

# CONTRACTORS' STATE LICENSE BOARD

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*Protection of the public shall be the highest priority for Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.*

— Business and Professions Code § 7000.6

**C**reated in 1929, the Contractors' State License Board (CSLB) licenses and regulates construction contractors, handles consumer complaints, and enforces existing laws pertaining to contractors. A consumer protection agency within the Department of Consumer Affairs (DCA), CSLB is authorized pursuant to the Contractors' State License Law (CSLL), and Business and Professions Code section 7000 *et seq.*; the Board's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR). CSLB licenses almost 290,000 contractors in California.

CSLB licenses general engineering contractors (classified as "A"), general building contractors ("B"), and approximately 40 specialty contractor categories ("C"); in addition, the Board registers home improvement salespersons who market contractor services to consumers. The fifteen-member Board consists of one general engineering contractor, two general building contractors, two specialty contractors, one member from a labor organization representing building trades, one local building official, and eight public members (including one who represents a statewide senior citizen organization). Under Business and Professions Code section 7002(b), a representative of a labor organization is

eligible to serve as a public member of CSLB. The Board currently maintains five committees: executive, enforcement, licensing, legislation, and public affairs.

On January 4, 2019, Governor Brown [appointed](#) Frank Altamura, Jr., as a public member to the Board. Altamura is a product owner at Trane, an energy service and control company, since 2012. Altamura worked as a product manager at Serious Energy from 2010 to 2012, and as an engineer at Valence Energy from 2008 to 2010. At this writing, CSLB is functioning with two vacancies, both of which must be appointed by the Governor: a “C” specialty contractor and a public member from a senior citizen organization.

## **MAJOR PROJECTS**

### **Sunset Review**

On February 26, 2019, Board Chair Marlo Richardson, Former Board Chair Kevin Albanese, Registrar Dave Fogt, and Chief Deputy Registrar Tonya Corcoran represented CSLB at the [Joint Sunset Review Oversight Hearing](#). The statute that creates the Board—Business and Professions Code section 7000—expires on January 1, 2020, thus requiring the legislature to evaluate the Board and pass legislation during 2019 to extend the Board’s existence.

On December 1, 2018, CSLB submitted its [2018 Sunset Review Report](#), which was approved at the September 2018 Board meeting. The report has 12 sections, 11 substantive and one reserved for attachments. The substantive sections include: Background and Description of CSLB and the regulated profession; Performance Measures and Customer Satisfaction Surveys; Fiscal and Staff; Licensing Program; Enforcement Program; Public Information Policies; Online Practice Issues; Workforce Development and Job Creation;

Current Issues; Board Action and Response to Prior Sunset Issues; New Issues; and Attachments.

Prior to the Joint Oversight Hearing, staff for the committees responsible for conducting the Sunset Review Process, the Assembly Business and Professions Committee and the Senate Business, Professions, and Economic Development Committee, prepare a background paper for the members identifying issues, background, and recommendations for each agency to be reviewed. The agency has 30 days from the date of the hearing to submit written responses to the items raised in the background paper and any additional issues raised at the hearing.

At its March 2019 meeting, the Board reviewed and voted to approve the [written responses](#) to the [legislative background report](#) prepared by staff.

## **Energy Storage System (ESS) Report**

At the March 2019 meeting, the Board discussed the [Energy Storage System Report](#), and opened a public comment period lasting more than two hours. The report details the timeline of events, CSLB's regulatory process and solar license regulatory history, public participation, a survey of building departments, and other considerations relevant to the question of which licensees shall be authorized to contract for and to install systems designed to store excess energy produced from a solar energy system. Currently both C-10 (electrical) and C-46 (solar) are authorized to install ESS. The report concludes with Board options and staff recommendations. The options included in the report are 1) Take no action; 2) Recommend industry representative seek legislation to clarify when electrician certification is required for installation of ESS under the Labor Code; or 3) Direct staff to consider ESS size, complexity, voltage, and potential risks, and draft

proposed regulatory language to present to the Board for consideration that would prohibit or restrict certain contractor classification from performing the installation of ESS. Staff recommends the third option.

During the March 2019 [meeting](#), the public comments were primarily from Electrical C-10 contractors or Solar C-46 contractors. C-10 contractors are advocating for electricians to be the only contractors authorized to install ESS because of safety concerns, reasoning that electricians are the only contractors who receive adequate training to install the energy storage systems. C-46 contractors are advocating to keep everything the same, allowing C-46 contractors to continue installing energy storage systems. C-46 contractors cited their training and skills to demonstrate to the Board that they are competent and follow all safety regulations.

CSLB's main concern is to ensure the installations are safe and to prevent disasters. The Board noted that there have not been any incidents yet, but with the growing field there needs to be regulations in place to continue to have zero incidents. The Board voted to approve staff's recommendation and "direct staff to consider battery energy storage system size, complexity, voltage and potential risk; draft a proposed regulatory package for board consideration that would prohibit or restrict certain contractor classifications from performing the installation of battery energy storage systems; assign this to the appropriate board committee or committees; and provide updates at each board meeting."

## **Tree Worker Safety and Arborist Certification**

At the December 2018 [meeting](#), the Licensing Committee provided an update on the development of a C-License classification for tree service contractors. CSLB voted to develop a specialty "C" license classification at the April 2018 [meeting](#). The new

classification is necessary to ensure that licensees are tested on and aware of health and safety protocols to reduce the injuries and accidents occurring among professionals doing this work. Currently the two license classifications certified to conduct tree service are C-27 and C-61/D-49. C-27 licensees are landscape contractors authorized to construct, maintain, repair, install, or subcontract the development of either public or private landscape systems including the preparation and grading of plots for the installation of architectural, horticultural and decorative treatments or arrangements. C-61/D-49 licensees are tree service contractors permitted to prune or remove trees, limb or stump grinding, and tree and limb stabilization.

The Testing division developed a preliminary occupational analysis using currently licensed C-27 and C-61/D-49 subject matter experts by obtaining their input in a workshop and by conducting job audits of contractors engaged in arborist work. In January 2019, CSLB hosted a stakeholder meeting with representation from nearly a dozen groups and organizations. At the end of the stakeholder meeting, participants agreed that: there is a need for a specialty license classification to ensure licensees are tested on and aware of health and safety protocols to reduce injuries and damages; the new classification should include the scope in existing C-61/D-49 and allow the new classification to “install” trees; existing C-27 license classification does not require alteration; and existing C-61/D-49 licensees should be “grandfathered” into the new license classification.

The results of the occupational analysis and the stakeholder meeting will be used to help prepare a regulatory proposal to be presented at a future board meeting.

## **Pilot Program with California Building Officials**

In March 2019, CSLB officials attended the California Building Officials' (CALBO) annual business meeting and led workshops to initiate a pilot program aimed at addressing building permit violations and the underground economy in construction. At the December 2018 [meeting](#), Chief of Enforcement Vickrey outlined the details of the pilot program which includes a focus on identifying unlicensed practices and the impact on lost tax revenue; dangers of unlicensed contractors; providing information to the public on the dangers of acting as an unlicensed contractor and/or hiring an unlicensed contractor; holding license application workshops; conducting undercover stings; and tracking new licensees building permit compliance. The goal of the pilot program is to reduce unlicensed and illegal contracting by reducing the barriers that discourage licensure and take strong enforcement action against unlicensed contractors.

At the March 2019 [meeting](#), Chief Vickrey, Registrar Fogt, and board member Springer summarized their presentation at the CALBO annual meeting. The program will begin with a collaboration with six building departments. CSLB and CALBO discussed statistics which reveals opportunities to increase the number of CSLB and local business licenses and compliance with workers' compensation requirements; and to reduce the number of owner-builder permits. The statistics will be used as the baseline to measure the success of the pilot program over 12 months.

## **Implementation of SB 1465**

At its December 2018 [meeting](#), staff reported they are prepared to implement the requirements of [SB 1465 \(Hill\) \(Chapter 514, Statutes of 2018\)](#), and equipped to handle

the complaint load. Effective January 1, 2019, licensed contractors are required to report to CSLB any final judgement, executed settlement agreement, or final arbitration award that involves a multifamily residential structure, the award is greater than \$1 million, and the civil action that led to this judgment, settlement, or award was filed after January 1, 2019.

A [form](#) was developed specifically for these complaints and an industry bulletin was distributed regarding the new reporting requirements. CSLB's staff has identified a procedure for processing incoming SB 1465 reports; staff will review submitted information to determine if CSLB should open a complaint and conduct a formal investigation. CSLB may take disciplinary action against the contractor/s if the investigation establishes a violation of the Business and Professions Code section 7071.20–7071.21.

## **Implementation of AB 2138**

AB 2138, signed by Governor Brown on September 30, 2018, limits the Board's ability to deny licensure for an applicant with a criminal history. The implementation of [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#) requires the Board to do extensive regulatory changes to Title 16, California Code of Regulations section 868–869.9). At its March 2019 [meeting](#), CSLB distributed the final draft of the revisions to the California Code of Regulations for review.

AB 2138 amends the provisions of the Business and Professions Code that relate to a board's ability to deny a license or registration or to take disciplinary action based on criminal conviction. The bill also requires submission of statistics for who is being denied licensure, including collecting the race and gender of denied applicants. At its December

[meeting](#), CSLB’s legal counsel suggested that the collection of data be done separately from the licensing process.

CSLB is required to revise the regulations to change “substantially related” to include “nature and gravity of the offense,” the “number of years elapsed since the date of the offense,” and the “nature and duties of the profession.” Section 868 lists five different violations or crimes, stating “crimes or acts shall include, but not limited to,” thus still leaves room for the Board to have some discretion to deny licensure based on other crimes or acts. Under AB 2138, CSLB can deny an applicant if he or she was professionally disciplined. [[24:1 CRLR 129-130](#)]

The Board now includes felony financial crimes “directly and adversely related to the fiduciary qualifications, functions, or duties” of a contractor. The Board stated that this is essential to consumer protection because many construction-related crimes include consumer financial harm, diversion of construction funds, and grand theft. The new regulations are based on crimes that are grounds for denial of licenses or registrations by the board in the last five years.

The implementation of AB 2138 also requires CSLB to create criteria for rehabilitation under 16 CCR section 869. On December 13, 2018 [meeting](#), the Board presented two different options of whether it should be (1) case-by-case determination about the rehabilitation of the licensee, or (2) allow staff to continue to examine details of individual’s parole or probation. After a discussion on the final proposed regulations at the March 2019 [meeting](#), the Board voted to approve the proposed regulatory text and changes to Section 869 that allow staff to engage on a case-by-case determination about the rehabilitation of each applicant or licensee; approve the proposed regulatory text and



changes to sections 868, 868.1, 869.5, and 869.9; and to direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Registrar to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

## **LEGISLATION**

[SB 610 \(Glazer\)](#), as amended April 11, 2019, would amend Business and Professions Code sections 7000.5, 7006, 7011, 7018, 7040, 7071.6, 7071.17, 7124.6, 7137, and 7169 relating to contractors. SB 610 would extend the sunset review date for CSLB to January 1, 2024. The bill would also extend the Board's authority to appoint a registrar until January 1, 2024. This Sunset Review bill would require CSLB to conduct a study of the contractor bond and would make technical and clarifying changes to the contractors' license law. Amended section 7071.6 would authorize the board to conduct a study to obtain information to evaluate whether the current fifteen-thousand-dollar amount of the contractor bond is sufficient, or whether an increase may be necessary; and would require the Board to report its findings by January 1, 2024, the next Sunset Review date. *[S. BP&ED]*

[AB 544 \(Brough\)](#), as amended March 21, 2019, would amend Business and Professions Code section 7076.5, relating to inactive contractor licenses, as well as several other sections that do not affect CSLB. The proposed changes are primarily non-substantive changes to clarify language relating to inactivating a contractor license. This bill would reduce the cost of reactivating a professional license from the full cost of a

license renewal to no more than 50 percent of the renewal fee for an active license. *[S. B&P]*

[SB 144 \(Mitchell and Hertzberg\)](#), as amended March 27, 2019, would amend Business and Professions Code sections 7158, 7159.5, 7159.14, and 7161. The purpose of this bill is to eliminate numerous fees imposed on criminal offenses and Vehicle Code violations. The aim is set limits on the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees. This bill makes clarifying, non-substantive changes to fee language in the relevant sections, changing “may not” to “shall not” in regards of fees. *[S. Pub. S.]*

## **LITIGATION**

*ACCO Engineered Systems, Inc. v. Contractors’ State License Bd.*, Case No. **B282944 (Cal. Ct. App.)**. On November 15, 2018, the Second Appellate District affirmed a judgment in *ACCO Engineered Systems, Inc. v. Contractors’ State License Bd.*, 30 Cal. App. 5th 80 (2018). CSLB cited ACCO Engineered Systems, Inc., (ACCO), under Business and Professions Code section 7110, for “willful or deliberate disregard and violation of the building laws” for replacing a boiler in a commercial building without first obtaining a required permit.

ACCO appealed the citation, arguing the violation was neither willful nor deliberate, but rather an inadvertent act by a lower level employee. The administrative law judge upheld the citation. ACCO filed a petition for a writ of mandate challenging the decision. The trial court denied the petition.

The Court of Appeal affirmed, finding that CSLB properly construed the term “willful” as requiring only general intent and specified that this interpretation does not result in strict liability for licensees. The Court noted that a licensee could earnestly seek to get permitting in place but still fail to do so. In that situation the licensee would not be found liable under section 7110. In this case, ACCO is liable under section 7110 because there is substantial evidence that the employee made an affirmative decision not to inquire about the permitting requirements but proceeded on with the boiler replacement without the permit. This conduct constitutes willful disregard of the building laws, and, as intentional conduct is attributable to employer ACCO.

## **RECENT MEETINGS**

At the December 2018 [meeting](#), CSLB reported that in November 2018, CSLB co-hosted a Joint Agency Solar Consumer Protection Strategy meeting with California Public Utilities Commission (CPUC) and the Department of Business Oversight (DBO) aimed at developing an operational agreement to improve and enforce consumer protection measures for residential solar consumers. CSLB, CPUC, and DBO agreed to establish a Joint Agency Solar Consumer Protection Task Force (Task Force) to conduct outreach to address predatory sales tactics targeted to disadvantaged communities across California. CSLB reported an average of 78 extra solar complaints are received monthly. The Solar Task Force has obtained 2.8 million in restitution for injured parties.

At the December 2018 [meeting](#), the Board discussed the possibility of a voluntary certification program for swimming pool contractors. In November 2018, the California Pool and Spa Association (CPSA) sent a letter to Board Chair Marlo Richardson requesting the opportunity to present a legislative proposal to establish an advanced certification

program for swimming pool (C-53) contractors. Prior to taking any action the Board will determine if there are problems with the current classification and explore potential legal ramifications of creating a new certification.

At the March 2019 [meeting](#), the Board provided an update on the potential new remodeling and home improvement specialty license classification. Testing staff is completing a preliminary occupational analysis, and a stakeholder meeting will be scheduled for some time in 2019. Individuals licensed under the proposed new classification will be “B” contractors, and will not be licensed to perform framing or rough carpentry. The Board’s aim is to stop underground contracting by removing barriers to licensure, which will increase consumer protections.

At its December [meeting](#), the Board stated that it spent close to a million dollars on disaster response during the last two years. CSLB has staff at five assistance centers for survivors of the Camp and Woodley Fires. The centers are run by either the Governor’s Office of Emergency Services (OES) or the Federal Emergency Management Agency (FEMA) and have helped assist hundreds of survivors. CSLB staff also implemented another important outreach program, the placement of more than 450 warning signs in the disaster areas. CSLB has two-warning signs, one informing homeowners of the dangers of hiring an unlicensed contractors, and the other warning unlicensed contractors that it is a felony to contract in a disaster area without a valid state license. Additionally, enforcement division staff continues to work with partner agencies and the Shasta County District Attorney’s Office to conduct sweeps in the fire areas.