

# 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.

On July 23, 2020, Governor Newsom [appointed](#) Miguel Galarza as a “B” Contractor member of the board. Galarza was a founder and has been the president of Yerba Buena Engineering & Construction Inc. since 2002. He is a member of the Associated General Contractors of America National Diversity & Inclusion Council and district director for the San Francisco Chapter of Associated General Contractors of California.

Also, on July 23, 2020, Governor Newsom [reappointed](#) Susan Granzella as a Public member of the board. She has been serving as a board member since 2014. Prior to her board appointment, Granzella worked at Visa Inc. where she held various positions including senior director and vice president for worldwide technical publications and global development audit and compliance.

On August 12, 2020, Governor Newsom [appointed](#) Donald Giarratano as a “C” Contractor member of the board. Giarratano has been general manager of the Muir-Chase Plumbing Company’s Orange County Office since 2013. Prior, Giarratano had been a manager for business development at D.K. Mechanical Contractor from 1992–2013. He is a member of the California Plumbing and Mechanical Contractors Association.

On September 30, 2020, Governor Newsom [appointed](#) Michael Mark as a Public member of the board. Mark has been a Union Sheet Metal Worker since 2002, and most recently was a Business Representative covering the San Joaquin County jurisdiction for Sheet Metal Workers’ Local Union No. 104 since 2016. Mark is a member of United Cerebral Palsy of San Joaquin, San Joaquin Central Labor Council, San Joaquin Building Trades, Northern California Valley Sheet Metal Industry Joint Apprenticeship Training Committee and Leadership Stockton Class of 2014.

At this writing there are no vacancies on the Board.

At its June 5, 2020 meeting, the Board elected public member David De La Torre as chair, public member Susan Granzella as vice chair, and licensee member Mary Teichert as secretary of CSLB.

## **HIGHLIGHTS**

### **Board Moves to Mandate Workers' Compensation Insurance for Its Licensees**

At its September 9, 2020 [meeting](#), the Contractors State License Board (CSLB) unanimously approved a [legislative proposal](#) [item E-3], recommended by CSLB staff and the Board's Workers' Compensation Advisory Committee, that would amend sections 7125 and 7125.4 of the Business and Professions Code to mandate workers' compensation insurance for all licensees of the Board over a prescribed time period. Under current law, contractors who hire employees are legally required to obtain workers' compensation insurance, but contractors who work alone and do not hire employees can file an exemption. [AB 3355 \(Firestone\) \(Chapter 331, Statutes of 1996\)](#), which amended section 7125.4 of the Business and Professions Code, clarified that false exemptions can be a basis for disciplinary action, and not just automatic license suspension.

According to the staff memo in the agenda materials, the falsification of these exemptions is a widespread issue among contractors. During the 2019–2020 fiscal year, the Board canceled 374 false workers' compensation exemptions; investigated 1,112 complaints; issued 38 letters of admonishment and filed 326 complaints for legal action. The Board also performed 592 workers' compensation compliance investigations through its Statewide Investigative Fraud Team (SWIFT) unit, which resulted in 48 letters of admonishment and 329 administrative disciplinary actions.

In presenting the proposal, staff reminded the Board that CSLB has worked to address this issue for years, beginning in 2017 when the Board established a small advisory committee to develop strategies to address workers' compensation insurance avoidance. As part of its 2018 [Sunset Review Report](#), the Board identified the high number of workers' compensation exemptions (about 55 percent) as one of its "new issues" for the legislature to address and consider in future legislation impacting the Board. In 2019 and 2020, the Board held various meetings to discuss solutions to this problem, including a meeting with the State Compensation Insurance Fund.

Despite these efforts, staff reported that the number of workers' compensation exemptions on file has remained consistent. For this reason, CSLB's newly-approved legislative proposal seeks amendments to sections 7125 and 7125.4, of the Business and Professions Code, which would immediately require certain classes of contractors (C-8 concrete contractors, C-20 HVAC contractors, and D-49 tree service contractors) to obtain workers' compensation insurance, and within three years, would require workers' compensation insurance for every actively licensed contractor.

While staff noted that the proposed legislative amendments could result in a loss of 10 percent of the given license population, and \$356,625 annually in license renewal fees, in addition to \$25.6 million in annual premiums paid by the licensees, the staff and the advisory committee recommended that the Board pursue such legislation in the 2021–2022 legislative session.

## **Board Loses its Apostrophe, Sees New Reforms with the Enactment of SB 1474**

[SB 1474 \(Committee on Business, Professions and Economic Development\)](#), as amended August 26, 2020, is an omnibus bill that amends a number of sections of the Business

and Professions Code, including 39 sections pertaining to CSLB. Of note, the bill amends the agency name from “Contractors’ State License Board” to “Contractors State License Board,” without an apostrophe, signaling an important message regarding the Board’s statutory mission. Section 7000.6 of the Business and Professions Code provides that “Protection of the public shall be the highest priority for the Contractors’ State License Board in exercising its licensing, regulatory, and disciplinary functions.” Before the amendment, the apostrophe in the name of the agency implied that the Board existed to serve contractors; the name change reflects the actual functions and priorities of the agency.

SB 1474 also makes other amendments to the Contractors State License Law. Specifically, it amends section 7071.4 to clarify that if CSLB is notified, in writing, of a civil action against a contractor’s deposit, the deposit may not be released for any purpose, except as determined by the court. The bill also amends section 7137 to strike the requirement that CSLB’s Registrar must deposit the service fees they collect in the Contractors Deposit Fund.

In addition, SB 1474 amends section 7141.5 to require the Registrar to grant the retroactive renewal of a license within 90 days of the expiration of the license if the licensee submits a completed application for renewal and pays the delinquency fees and strikes the requirement for a licensee to demonstrate that the delay was due to circumstances beyond their control. According to the bill analysis, this amendment simplifies the process for contractor licensees to receive a retroactive license renewal.

The bill also adds section 7099.9 to the Business and Professions Code to allow the Registrar to issue a letter of admonishment to an applicant, licensee, or registrant in lieu of issuing a citation where the Registrar has cause to believe the applicant, licensee, or registrant has committed acts or omissions that are grounds for denial, suspension, or revocation of a license.

Governor Newsom signed SB 1474 on September 29, 2020 (Chapter 312, Statutes of 2020).

## **Legislative Committee Considers Board Sponsorship of Legislation to Authorize the Board to Discipline Licensed Contractors for Illegal Dumping**

At the Board's Legislative Committee [meeting](#) on November 4, 2020 (Agenda Item E), the Committee reviewed and discussed whether to accept Assemblymember Bill Quirk's request that the Board sponsor his proposed legislation that would authorize CSLB to take disciplinary action against licensed contractors for illegal dumping of construction materials.

According to [staff's presentation](#) to the Committee (minute 21:53), Assemblymember Quirk introduced [AB 2368](#) on February 18, 2020, after a number of District Attorneys in various California counties raised environmental concerns about the prevalence of illegal dumping of construction materials in their communities. The prosecutors noted that illegal dumping cases involving an entity such as a construction company (as opposed to individuals) are notoriously difficult to prosecute criminally, and therefore there is no deterrent for the illegal dumping of construction materials. Accordingly, AB 2368 would have amended section 7110 of the California Business and Professions Code to authorize CSLB to take disciplinary action against contractors for illegal dumping. Given the legislature's reduction of bills in light of the COVID-19 pandemic, Mr. Quirk withdrew the bill.

Staff further advised the Committee that Assemblymember Quirk's office had sought significant technical assistance from CSLB staff when introducing AB 2368, that the author intends to re-introduce the same legislation in 2021, and he has requested that CSLB serve as the sponsor of the bill. According to staff's recollection, this is somewhat significant in that it would

be the first time in recent history that CSLB has been asked to sponsor a measure that did not come directly from the Board.

The Committee unanimously voted to authorize staff to present this issue to the full Board, and to request that the Board consider sponsoring the new legislation. CSLB is expected to address this issue at its December 10, 2020, public meeting.

## **RULEMAKING**

The following is a status update on recent rulemaking proceedings that CSLB has initiated:

- **License Renewal Procedures:** On April 28, 2020, CSLB held a virtual hearing regarding its [proposed amendments](#) to 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. The Board originally published [notice](#) of its intent to amend section 853 on March 2, 2020. [[25:2 CRLR 73](#)] The rulemaking package is now under review by the Business, Consumer Services and Housing Agency.
- **Substantial Relationship Criteria:** On April 28, 2020, CSLB held a virtual hearing regarding its proposal to adopt, amend, or repeal Sections 868, 868.1, 869, 869.5, and 869.9 of Title 16, Division 8 of the CCR to establish substantial relationship criteria for criminal convictions and to evaluate rehabilitation of applicants and licensees pursuant to [AB 2138 \(Chiu\) \(Chapter 995, Statutes of 2018\)](#). The Board originally published [notice](#) with respect to these proposed regulations on March 2, 2020. [[25:2 CRLR 71–73](#)] The Board considered the public comments received at its June 5, 2020 [meeting](#), as set forth in the [staff memo](#) [Item H-2], and on June 10, the Board released [modified text](#) for a 15 day comment period ending June 26, 2020. At

this writing, the Board has not yet submitted the rulemaking package to the Office of Administrative Law.

- **Fee Increase:** On August 14, 2020, CSLB published [notice](#) of its intent to [amend](#) section 811, Title 16 of the CCR to increase certain contractors' licensing fees to their statutory maximums. Specifically, renewal fees for active licensees would increase from \$360 to \$450, renewal fees for inactive licensees would increase from \$180 to \$225, and renewal fees for home improvement salesperson registration would increase from \$75 to \$95. According to the [Initial Statement of Reasons](#), the proposed amendment will enable the Board to resolve its structural budget imbalance which occurred due to a decline in license renewals. This marks the formal rulemaking process to make permanent the Board's [emergency regulations](#) that OAL approved on December 19, 2019. [\[25:2 CRLR 69–70\]](#) On November 4, 2020, the Board [resubmitted](#) its emergency regulations to OAL pending the completion of the formal rulemaking process, and OAL [approved](#) the new emergency regulations on November 10, 2020. The Board must submit its certificate of compliance on or before June 8, 2021.

## LEGISLATION

- [AB 1869 \(Committee on Budget\)](#), as amended August 27, 2020, amends, repeals and adds sections 7158, 7159.5, 7159.14 and 7161 of the Business and Professions Code to add language that certain criminal fines imposed upon contractors for violation of these provisions of the CSLB must take into consideration the defendant's ability to pay. The existing provisions will sunset July 1, 2021 and the new requirements will become operative at that time. Governor Newsom signed AB 1869 on September 18, 2020 (Chapter 92, Statutes of 2020).



- [AB 2210 \(Aguiar-Curry\)](#), as amended March 16, 2020 amends sections 7109.5 and 7110.5 of the Business and Professions Code to authorize CSLB to discipline a tree service contractor for violating worker safety regulations. The bill also aligns 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. Governor Newsom signed AB 2210 on September 24, 2020 (Chapter 128, Statutes of 2020).
- [AB 2471 \(Mainschein\)](#), as amended August 25, 2020 amends section 7150, 7159 and 7159.10 of the Business and Professions Code to extend the period of time for senior citizens to cancel certain consumer contracts and offers from 3 business days to 5 business days, including home solicitation contracts, home improvement contracts, PACE assessment contracts, and service or repair contracts. Governor Newsom signed AB 2471 on September 25, 2020 (Chapter 158, Statutes of 2020).
- [AB 3087 \(Brough\)](#), as amended May 4, 2020, amends section 7065 of the Business and Professions Code to authorize the CSLB registrar to contract with a public or private organization to administer the licensure examination and to provide materials and services for the exam. Governor Newsom signed AB 3087 on September 29, 2020 (Chapter 295, Statutes of 2020).
- [SB 1189 \(McGuire\)](#), as amended August 3, 2020 amends sections 7028.16, 7055, and 7151 and adds section 7057.5 to the Business and Professions Code to create a new B-2 Residential Remodeling Contractor licensure as a new classification of contracting business, and revises the definition of “home improvement” to include the reconstruction, restoration, or rebuilding of residential property that is damaged or destroyed by a natural disaster for which a state of emergency was declared. Governor Newsom signed SB 1189 on September 30, 2020 (Chapter 364, Statutes of 2020).

- [SB 1474 \(Committee on Business, Professions and Economic Development\)](#), as amended August 26, 2020 is an omnibus bill that amends various sections of the Business and Professions Code pertaining to CSLB, including dropping the apostrophe out of the agency’s name, and other reforms (see HIGHLIGHTS). Governor Newsom signed SB 1474 on September 29, 2020 (Chapter 312, Statutes of 2020).

The following bills, reported in Volume 25, No. 2 (Spring 2020), died in committee or otherwise failed to be enacted during the 2019–2020 legislative session: [AB 2368 \(Quirk\)](#) relating to illegal dumping, and [AB 2232 \(Grayson\)](#) relating to simplifying the process for contractor licenses to receive a retroactive license renewal.

## LITIGATION

- *Sieg v. Fogt*, 55 Cal. App. 5th 77 (2020). On August 31, 2020, the First District Court of Appeals [held](#) that a homeowner’s execution of a waiver did not relieve a contractor of liability for his departure from accepted trade standards in disciplinary proceedings before CSLB. The court found that “private agreements to depart from statutorily imposed workmanship standards provide no defense to an alleged violation of section 7109.”

- *Eisenberg Village of the Los Angeles Jewish Home for the Aging v. Suffolk Construction Co.*, 53 Cal. App. 5th 1201 (2020). On August 26, 2020, the Second District Court of Appeals [held](#), in a matter of first impression, that claims filed pursuant to section 7031(b) of the Business and Professions Code, which enables consumers to recover all compensation paid to unlicensed contractors, seek to impose a “penalty” against the contractor and thus a one-year statute of limitations applies. The court also held, as a matter of first impression, that the discovery rule does not apply to section 7031(b) claims, and the statute begins to run when the unlicensed

contractor completes or ceases to perform on the contract at issue. The Supreme Court declined review.

- ***C.W. Johnson & Sons, Inc. v. Randall M. Carpenter*, 53 Cal. App. 5th 165 (2020)**. On July 16, 2020, the Second District Court of Appeals reversed the Ventura County Superior Court’s sustaining of a demurrer in a matter, holding that while the Defendant/Cross-Complainant contractor could not recover funds for work performed while he was unlicensed, he had alleged sufficient facts to entitle him to an evidentiary hearing to determine whether he had substantially complied with the CSLB.