure regarding a mechanics' lien. As amended May 11, this bill would have provided that failure to include this information in the home improvement contract renders unenforceable any security interest in real property taken by a contractor for the performance of home improvement services. On July 31, Governor Wilson vetoed SB 432; in so doing, he opined that the measure is "overly broad" and could result in an "egregious situation" where a contractor could be unpaid for work due to a "minor technical omission" in the contract. Wilson added that "[w]hile it is

unfortunate that there are some unscrupulous contractors, this measure would seem only to create more confusion and inequity in the process."

AB 717 (Ducheny). Existing law provides for the establishment and enforcement of state building standards; these provisions include oversight of matters relating to these standards by state and local entities, including cities, counties, and the State Building Standards Commission. As amended August 22, this bill establishes specific certification, training, and continuing education requirements for construction inspectors, plans examiners, and building officials who are employed by a local agency in a temporary or permanent capacity. The bill exempts from its training and certification requirements any person currently and continuously employed by a local agency as a construction inspector, plans examiner, or building official for not less than two years prior to the effective date of the bill, until that person obtains new employment. The bill provides that it is not intended to prohibit any local agency from prescribing additional criteria for the certification of construction inspectors, plans examiners, or building officials, and sets forth other powers and duties of the local agency, including the power of the local agency to impose fees to cover the cost of compliance with the bill's provisions. It further provides that its provisions shall not be construed to alter licensure requirements, or the jurisdiction, authority, or scope of practice of architects, professional engineers, or land surveyors.

The bill exempts registered professional engineers, licensed land surveyors, and licensed architects who contract with a local agency from the requirements of the bill, but continues to make the requirements of the bill applicable to professional engineers, licensed land surveyors, and licensed architects employed by a local agency. The bill also exempts construction inspectors or plans examiners employed by any city or county fire department or district providing fire protection services from the requirements of the bill.

This bill also sets forth examples of actual costs that a local agency could incur in compliance with the bill, and provides that fees to cover the costs of compliance shall reflect these actual costs. This bill was signed by the Governor on October 4 (Chapter 623, Statutes of 1995).

SB 112 (Hurtt), as amended May 9, would provide that records of a citation, civil penalty, or other form of discipline against a person licensed under the CSLL are not subject to disclosure if the person has had no citations, civil penalties, or

other form of discipline for the previous five years, if the person held a current, active license during the entire five-year period. [A. Floor]

AB 560 (Morrissey). Existing law authorizes certain entities regulated by the Public Utilities Commission to perform and conduct certain work which would otherwise require licensure under the CSLL (see LITIGATION). As amended May 2, this bill would authorize the performance of additional work by a gas, heat, or electric corporation otherwise requiring a contractor's license, if (1) the entity is properly licensed, (2) the work is related to energy equipment, appliances, and associated distribution systems, and (3) the ratepayers do not bear any cost. A gas utility would be required to contract with licensed independent trade members for a significant proportion of services performed. [A. CPGE&ED]

AB 1567 (Thompson). Under existing law, as a condition to the issuance, reinstatement, reactivation, or renewal of a license, CSLB must require the licensee to maintain a contractor's bond. Existing law also requires a contractor that has previously been found to have failed to pay an unsatisfied final judgment to file a judgment bond to guarantee payment of the final judgment. As introduced February 24, this bill would revise and recast these provisions.

Existing law provides for the cancellation of an individual contractor's license upon the death of the licensee, but provides that an immediate family member is entitled to continue the business for a temporary period upon request. Existing law contains other provisions governing the effect of the death of a licensee. This bill would revise and recast those provisions. Among other things, it would permit an immediate family member to request authority to continue the business for a reasonable time.

Existing law provides for the suspension of a contractor's license if a licensee fails to comply with an arbitration award or failure to pay a civil penalty, but permits reinstatement within one year of the suspension. This bill would authorize reinstatement within 180 days of the date of suspension. [A. CPGE&ED]

AB 1377 (Thompson). The CSLL exempts from its application public utilities operating under regulation of the State Railroad Commission on construction, maintenance, and development work incidental to their own businesses. As introduced February 24, this bill would delete the obsolete reference to the State Railroad Commission and instead refer to the Public Utilities Commission. [A. CPGE&ED]



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AB 1915 (V. Brown), as introduced February 24, would require CSLB to develop criteria by which a person may be certified as having the necessary work experience and knowledge of the laws and regulations relating to public works to satisfactorily perform and complete a public works contract, as defined, and would prohibit a contractor from bidding on or performing a public works contract unless the licensee is certified by the Board. [A. CPGE&ED]

SB 1052 (Solis), as amended May 2, would provide that upon presenting appropriate credentials to a contractor, the Registrar of Contractors and his/her representative shall have free access to a place where a contractor conducts business during regular working hours, and at other reasonable times when necessary for the enforcement of the provisions of the CSLL to prohibit all forms of unlicensed activity; provide that the Registrar and his/her agents may obtain statistics, information, or physical materials in the possession of the contractor that are directly related to the investigation; authorize the Registrar to obtain an inspection warrant under specified circumstances; and provide that if the Registrar or his/her agent is conducting an investigation pursuant to an inspection warrant, statistics, information, or physical material relating to matters not specified in the warrant that are found in connection with the investigation may not be used in any action as evidence against that contractor unless that evidence was obtained through an independent source or inevitably would have been discovered without the inspection warrant. [A. CPGE&ED]

SB 258 (O'Connell). Existing law does not regulate persons who perform home inspections for a fee. As amended June 20, this bill would define terms related to paid home inspections, establish a standard of care for home inspectors, and prohibit certain inspections in which the inspector or the inspector's employer, as specified, has a financial interest. The bill would also provide that contractual provisions seeking to waive the statutory duty of care or limit the liability of a home inspector to the cost of the home inspection report are contrary to public policy and invalid. [A. CPGE&ED]

LITIGATION

On August 9, the Attorney General's (AG) Office issued *Opinion No. 94-905*, in which it determined that Amtrak and Pacific Bell (PacBell) are exempt from the licensing requirements of the CSLL when engaged in specified functions. In response to questions submitted by CSLB,

the AG opined that Amtrak is exempt when it performs track maintenance work to operate commuter trains for the North San Diego County Transit Development Board pursuant to contract, and PacBell is exempt when it installs and maintains telephone wires in and on the property of private and public entities where it does not have a proprietary (ownership, lease, or easement) right.

Pursuant to Business and Professions Code section 7042.5, Amtrak is exempt from the CSLL if the work in question is "incidental to [its] own business." Congress has defined Amtrak's business in 49 U.S.C. section 24305(a) to include the authority to "acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for, among other functions, intercity and commuter rail transport." Pursuant to 49 U.S.C. section 24309(a)(1), the term "facility" includes rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station, and repair tracks. The AG concluded that railroad maintenance work is not only "incidental" to Amtrak's business, it has been incorporated in Amtrak's business as defined by Congress; the AG also concluded that track maintenance comes within this definition. Accordingly, the contract work in question clearly comes within the scope of the section 7042.5 exemption. The AG also noted that CSLB is not precluded from awarding a contract to Amtrak under the terms of Business and Professions Code section 7028.15, which states that a public agency is not allowed to accept bids from a contractor without a license unless there is application of a "foregoing exception"; because Amtrak is exempt under section 7042.5, the AG determined that there is a "foregoing exception" for the purposes of section 7028.15.

Regarding PacBell, CSLB's concerns focused on the maintenance of telephone wires; PacBell is a telephone corporation engaged in providing voice and data communications transport through a series of connected wires known as networks. Interstate and foreign communications are regulated by the Federal Communications Commission (FCC), and charges, classifications, practices, services, and regulations with intrastate communications are regulated by the FCC. As a telephone corporation, PacBell is a public utility operating under regulation of the FCC.

The installation and maintenance of telephone wires in and on the property of private and public entities normally require a contractor's license. However, the

AG opined that PacBell is entitled to a section 7042.5 exemption as it is a public utility operating under the regulation of the FCC for any work that qualifies as construction, maintenance, and development work incidental to its business. To gain access to the PacBell communications network, the customer must be connected to the system; therefore, installation and maintenance is clearly "incidental" to its primary business—voice and data transport through an installed network base.

At this writing, CSLB's appeal of San Diego County Superior Court Judge J. Richard Haden's ruling in *Home Depot U.S.A. v. Contractors State License Board*, No. 666739 (July 18, 1994), is still pending before the Fourth District Court of Appeal (No. D021809). In its appeal, CSLB seeks reversal of Judge Haden's decision in favor of Home Depot, and his order requiring CSLB to invalidate two citations issued against Home Depot for its advertisement and performance of certain installation services. [15:2&3 CRLR 51; 14:4 CRLR 13-15; 13:2&3 CRLR 61] If upheld, Judge Haden's decision would require a comprehensive overhaul of CSLB's licensing classifications.

Home Depot began its "we install what we sell" installation program in San Diego County in April 1990; by November 1992, it had performed 50,000 installations and was making \$1.6 million per month in installations. According to the record, Home Depot—which is licensed as a B-general building contractor—enters into installation contracts but hires licensed specialty contractors to perform all installation work: Home Depot screens and qualifies the independent specialty contractors, investigates the installer's license to ensure it is current and proper, and pays the specialty contractors. The complaints which led to the two citations were filed by individuals who own or work for specialty contractor businesses which compete with Home Depot for installations.

Business and Professions Code section 7057 defines a general building contractor as "a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof." To implement section 7057, CSLB adopted section 834(b), Title 16 of the CCR, which provides that a licensee classified as a general building contractor shall not take a prime contract (excluding framing or



carpentry) unless it requires at least three unrelated building trades or crafts, or unless he/she holds the required specialty license(s); section 834(b) also states that a general building contractor shall not take a subcontract (excluding framing or carpentry) involving less than three unrelated trades or crafts unless he/she holds the required specialty license(s). CSLB cited Home Depot for its advertisement and performance of work in a single trade or craft without holding a specialty license, in violation of section 834(b).

In contesting the citations, Home Depot argued that nothing in section 7057 precludes a B-general building contractor from accepting a contract in which two or fewer unrelated trades are involved, and that regulatory section 834(b) is thus inconsistent with the statute. Judge Haden agreed, noting that section 7057 "does not describe the contract a general contractor may take. 834(b) has simply added a new and additional restriction on the general building contractor not intended or apparently contemplated by the legislature in B&P section 7057. This additional restriction is not a reasonable interpretation of the legislative mandate." Judge Haden also found that section 834(b) does not square with the public protection mandate of the Contractors State License Law. Because section 7057 permits a general building contractor to "do or superintend the whole or any part thereof," Judge Haden noted that Home Depot could lawfully build an entire house with its B-general building contractor license, and found that "[t]here is no legitimate argument that a general building contractor is unqualified to do any aspect of work in connection with building a support, structure or enclosure." In this regard, Judge Haden opined that section 834(b) "was not adopted to protect the public but rather to restrain competition. It provides a monopoly to special license holders."

In its appellate brief, CSLB argued that Business and Professions Code sections 7057, 7058(a) and (b), and 7059(a) establish three separate construction classifications—the general engineering contractor, the general building contractor, and the specialty contractor—and specifically permit the Board to adopt regulations (such as section 834) to classify contractors and to limit the field and scope of the operations of a licensed contractor to those in which he or she is classified and qualified to engage. The Board contended that "the clear and unambiguous language of [section 7057] requires that a general building contractor take only construction buildings which require two or more unrelated trades to perform." In response to Judge Haden's

finding that the phrase "more than two unrelated building trades" describes the structure involved in the general contractor's principal business, CSLB argued that section 7057 requires that the construction work itself involve the use of more than two unrelated trades; "[t]hus the *number* of trades involved in the construction work is the deciding factor in the determination of who is a general building contractor" (emphasis original). CSLB commented that Judge Haden's finding demonstrates his lack of appreciation for the classification scheme.

In its responsive brief, Home Depot argued—among other things—that section 834(b) is inconsistent with Business and Professions Code section 7057 and is therefore invalid; Home Depot contended that no state law restricts a general contractor to contracts involving three or more trades, and that in adopting section 834(b), CSLB "simply added a new and additional restriction." In support of its contentions, Home Depot referred to a 1939 Attorney General Opinion, No. NS2182, in which the AG's Office commented on CSLB's proposal to classify contractors into three groups—general engineering contractors, general building contractors, and eight to ten specialty contractor classifications. Among other things, the AG's Opinion stated that "the general plan of classification as outlined in your letter would limit general engineering contractors or general building contractors to engage in the field of specialty contracting only in connection with some particular job or project for which they have general contracts. We do not believe that general engineering contractors and general building contractors can be so limited by rule."

The Fourth District Court of Appeal heard oral argument on December 7; at this writing, the court is expected to issue its decision in this matter in January.

RECENT MEETINGS

At CSLB's July 20 meeting, David Jones, a consumer, commented that CSLB should do more to protect consumers from incompetent and unlicensed contractors, and submitted a document entitled *The Homeowner's New Bill of Rights* for the Board's review and consideration. The *Bill of Rights* proposes that CSLB establish a recovery fund to help compensate defrauded consumers; raise all surety bond limits to \$10,000; establish a "three strikes and you're out" rule requiring revocation of the license of a contractor who is involved in three major complaints which result in felony or misdemeanor convictions; eliminate the provisions of the California's Mechanics Lien law as it per-

tains to homeowners; establish a "We-Tip Hotline" for consumers to report unlicensed contractors; and establish stringent testing procedures and develop in-depth, substantive exam questions, especially in the area of seismic issues, that test an applicant's knowledge of the various situations which typical California contractors confront.

Also in July, CSLB elected officers for 1995-96. The Board selected David Lucchetti as its new chair and Nina Tate as vice-chair.

At its October 26 meeting, CSLB reviewed staff's report on the consumer satisfaction survey conducted on 1994 complaint closures. According to the report, consumer satisfaction in every area assessed has improved over the 1993 benchmark survey. The report also stated that CSLB-sponsored arbitration programs "continue to be a positive resolution for complainants."

Also at CSLB's October 26 meeting, Registrar Gail Jesswein reported that CSLB is the first state agency to respond to requests via electronic mail on the Internet; Internet users are able to electronically request license status information and receive a response from CSLB through the use of the electronic mail system. According to the Registrar, approximately 35 license status requests were received on the e-mail system during the first week of operation.

FUTURE MEETINGS

January 25 in Los Angeles.
April 24-25 in Sacramento.
July 24-25 in Oakland.

COURT REPORTERS BOARD OF CALIFORNIA

Executive Officer: Richard Black (916) 263-3660

The Court Reporters Board of California (CRB) is authorized pursuant to Business and Professions Code section 8000 *et seq.* The Board's regulations are found in Division 24, Title 16 of the California Code of Regulations (CCR).

CRB licenses and disciplines certified shorthand reporters (CSRs); recognizes court reporting schools; and administers the Transcript Reimbursement Fund, which provides shorthand reporting services to low-income litigants otherwise unable to afford such services.

The Board consists of five members—three public and two from the industry—who serve four-year terms. The two industry members must have been actively engaged as shorthand reporters in California