



tity of the person whose remains are to be interred, and his/her authority to order interment, and makes the person personally liable for all damage occasioned by the breach of that warranty. This bill makes this requirement also applicable to authorizations for cremation.

Existing law provides that no action shall lie against any cemetery authority relating to cremated remains left in its possession for five years, unless a written contract has been entered into or permanent interment has been made. This bill decreases that time period to one year.

This bill requires that a crematory maintain on its premises an accurate record of all cremations, including specified information. The bill requires that the information be maintained for at least ten years and be subject to inspection by the Cemetery Board. The bill authorizes the records to be kept by any method that can produce accurate reproduction of the original record. The bill further requires that a crematory maintain a system of identification of human remains throughout the process of cremation.

This bill requires that crematories knowingly cremate only human remains in specified containers, along with negligible amounts of chlorinated plastic pouches for disease control.

Under existing law, a crematory licensee is prohibited from conducting any cremations of human remains more than 72 hours after death unless the remains have been preserved by refrigeration or embalming. Existing law requires that cremated remains not removed for interment or burial at sea be disposed of within a reasonable time. This bill prohibits a crematory from accepting human remains unless certain requirements are met. This bill prohibits a crematory from holding human remains prior to cremation for more than 24 hours unless specified storage conditions are met. This bill requires that cremated remains not disposed of within one year be interred.

This bill requires crematory operators to provide a written list of prices for various charges related to cremation, and to include a specified statement identifying the Cemetery Board as a source of further information.

AB 598 also requires that each crematory licensee provide specified instruction to all crematory personnel, and maintain a written plan of instruction for employees, and a record to document that employees received training. This bill requires that on or after March 1, 1994, any crematory that fails to produce a written plan or record of training shall have 15 days to produce a plan or training record for inspection, and

shall have its license suspended for failure to produce that plan or training record. This bill was signed by the Governor on October 11 (Chapter 1232, Statutes of 1993).

**AB 654 (Speier).** The existing Private and Community Mausoleum and Columbarium Law sets different construction standards for mausoleums (buildings or structures used for the interment of uncremated human remains) and columbariums (buildings or structures used for the interment of cremated human remains. As amended April 12, this bill revises these standards to reference recent codes, deletes the distinction between community and private mausoleums and columbariums, revises certain procedures specifically related to mausoleums and columbariums (e.g., waterproofing, marble floor bases, crypt standards, skylight frames), and adds certain requirements (e.g., crypt vents, skylight materials). This bill was signed by the Governor on September 8 (Chapter 350, Statutes of 1993).

**SB 842 (Presley),** as amended July 14, permits the Cemetery Board to issue interim orders of suspension and other license restrictions against its licensees. This bill was signed by the Governor on October 5 (Chapter 840, Statutes of 1993).

**SB 155 (Boatwright).** Existing law prohibits a crematory licensee from conducting any cremations of human remains more than 72 hours after death unless the remains have been preserved by refrigeration or embalming; this bill would delete this requirement. Existing law also prohibits a crematory licensee from conducting cremations unless the licensee has a contractual relationship with a cemetery authority for final disposition of cremated remains that are not lawfully disposed of or claimed by persons entitled to custody of the remains within 90 days; this bill would provide that notwithstanding that provision, cremated remains may be disposed of by a funeral director, cemetery authority, or crematory, after one year, by burial at sea, after certain notification requirements are met.

Among other things, this bill would also require funeral directors and crematories to faithfully carry out the instructions of the person who is the authorizing agent for cremation of the body of a deceased person, and provide that a funeral director who faithfully carries out those instructions is not liable for acts of the crematory, and the crematory that faithfully carries out those instructions is not liable for acts of the funeral director. [S. B&P]

**AB 1392 (Speier),** as amended July 1, would—among other things—provide

that the Cemetery Board's executive officer is to be appointed by the Governor, subject to Senate confirmation, and that the Board's executive officer and employees are under the control of the Director of the Department of Consumer Affairs. [S. B&P]

**AB 1807 (Bronshvag),** as amended September 8, would require that the current address of the Cemetery Board and/or the Board of Funeral Directors and Embalmers, as appropriate, appear prominently on the first page of all contract for specified goods and services. [A. Inactive File]

## RECENT MEETINGS

At its July 23 meeting in San Diego, the Board announced its intention to demonstrate a "new proactive stance" after a year of criticism and controversy. Board President Brian Armour noted that with a new investigator in the field, a new set of regulations authorizing citations and fines, and the resignation of Executive Officer John Gill, the Board is ready to assume its role as a consumer protector. [13:2&3 CRLR 57-58]

Among other things, the Board approved the tentative adoption of a new policy and procedures manual and announced the initiation of eleven investigations of licensees, which included unannounced visits to crematories and cemeteries and the issuance of five notices of warning against cemetery industry businesses. The Board is also undertaking a revision of its consumer information pamphlet, and has pledged to respond to all consumer complaints within thirty days. Critics of the Board contended, however, that until the Board shows that it has removed itself from industry influence, it will remain ineffective as a regulator.

## FUTURE MEETINGS

To be announced.

## CONTRACTORS STATE LICENSE BOARD

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*Toll-Free Information Number:*  
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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 Pro-



essions 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 maintains six committees: Administration, Enforcement, Legislation, Licensing, Public Information, and Strategic Planning. Beginning in October 1992, separate committee meetings will not be held; instead, all issues will be discussed and decided by the full Board at regular Board meetings.

Governor Wilson recently made the following appointments to the Board: Paul C. Petersen (a former Board member) will again fill a general building contractor position; Sun G. Wong will serve as a public member; and Robert H. Alvarado will fill the labor organization membership position. The Board currently has a vacancy for a specialty contractor member to be appointed by the Governor.

## MAJOR PROJECTS

**Assembly Consumer Protection Committee To Investigate CSLB Activities.** On October 6, the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development is scheduled to conduct a hearing on how CSLB handles many of its most important functions, such as responding to consumer complaints, screening contractor license applications, and revoking licenses when warranted. According to Committee consultant Michael Miller, a preliminary inquiry revealed that the Board often refuses to investigate valid complaints if the contractors involved agree to arbitrate their disputes. The Committee also suspects that CSLB fails to log many of the complaints it receives, which results in artificially low complaint and backlog statistics. In addition to hearing from CSLB officials, the Committee plans to receive testimony from consumers who believe the Board mishandled their complaints or otherwise failed to protect the public.

**CSLB Proposes Changes to Civil Penalty Assessments.** On May 28, CSLB published notice of its intent to amend section 884, Title 16 of the CCR, which sets forth recommended minimum and maximum civil penalty assessments which may be included in licensee citations. Business and Professions Code section 7099 provides that the CSLB Registrar may issue a citation to a licensee or applicant for a

license who has committed acts or omissions that are grounds for denial, suspension, or revocation of a license; in addition to an order to correct the violation, each citation may assess a civil penalty. Business and Professions Code section 7099.2 requires CSLB to promulgate regulations to cover the assessment of those civil penalties; in addition to specific guidelines concerning the factors to be considered in determining the appropriateness of the penalties, section 7099.2 provides that in no event shall the civil penalty be assessed in an amount greater than \$2,000. In 1981, CSLB adopted section 884 to comply with section 7099.2's mandate.

According to CSLB, its proposed amendments to section 884 are necessary for the following reasons: section 7099.2 was amended effective January 1, 1993 to raise the maximum civil penalty assessment to \$15,000 for violations of Business and Professions Code sections 7114 or 7118; since the adoption of section 884, several additional causes for discipline have been added to the Contractors State License Law which are not reflected in section 884; consistent with the Board's focus on policing unlicensed activity and related underground economy violations, some penalty recommendations should be adjusted upwards; and numerous sections of the Contractors State License Law have been repealed, renumbered, or determined not to be grounds for the denial, suspension, or revocation of a license since the adoption of section 884. Accordingly, the Board proposes to amend section 884 to bring it into conformity with section 7099.2 as amended; modify existing penalty recommendations; delete obsolete sections; and incorporate new and renumbered statutes into the regulation.

CSLB conducted a public hearing on the proposed amendments on July 22; following discussion, the Board adopted the proposed changes, which await review and approval by the Office of Administrative Law (OAL).

**Rulemaking Update.** At its July 22 meeting, CSLB continued the public hearing on proposed revisions to section 832.36, Title 16 of the CCR, which specifies the tasks that may be undertaken by plumbing contractors; the proposed amendments would expand the section's coverage. CSLB originally conducted a public hearing on the proposed changes at its January 21 meeting; in response to numerous comments from industry representatives, many of whom opposed the proposed language on the basis that it would inappropriately broaden the scope of work of plumbers, CSLB agreed to study the proposal and continue the public

hearing at a later date. [13:2&3 CRLR 61; 13:1 CRLR 32]

At the July public hearing, staff presented CSLB with a modified version of section 832.36, which would provide that a plumbing contractor provides a means for a supply of safe water, ample in volume and of suitable temperature for the purpose intended and the proper disposal of fluid waste from the premises in all structures and fixed works. The classification would include—but not be limited to—the complete removal of waste from the premises or the construction and connection of onsite waste disposal systems; piping, storage tanks, and venting for a safe and adequate supply of gases and liquids for any purpose, including vacuum, compressed air and gases for medical, dental, commercial, and industrial uses; all gas appliances, flues, and gas connections for all systems, including suspended space heating units (but not including forced warm air units); water and gas piping from the property owner's side of the utility meter to the structure or fixed works; installation of any type of equipment to heat water or fluids to a temperature suitable for specified purposes, including the installation of solar equipment for such purposes; and the maintenance and replacement of all items described above and all health and safety devices such as—but not limited to—gas earthquake valves, gas control valves, backflow preventors, water conditioning equipment, and regulating valves.

Following discussion, CSLB adopted the modified amendments to section 832.36; on August 30, the Board released the modified language for an additional public comment period, which ended on September 20. At this writing, the proposed changes await review and approval by OAL.

At this writing, CSLB's proposed adoption of new section 832.05, which would create a new specialty contractor classification for carpentry, still awaits review and approval by OAL. [13:2&3 CRLR 61] CSLB's proposed adoption of section 832.28, which would create a new specialty license classification for Class C-28 lock and security equipment contractors, and proposed amendments to section 832.07, which would remove language authorizing low voltage system contractors (C-7) to install fire alarm systems, have been temporarily put on hold until the Board's new fee bill is implemented (*see* LEGISLATION). [13:2&3 CRLR 61-62]

**CSLB Reviews Arbitration Programs.** At CSLB's July 22-23 meeting, Deputy Registrar Cruz Reyna presented an overview of CSLB's arbitration programs—the Voluntary Arbitration Program (VARB)



and the Mandatory Arbitration Program (MARB). To qualify for VARB, the complaint must involve a financial injury of \$5,000 to \$25,000; an apparent violation of workmanship standards, abandonment, etc.; a contractor with a good record and a license in good standing; issues that are in the best interest of the public to resolve through arbitration instead of through a disciplinary action against the contractor; a contract that contains no previous agreement to arbitrate a dispute through another process; and a complainant and a contractor who voluntarily agree to resolve the dispute through arbitration. Although VARB has been funded continuously since 1988, Reyna noted that VARB has been underutilized, perhaps because the program does not pay for expert witnesses.

Reyna explained that MARB was started as a pilot project in 1989; the program was designed to resolve construction disputes involving financial injury of \$5,000 or less. To qualify for MARB, a complaint must meet the same criteria listed above for the VARB program except that the contract amount or demand for damages must be \$5,000 or less; the contractor's permission to resolve a complaint through MARB is not necessary once the complainant agrees; the complaint is closed if the complainant does not agree to resolve the complaint through MARB; and other minor technical differences.

Reyna admitted that if there is an arbitration clause in a contract, CSLB will not get involved in any disputes between consumers and contractors. This "hands-off" policy, and the fact that a consumer's complaint is closed if he/she does not agree to MARB, are expected to be discussed at length during the October 6 hearing before the Assembly Committee on Consumer Protection, Government Efficiency and Economic Development (*see above*).

Public member Nettie Becker pointed out that many homeowners are not aware that an arbitration clause in a contract will exclude them from any recourse through CSLB. Chief Deputy Registrar Mickey Matsumoto responded that although this information is usually not stated in contracts, it is stated in consumer brochures published by CSLB. However, Matsumoto acknowledged that consumers should be made aware of this before signing a contract, and that CSLB does not produce any standard form contracts containing this language for use by licensees.

## LEGISLATION

**SB 574 (Boatwright)**, as amended September 2, increases the required amount of a contractor's bond and a qualifying individual's bond. This bill was

signed by the Governor on October 11 (Chapter 1264, Statutes of 1993).

**SB 148 (Boatwright)**, as amended July 16, increases specified CSLB application and renewal fees. This bill was signed by the Governor on October 11 (Chapter 1188, Statutes of 1993).

**AB 427 (Frazee)**. Existing law prohibits a contractor from bidding for the installation or removal of or installing or removing an underground storage tank, unless the contractor has passed the hazardous substance removal certification examination. As amended March 18, this bill corrects the reference to hazardous substance certification examination, and allows a contractor who is not certified to bid on a contract for the installation or removal of an underground tank, as long as the work is performed by a contractor who is certified. This bill was signed by the Governor on July 26 (Chapter 168, Statutes of 1993).

**AB 628 (Frazee)**. Existing law, with certain exceptions, provides that a person who engages in the business or acts in a capacity for which a contractor's license is required may not bring an action for compensation for performance of any act or contract for which the license is required without alleging and proving that he/she was licensed during the time of the performance of the act or contract. Existing law also provides that if licensure or proper licensure is controverted, then proof of licensure shall be made by production of a verified certificate of licensure from CSLB which establishes that the individual or entity bringing the action was duly licensed during the performance of any act or contract covered by the action. As amended September 3, this bill provides that any person or entity controverting licensure or proper licensure is not required to produce a verified certificate. The bill also provides that when licensure or proper licensure is controverted, the burden of proof to establish licensure or proper licensure is on the licensee. This bill was signed by the Governor on October 3 (Chapter 797, Statutes of 1993).

**SB 409 (Ayala)**, as amended July 2, requires contracts for roofing materials or for specified residential roof installation, repairs, or replacements, to be in writing. With respect to these contracts entered into on or after January 1, 1994, the bill makes warranties included in the contract enforceable by subsequent purchasers of the dwelling, unless the warranties contain a provision limiting their transfer, as specified. The bill also requires specified disclosures concerning "lifetime" and similar warranties, and requires the seller of a residential structure to provide the disclo-

tures required by the bill to the purchaser before close of escrow where a warranty subject to the bill is provided to the purchaser. However, failure to comply does not invalidate a sale of a residential structure. This bill was signed by the Governor on October 5 (Chapter 835, Statutes of 1993).

**SB 617 (Hayden)**, as amended September 3, would have stated legislative intent that the state comply with the training and certification requirements contained in the federal Residential Lead-Based Reduction Act of 1992. This bill would have established within the state Department of Health Services (DHS) a program to meet the requirements of certain federal hazard and safety laws, and required DHS, in consultation with the Department of Industrial Relations, to adopt regulations thereunder with respect to, among other things, workers who engage in lead-related construction work, the establishment of fees for the accreditation of training providers, the certification of individuals, and the licensing of entities engaged in lead-related occupations. This bill was vetoed by the Governor on October 10.

**SB 842 (Presley)**, as amended July 14, permits CSLB to issue interim orders of suspension and other license restrictions, as specified, against its licensees. This bill was signed by the Governor on October 5 (Chapter 840, Statutes of 1993).

**AB 203 (Collins)**, as amended April 26, would provide that one of the seven public members on CSLB shall be a local building official appointed by the Governor. [*S. RIs*]

**AB 338 (Mountjoy)**, as introduced February 8, would revise the definition of a general building contractor, and eliminate the exclusion of specified persons from the definition of a general building contractor. [*13:1 CRLR 31*] [*A. CPGE&ED*]

**AB 443 (Aguiar)**, as amended March 15, would—among other things—revise existing law which provides that every city or county which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure shall, in addition to any other requirements, print a declaration on any building permit issued which includes, among other things, a workers' compensation declaration, a certificate of exemption from workers' compensation insurance, if applicable, and a construction lending agency affirmation requirement, as specified. [*A. F&I*]

**AB 1392 (Speier)**, as amended July 1, would provide that the CSLB Registrar is to be appointed by the Governor, subject



to Senate confirmation, and that the Board's Registrar and employees are under the control of the Director of the Department of Consumer Affairs. [S. B&P]

**AB 1800 (Friedman, T.)**, as amended June 22, would abolish the Department of Industrial Relations and instead provide for the Labor Agency supervised by the Secretary of the Labor Agency consisting of the Department of Occupational Safety and Health, the Department of Workers' Compensation, the Department of Rehabilitation, the Department of Labor Standards Enforcement, the Employment Development Department, the Department of Fair Employment and Housing, and CSLB. [A. L&E]

**AB 1807 (Bronshvag)**, as amended September 8, would make the Contractors State License Law inapplicable to a licensee operating within the scope of the Geologist and Geophysicist Act, and would increase from \$5,000 to \$7,500 the amount of bond required as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a contractor's license. [A. Inactive File]

**AB 1981 (Horcher)**, as introduced March 5, would declare that provisions in an express or implied contract between contractors and their subcontractors and suppliers making payment thereof contingent upon payment of the contractor are contrary to public policy, void, and unenforceable. [A. Jud]

**SB 949 (Rogers)**, as amended July 13, would generally provide that, with respect to all contracts between owners and original contractors for the construction of any private work of improvement, excluding residential construction, entered into on or after July 1, 1994, the retention proceeds withheld by the owner from the original contractor or by the original contractor from any subcontractor from any payment shall not exceed 10% of the payment and in no event shall the total retention withheld exceed 5% of the contract price. [A. Jud]

The following bills died in committee: **AB 2296 (Mountjoy)**, which would have provided that it is grounds for disciplinary action for any prime building contractor or subcontractor to fail to pay any subcontractor not later than ten days of receipt of each progress payment the respective amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of the subcontractor's interest therein, whether or not such an agreement is in writing; and **AB 2044 (Hoge)**, which would have required the Registrar to provide public officials with on-line access to the Board's computer database containing informa-

tion on the status of licenses of all licensed contractors.

## RECENT MEETINGS

At CSLB's July 22-23 meeting, the Board unanimously elected Phil Moore to serve as CSLB Chair and Paul Petersen to serve as Vice-Chair for 1993-94.

Also at CSLB's July meeting, Registrar David Phillips stated CSLB's intent to pursue enforcement of workers' compensation requirements, despite the Board's limited operating funds. The Board is considering exchanging data with the State Compensation Insurance Fund, which writes more than half of the workers' compensation policies now required for licensure by CSLB.

CSLB staff announced that—for the third year in a row—the San Diego District Office was recognized for the highest number of cases closed by consumer service representatives (CSR), cases closed by deputies, and legal actions handled per deputy. The office averaged 20.6 cases closed per deputy and 69 cases closed per CSR; the averages throughout CSLB are twelve cases per deputy and forty cases per CSR. The San Diego office also had no complaints over six months old during 1992-93.

CSLB's Ad Hoc Committee on Long Range Planning announced that it would develop and prepare specific recommendations to be presented to the full Board at the Strategic Planning Meeting scheduled for October. The Committee is discussing topics such as servicing, investigating, and resolving consumer complaints; improving communication with the consumer and with the industry; surety bonding; collecting non-licensee civil penalties; license classifications; and the future organization of CSLB.

CSLB Administrative Officer Linda Brooks reported that the Board's budget reserve balance of \$5.2 million represents only a 1.5-month reserve, rather than the desired three-month reserve. The Board's 1993-94 budget appropriation is \$31.6 million; of that amount, 5% is allocated to testing; 19.3% to licensing; 1.3% to executive/board expenses; 5.8% to services; 4.1% to information systems; and 64.5% to enforcement. Brooks noted that an analysis of the fund condition estimates a one-month reserve in two years, but a three-month reserve by 1997-98.

Finally, CSLB Licensing Deputy Bob Christensen explained that attempts to revise the application form for an original contractor's license may finally be successful after seven years of effort; the new application form is expected to be shortened, and all mandatory information and

instructions are to be retained by the applicant as a means to reduce CSLB's required storage space. Christensen distributed copies of a draft application and invited comments.

## FUTURE MEETINGS

January 21 in San Diego.  
April 22 in San Francisco.  
July 22 in Los Angeles.

## BOARD OF DENTAL EXAMINERS

*Executive Officer:*  
*Georgetta Coleman*  
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The Board of Dental Examiners (BDE) is charged with enforcing the Dental Practice Act, Business and Professions Code section 1600 *et seq.* This includes establishing guidelines for the dental schools' curricula, approving dental training facilities, licensing dental applicants who successfully pass the examination administered by the Board, and establishing guidelines for continuing education requirements of dentists and dental auxiliaries. The Board is also responsible for ensuring that dentists and dental auxiliaries maintain a level of competency adequate to protect the consumer from negligent, unethical, and incompetent practice. The Board's regulations are located in Division 10, Title 16 of the California Code of Regulations (CCR).

The Committee on Dental Auxiliaries (COMDA) is required by law to be a part of the Board. The Committee assists in efforts to regulate dental auxiliaries. A "dental auxiliary" is a person who may perform dental supportive procedures, such as a dental hygienist or a dental assistant. One of the Committee's primary tasks is to create a career ladder, permitting continual advancement of dental auxiliaries to higher levels of licensure.

The Board is composed of fourteen members: eight practicing dentists (DDS/DMD), one registered dental hygienist (RDH), one registered dental assistant (RDA), and four public members. BDE's current members are Gloria Valde, DMD, president; Stephen Yuen, DDS, vice president; Pamela Benjamin, public member; John Berry, DDS; Victoria Camilli, public member; Robert Christoffersen, DDS; Joe Frisch, DDS; Peter Hartmann, DDS; Martha Hickey, public member; Genevieve Klugman, RDH; Virtual Murrell, public member; Roger Simonian, DDS; Joel Strom, DDS; and Hazel Torres, RDA.