

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

Created 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.

At this writing there are two vacancies on the Board to be appointed by the Governor: One “C” contractor member and a “B” member.

HIGHLIGHTS

OAL Approves Board’s Proposed Emergency Rulemaking to Increase Fees

On December 19, 2019, the Office of Administrative Law (OAL) [approved](#) the Board’s proposed emergency regulations to [amend](#) section 811, Title 16 of the CCR to raise certain CSLB renewal fees to their statutory maximums. Specifically, renewal fees for active licensees increased from \$360 to \$450, renewal fees for inactive licensees increased from \$180 to \$225, and renewal fees for home improvement salesperson registration increased from \$75 to \$95.

In its [Findings of Emergency](#), the Board determined that emergency regulations were necessary in order to address CSLB’s structural budget imbalance and diminishing funds. Concerns that CSLB’s expenditures have increased while license renewals have decreased and a declining Contingent Fund, also prompted the Board to initiate emergency rulemaking. According to the findings, if fees were not raised, CSLB’s ability to carry out its enforcement efforts and licensing, investigative, public outreach, and examination functions would be impacted. Furthermore, the Board projected that without the fee increase, there would be insufficient funds at the beginning of the 2020–2021 fiscal year.

At its December 12, 2019 [meeting](#), Chief of Legislation, Michael Jamnetski, explained that the increased fees are expected to increase revenue by two and half million dollars in 2020 and by six million dollars in 2021 and 2022. [[Agenda Item G-3](#)]. Furthermore, he reported that the fee

increase will allow CSLB to review other fees and complete a fee study in order to determine if those other fee categories should also be increased.

The Board unanimously voted to file emergency rulemaking at its September 24, 2019 [meeting](#). [[Agenda Item H-1 at 193](#)] [[25:1 CRLR 104–105](#)] However, CSLB did not formally [notice](#) its intent to adopt emergency regulations until December 3, 2019. The [new fee schedule](#) went into effect on February 1, 2020. The emergency regulations expire on June 17, 2020.

Board Takes Steps Towards Outsourcing Exam Administration

At its December 12, 2019 [meeting](#), the CSLB voted to pursue action to outsource CSLB exam administration and pursue legislation that would grant CSLB authority to outsource exam administration. CSLB is currently responsible for administering its own exams. [[Agenda Item E-4](#)].

At that meeting Chief of Licensing, Justin Paddock, presented the Board with two options: (1) continue to administer exams “in-house” at an annual cost of \$3.2 million, or \$73 per exam, or, (2) outsource exam administration at a yearly cost of \$2.6 million, or \$59 per exam. Mr. Paddock reported that if exams were outsourced, CSLB would save about \$624,000 annually, a nineteen percent reduction in test administration costs. In addition to budgetary savings, Mr. Paddock explained that outsourcing exam administration would result in more testing locations and times because test-takers would be able to take their exam on Saturdays and evenings. Testing facility locations would increase from 17 to 22. Despite outsourcing, CSLB would continue to develop the exam and exam questions.

The [Staff Report](#) analyzing the move towards outsourcing the test administration advised that, although the Board would experience cost savings, there are two potential negative impacts

of outsourcing: (1) outstanding testing facility leases, and (2) elimination of sixteen full-time positions and two intermittent positions. In regard to outstanding facility leases, Mr. Paddock explained that outsourcing would be implemented by a phase-out plan which would allow CSLB to finish out its current testing facility leases. Therefore, as contracts end, the new testing administration would be implemented.

Concerning the elimination of certain positions, Chief Deputy Registrar, Tonya Corcoran, explained that CSLB would work with DCA and Cal HR, to place existing staff in either other positions with the Board, or within other state agencies. Ms. Corcoran stated that because there are numerous state agencies, she does not believe that placement for surplus staff would be problematic.

The Board unanimously [voted](#) to (1) take steps to outsource exam administration to an outside vendor, and (2) pursue legislation to grant CSLB authority to outsource exam administration.

At this writing, no legislation has been introduced that would grant the Board the authority to outsource its examinations.

Board Commences Formal Rulemaking Process to Implement AB 2138 (Chiu) to Establish Substantial Relationship Criteria for Criminal Convictions and to Evaluate Rehabilitation of Applicants and Licensees

On March 2, 2020, the Board published [notice](#) of its intent to adopt section 868.1, repeal section 869.5, and amend sections 868, 869, 869.9, Title 16 of the CCR, to specify the criteria related to criminal background reviews, which are set forth in the [proposed language](#).

According to the [Initial Statement of Reasons](#) (ISOR), the proposed regulations are the Board’s efforts to comply with [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#), which goes into effect on July 1, 2020. Specifically, AB 2138 mandates that CSLB develop criteria through the rulemaking process to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of a contractor licensee. AB 2138 also prohibits the Board from denying a license on the basis that an applicant was convicted of a crime if the applicant made a showing of rehabilitation. As the ISOR points out, the bill was enacted to reduce licensing and employment barriers for people who are rehabilitated.

CSLB’s proposed amendments adopt “substantial relationship” criteria for determining whether a prior crime is related to the license consistent with section 481 of the Business and Professions Code; expand current regulations to include substantially-related acts that are the basis for discipline in another jurisdiction; create criteria to determine if a financial crime is directly and adversely related to fiduciary qualifications, functions, or duties of the profession; update regulations to more accurately reflect the Board’s authority to evaluate rehabilitation evidence; and establish criteria for determining the earliest date a denied applicant may reapply for a license.

The ISOR notes that this regulatory proposal is needed because

without the proposed language, there could be confusion about the criteria CSLB uses for determining: (1) whether a crime, act, or professional misconduct is substantially related to the license or registration at issue; (2) whether a felony financial crime is considered directly or adversely related to the contracting or home improvement salesperson profession; (3) whether the applicant or licensee has made a showing of rehabilitation; or (4) what factors the Registrar considers when setting the earliest reapplication date for a denied applicant.

At its March 21, 2019, [meeting](#) the Board reviewed and authorized the proposed regulatory changes [Agenda item G-1]. [[24:2 CRLR 96–98](#)] Later, at its September 24, 2019 [meeting](#), the

Board reviewed textual modifications to the regulatory language and approved a motion to continue with new, modified text in the rulemaking process [Agenda item G-6].

The Board has scheduled a public hearing for April 28, 2020 at the John C. Hall Hearing Room at CSLB headquarters in Sacramento. It is unclear given current public health restrictions whether that hearing will still take place. Written comments on the proposed amendments must be submitted to the Board on or before April 28, 2020 at 5:00 p.m.

MAJOR PUBLICATIONS

The following reports have been conducted by CSLB during this reporting period:

- [*Leadership Accountability Report*](#), December 2019 (In accordance with the State Leadership Accountability Act, the Board submitted this report detailing its structure, objectives, and internal control and monitoring systems. The report identified insufficient funds, workforce planning, and natural disasters as current vulnerabilities, however, the Board's intended control measures to mitigate each risk were also included.)

RULEMAKING

- *License Renewal Procedures* (On March 2, 2020, CSLB published [notice](#) of its intent to [amend](#) section 853, Title 16 of the CCR, to clarify provisions regarding timely and delinquent license renewals and their related submission deadlines consistent with Business and Professions Code sections 7137, 7140, and 7141. According to the [Initial Statement of Reasons](#), without the proposed regulatory language there could be confusion about license renewal procedures, both timely and delinquent, resulting in more licensees becoming unlicensed due to noncompliance with renewal requirements.)

- ***Emergency Fee Increase*** (On December 19, 2019, OAL [approved](#) the Board’s proposed emergency regulations to [amend](#) section 811, Title 16 of the CCR to raise certain CSLB renewal fees to their statutory maximums (see HIGHLIGHTS).)

- ***Substantial Relationship Criteria*** (On March 2, 2020, the Board published [notice](#) of its intent to adopt section 868.1, repeal section 869.5, and amend sections 868, 869, 869.9, Title 16 of the CCR) to specify the criteria related to criminal background reviews, which are set forth in the [proposed language](#) (see HIGHLIGHTS).)

LEGISLATION

- **[SB 1474 \(Committee on Business and Professions\)](#)**, as introduced on March 16, 2020, and as it applies to CSLB, would amend various sections of the Business and Professions Code to (1) rename the Contractors’ State License Board the Contractors’ State License Fund, and the Contractors’ State License Law by removing the apostrophe in each of the names, (2) eliminate the provision establishing the Contractor’s Deposit Fund, so that service fees could be deposited into the Contractor’s License Fund, resulting in an appropriation, and (3) prohibit the release of deposits to licensees if there is a civil action against the deposit and if the amount of the deposit is not enough to cover all claims so the deposit would have to be issued to claimants in proportion to the amount of claims. *[S. RLS]*

- **[SB 1189 \(McGuire\)](#)**, as amended on April 9, would amend sections 7028.16, 7055, and 7151 of, and add section 7057.5 to, the Business and Professions Code, and amend sections 667.16 and 670 of the Penal Code, to create a new licensing classification for residential remodeling contractors. *[S. BP&ED]*

- [AB 2210 \(Aguiar-Curry\)](#), as amended March 16, 2020, would amend sections 7109.5 and 7110.5 of the Business and Professions Code to authorize CSLB to discipline a tree service contractor for violating any worker safety regulations. The bill would also align the statute of limitations period for which CSLB must take disciplinary action for Labor Code violations with the period in existing law for taking disciplinary action in all other CSLB cases. *[A. B&P]*
- [AB 2368 \(Quirk\)](#), as introduced February 18, 2020, would amend section 7110 of the Business and Professions Code to add illegal dumping to the list of violations that constitute a cause for disciplinary action against a contractor by the Board. *[A. B&P]*
- [AB 2232 \(Grayson\)](#), as introduced February 13, 2020, would amend section 7141.5 of the Business and Professions Code to simplify the process for contractor licensees to receive a retroactive license renewal, and delete a provision in the CSLL that requires contractor licensees to prove that they had failed to renew their license before it expired due to circumstances beyond their control. *[A. B&P]*
- [AB 2471 \(Mainschein\)](#), as introduced February 19, 2020, and as it applies to CSLB, would amend sections 7150, 7159, and 7159.10 of the Business and Professions Code to extend the period of time to cancel home improvement, service, and repair contracts from three to five business days if the buyer or property owner is a senior citizen, for contracts entered into on or after January 1, 2021. *[A. Jud]*