

JUNE 7-8, 2018  
LAS VEGAS, NEVADA &  
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

# Board Meeting







**NOTICE OF TELECONFERENCE PUBLIC BOARD MEETING**

Day 1 - Thursday, June 7, 2018, 1:00 p.m. – 5:00 p.m. and  
Day 2 – June 8, 2018, 8:00 a.m. – 11:00 a.m. (or until the conclusion of business)

The public teleconference sites for this meeting are as follows:

United Brotherhood of Carpenters International Training Center, 212 Carpenters Union Way,  
Rooms B-216 and B-217, Las Vegas, NV 89119

Contractors State License Board, 9821 Business Park Drive, John C. Hall Hearing Room,  
Sacramento, CA 95827

One or more Board Members will participate in this meeting at the teleconference sites listed above. Each teleconference location is accessible to the public and the public will be given an opportunity to address the Board at each teleconference location. The Board intends to provide a live webcast of this meeting.

Meetings are open to the public except when specifically noticed otherwise in accordance with the California Open Meeting Act. All times when stated are approximate and subject to change without prior notice at the discretion of the Board unless listed as “time certain.” Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. Action may be taken on any item listed on this agenda, including information-only items. The meeting may be canceled without notice.

Members of the public can address the Board at either meeting location during the public comment session. Public comments will also be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board Chair. The two meeting locations will be linked by video or telephonically.

**MEETING AGENDA – DAY 1**  
**Thursday, June 7, 2018 – 1:00 p.m.**

- A. Call to Order, Roll Call, Establishment of Quorum and Chair’s introduction
- B. Board Member Recognition – May Include Oral Presentations to CSLB Board Members Commemorating Achievements and Service
- C. Public Comment for Items Not on the Agenda and Future Agenda Item Requests  
*(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*
- D. Legislation
  - 1. Update, Discussion, and Possible Action on Previously Considered 2017-18 Pending Legislation
    - a. SB 721 (Hill) (2017) Contractors: Decks and Balconies Inspection
    - b. SB 981 (Dodd) (2018): Home Solicitation Contract Offers: Water Treatment: Contractor Responsibilities
    - c. SB 1042 (Monning) (2018) Contractors: Violations—Authority to Hold Informal Citation Conferences
    - d. AB 2138 (Chiu and Low) (2018) Licensing Boards: Denial of Application: Criminal Conviction

- e. AB 2353 (Frazier) (2018) Construction Defects: Actions: Statutes of Limitation
  - f. AB 2483 (Voepel) (2018) Department of Consumer Affairs: Office of Supervision of Occupational Boards
  - g. AB 2705 (Holden) (2018) Contractors: Violations—Failure to Secure Workers' Compensation: Statute of Limitations
2. Review, Discussion, and Possible Action on 2017-18 Pending Legislation
    - a. SB 1087 (Roth) (2018) Property Assessed Clean Energy Program
    - b. SB 1298 (Skinner) (2018) The Increasing Access to Employment Act
    - c. SB 1465 (Hill) (2018) Contractors: Reporting Requirement
    - d. AB 2371 (Carrillo) (2018) Landscape Contractors: Water Use Efficiency
    - e. AB 3126 (Brough) (2018) Contractor's State License Law: Cash Deposit in Lieu of Bond
  3. Review, Discussion, and Possible Action on the Draft Residential Solar Energy System Disclosure Document (Business and Professions Code Section 7169) and Stakeholder Workshops

#### E. Licensing

1. Licensing Program Update
  - a. Application Processing Statistics
  - b. Workers' Compensation Recertification Statistics
  - c. Fingerprinting/Criminal Background Unit Statistics
  - d. Experience Verification Statistics
  - e. Licensing Information Center Statistics
  - f. Judgment Unit Statistics
2. Testing Program Update
  - a. Examination Administration Unit Highlights
  - b. Examination Development Unit Highlights
3. Update on Board Administrative Implementation of Business and Professions Code Section 7071.17 Contractor Licensing: Final Judgments
4. Update Regarding the Possible Development of an Arborist Health and Safety Certification program and Specialty "C" License Classification

#### F. Enforcement

1. Enforcement Program Update
  - a. Investigation Highlights
  - b. General Complaint Handling Statistics
2. Update and Discussion of Solar Task Force Activities
  - a. Historical Solar Complaint Activity
  - b. Solar Task Force Action and Accomplishments by Complaint Type
  - c. Solar Task Force Outreach

3. Discussion Regarding Implementation of Business and Professions Code Section 7099.2: Letter of Admonishment
4. Update, Discussion, and Possible Action on Recommendations from Board Member Advisory Sub-Committee on California Workers' Compensation Enforcement Strategies, Resources, and Accomplishments
5. Update, Discussion, and Possible Action on Recommendations from Board Member Advisory Sub-Committee on Strategies to Address Owner-Builder Construction Permits and Unlicensed Activity Violations in California
6. Update and Discussion on the CSLB Consumer Satisfaction Survey

G. Public Affairs

1. Public Affairs Program Update
  - a. Online Highlights
  - b. Video/Digital Services
  - c. Social Media Highlights
  - d. Media Relations Highlights
  - e. Publications/Graphic Design Highlights
  - f. Industry/Licensee Outreach Highlights
  - g. Consumer/Community Outreach Highlights
  - h. Intranet/Employee Relations

H. Executive

1. Review and Possible Approval of April 12-13, 2018, Board Meeting Minutes
2. Personnel, Facilities, and Administration Update
3. Information Technology Update
4. Budget Update
5. Registrar's Report
  - a. CSLB Strategic Plan Process
  - b. 2018 Sunset Review Report Before the California State Legislature
  - c. 2018 Board Meeting Schedule
6. Election of 2018-19 Board Officers

I. Adjournment

**MEETING AGENDA – DAY 2**  
**Friday, June 8, 2018 – 8:00 a.m.**

- A. Call to Order, Roll Call, Establishment of Quorum and Chair's introduction
- B. Public Comment for Items Not on the Agenda and Future Agenda Item Requests  
*(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*
- C. Joint Discussion with Nevada State Contractors Board (NSCB)
  - 1. Discussion Regarding CSLB and NSCB Operational and Structural Comparison
    - a. Board Member Composition
    - b. Budget
    - c. License Population
    - d. License Fee Schedule
    - e. Criminal Background Checks
    - f. Insurance Requirements
    - g. Exam Waivers with Other States
    - h. Consumer Restitution Programs
  - 2. Presentation by NSCB and Discussion Regarding the Occupational Licensing Consortium – Reducing Barriers to Licensure
  - 3. Discussion Regarding CSLB and NSCB Licensing and Exam Administration and National Licensing Exams
    - a. CSLB Protocols
    - b. NSCB Protocols
    - c. National Association of State Contractors Licensing Agencies (NASCLA) Commercial General Builders Exam
  - 4. Discussion Regarding CSLB and NSCB Enforcement, Licensing, and Public Affairs Collaboration and Information Sharing Protocols and Achievements
  - 5. Discussion on Outreach, Educational, Media, and Enforcement Response to Natural Disasters
  - 6. Discussion Regarding Changes in Construction Industry and Enforcement Trends
    - a. Solar Construction Industry and Consumer Complaints
    - b. Transient Criminal Activity and Enforcement Strategies
  - 7. Proactive Enforcement
    - a. Multi-State Stings
    - b. Cross-Border Sting and Video
  - 8. Discussion Regarding Contracting Online for Home Improvement – Online Marketplace
- D. Staff Guided Tour of the United Brotherhood of Carpenters International Training Center
- E. Adjournment

The Board intends to provide a live webcast of the meeting. The webcast can be located at [www.cslb.ca.gov](http://www.cslb.ca.gov). Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties. The meeting will continue even if the webcast is unavailable. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at one of the two physical locations. For verification of the meeting, call (916) 255-4000 or access the CSLB website at <http://www.cslb.ca.gov>.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Phyliz Jones at (916) 255-4000 or [phyliz.jones@cslb.ca.gov](mailto:phyliz.jones@cslb.ca.gov) or send a written request to Phyliz Jones, 9821 Business Park Drive, Sacramento, CA 95827. Providing your request at least five (5) business days prior to the meeting will help ensure availability of the requested accommodation.





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JUNE 7-8, 2018  
LAS VEGAS, NEVADA &  
SACRAMENTO, CALIFORNIA



CONTRACTORS STATE LICENSE BOARD

Quarterly Board Meeting  
DAY 1





## AGENDA ITEM A

# Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

Roll is called by the Board Chair or, in his/her absence, by the Board Vice Chair or, in his/her absence, by a Board member designated by the Board Chair.

Eight members constitute a quorum at a CSLB Board meeting, per Business and Professions Code section 7007.

### Board Member Roster

KEVIN J. ALBANESE

PASTOR HERRERA JR.

AGUSTIN BELTRAN

ED LANG

LINDA CLIFFORD

MIKE LAYTON

DAVID DE LA TORRE

MARLO RICHARDSON

DAVID DIAS

FRANK SCHETTER

SUSAN GRANZELLA

JOHNNY SIMPSON

JOAN HANCOCK

NANCY SPRINGER





## AGENDA ITEM B

Board Member Recognition –  
May Include Oral Presentations  
to CSLB Board Members  
Commemorating Achievements  
and Service





## AGENDA ITEM C

# Public Comment Session - Items Not on the Agenda

(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)). Public comments will be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board Chair.

### BOARD AND COMMITTEE MEETING PROCEDURES

To maintain fairness and neutrality when performing its adjudicative function, the Board should not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending administrative or criminal action.

- (1) If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be requested to refrain from making such comments.
- (2) If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action:
  - (a) The Board may designate either its Registrar or a board employee to review whether the proper procedure or protocol was followed and to report back to the Board once the matter is no longer pending; or,
  - (b) If the matter involves complaints against the Registrar, once the matter is final or no longer pending, the Board may proceed to hear the complaint in accordance with the process and procedures set forth in Government Code section 11126(a).
- (3) If a person becomes disruptive at the Board meeting, the Chair will request that the person leave the meeting or be removed if the person refuses to cease the disruptive behavior.





# AGENDA ITEM D

## Legislation





## AGENDA ITEM D-1

# Update, Discussion, and Possible Action on Previously Considered 2017-18 Pending Legislation

- a. SB 721 (Hill) (2017) Contractors:  
Decks and Balconies Inspection
- b. SB 981 (Dodd) (2018): Home Solicitation Contract Offers:  
Water Treatment: Contractor Responsibilities
- c. SB 1042 (Monning) (2018) Contractors:  
Violations—Authority to Hold Informal Citation Conferences
- d. AB 2138 (Chiu and Low) (2018) Licensing Boards:  
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- e. AB 2353 (Frazier) (2018) Construction Defects:  
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- f. AB 2483 (Voepel) (2018) Department of Consumer Affairs:  
Office of Supervision of Occupational Boards
- g. AB 2705 (Holden) (2018) Contractors:  
Violations—Failure to Secure Workers' Compensation:  
Statute of Limitations







# CONTRACTORS STATE LICENSE BOARD

## PREVIOUSLY CONSIDERED 2017-18 PENDING LEGISLATION

On April 13, 2018, the Board discussed pending legislative bills that affect CSLB. The members voted to take positions on all seven bills below; however, four of these bills have since been amended and are identified by **blue text** below. The Board may wish to reaffirm or alter its previous position on these bills. A revised CSLB analysis and updated bill language have been included in the packet. All seven bills are summarized below.

**a. SB 721 (Hill) (2017) Contractors: Decks and Balconies: Inspection.** This bill would require the “exterior elements” of multi-family dwelling units be inspected, at a cost to the building owner. Local jurisdictions would enforce this requirement. The Board took a “support” position at its April 13, 2018 meeting.

**b. SB 981 (Dodd) (2018) Home Solicitation Contract or Offer: Water Treatment Devices: Rescission.** Current law prohibits a water treatment device sold through a home solicitation contract from being delivered or installed during the consumer’s three-day rescission period. This bill would remove that requirement to allow for such installations. The Board took an “oppose unless amended” position at its April 13, 2018 meeting. The bill has since been amended, and the updated CSLB analysis and new bill language are included in this packet.

**c. SB 1042 (Monning) (2018) Contractors: Violations--Authority to Hold Informal Citation Conferences.** This CSLB-sponsored bill would authorize the registrar to “settle” less egregious citations prior to an administrative hearing when appropriate. The Board voted to “support” this bill at its April 13, 2018 meeting.

**d. AB 2138 (Chiu and Low) (2018) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction.** Among other requirements, this bill would prohibit an applicant from being denied a license solely because he or she has been convicted of specified crimes. The Board voted to “Oppose” this bill at its April 13, 2018 meeting. The bill has since been amended, and the new language is included here, along with an updated CSLB analysis. The issues in this bill relate to those in SB 1298 (Skinner). The analysis of SB 1298 summarizes the differences between the two bills.

**e. AB 2353 (Frazier) (2018) Construction Defects: Actions.** At its April 13, 2018 meeting, the Board voted to “watch” a prior version of this bill, which dealt with construction defect statutes of limitations. The bill has since been amended and now relates to inspections of construction defect claims in civil litigation. The amended bill language and updated CSLB analysis are included in this packet.

**f. AB 2483 (Voepel) (2018) Indemnification of Public Officers and Employees: Antitrust Awards.** A prior version of this bill would have created a Department of Consumer Affairs (DCA) oversight Board, but it has since been amended. The Board voted to “watch” this bill based on a verbal update of relevant amendments, which are now included in this packet, along with an updated CSLB analysis.



**g. AB 2705 (Holden) (2018) Contractors: Violations--Failure to Secure Workers' Compensation: Statute of Limitations.** This CSLB-sponsored bill would increase from one year to two years the statute of limitations during which an unlicensed contractor can be prosecuted for failing to obtain workers' compensation insurance for employees. On April 13, 2018, the Board voted to "support" this bill.

**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS**

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Bill Number: SB 721 (Hill)  
Status/Location: Amended 1/11/18 – Passed Senate (Held at Assembly Desk to be heard later this year)  
Sponsor: Author (Senator Jerry Hill)  
Subject: Contractors: Deck Inspections  
Code Section: (Add) Business & Professions Code section 7071.20 and Civil Code Section 4776

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**Summary:**

This bill would require the inspection of “exterior elevated elements” that: (1) include “load-bearing components”; and (2) are in buildings containing three or more “multifamily dwelling units.” The requirement would also apply to common interest developments, as defined in the California Civil Code. The person or business performing the inspection would be hired by the building owner in the case of multifamily dwelling units, or in the case of common interest developments, by its board of directors. It would provide that local enforcement agencies enforce the provisions and cover costs in the form of civil penalties for failure to comply.

This analysis focuses on the requirement for building owners (Business and Professions Code section 7071.20) and not common interest developments (Civil Code Section 4776). However, the two sections of law are nearly identical.

Existing law provides authority for an enforcement agency to enter and inspect any buildings or premises whenever necessary to secure compliance with or prevent a violation of the building standards published in the California Building Standards Code, and other rules and regulations that the enforcement agency has the power to enforce. Building owners or their agents can perform or provide for any work necessary to comply with State Building Standards Code and other rules and regulations.

This bill would require inspection of exterior elevated elements as follows.

1. The inspection shall be performed by a licensed architect, civil or structural engineer, or certified building inspector or official, and shall be hired by the building owner and not be an employee of the local jurisdiction.
2. The purpose of the inspection is to determine that “exterior elevated elements” and their associated waterproofing elements are in a safe condition and free from hazards.
  - a. Defines “exterior elevated elements,” “associated waterproofing elements,” and “load-bearing components”
  - b. Provides that the inspection includes identification of the elements that in the opinion of the inspector constitute a threat to health or safety. The

inspection would be visual or comparable means of evaluation and require a sample of at least 15 percent of each identified exterior element.

- c. Provides that the evaluation or assessment address current condition, projected future performance and service life, and recommendations for future repair or replacements
3. Requires a written report of the evaluation stamped or signed by the inspector and presented to the owner within 45 days of completion. Provides requirements for the content of the report.
4. Provides the inspection shall be completed by January 1, 2024, and by January 1 every six years thereafter, with specified exemptions for newer or recently inspected works, and provides requirements and timelines for delivery and retention of the reports.
5. Provides that exterior elevated elements found in need of repair be corrected by owner, that all necessary permits be obtained, and that a qualified and licensed contractor comply with the recommendations of the inspector or licensed professional described above as well as any manufacturer's specifications and all laws and regulations applicable to the replacement or repair.
6. Provides requirements for owners and inspectors in the case of exterior elevated elements that the inspector advises either pose or do not pose an immediate threat.
7. Provides that if the owner does not comply within 120 days, the inspector shall notify the local enforcement agency and the owner, and if the repairs are not then completed within an additional 30 days, the owner shall be assessed a civil penalty of \$100 per day until completed.
8. Allows the recording of a building safety lien if a civil penalty is assessed.

**Background:**

According to the author, this bill is a follow up to SB 465 (Hill, 2016), which required that the Building Standards Commission study recent balcony failures in California and submit a report to the Legislature of findings and recommendations. That bill was a response to the Berkeley balcony collapse in 2015, which killed six and injured seven. In addition to the deadly Berkeley balcony collapse, a stairwell at an apartment building in the City of Folsom collapsed in 2015, killing a Cal Poly graduate student. The bill author states that wood rot, resulting from poor building maintenance, caused both the Berkeley and Folsom collapses. Current law does not require all local governments to inspect apartment and multi-dwelling structures, or require inspections from other licensed entities. Each city decides if it wants to inspect multi-family structures for maintenance and safety.

**Berkeley Ordinance:**

On July 14, 2015, the Berkeley City Council unanimously passed Ordinance No.7,431-N.S., adding section 601.4 to the Berkeley Housing Code, which requires inspection of weather-exposed, exterior, elevated elements of buildings. The ordinance requires inspection of exterior elevated elements (EEEs), such as balconies, decks, and stairs every three years, and it applies to temporary and permanent residences, such as hotels and apartments. The EEE inspection program applies to all such buildings

regardless of their original construction date. The ordinance required the initial inspection within six months of its passage and that inspections occur every three years thereafter.

**Building Standards Commission (BSC):**

On January 27, 2017, the BSC passed emergency regulations to address the safety of elevated elements exposed to water from rain, snow, or irrigation. The regulations were modeled after a proposal by the International Code Council to amend the International Building Code (IBC) and the International Existing Building Code (IEBC). For new construction, the IBC-modeled regulations require the inclusion of the manufacturer's installation instructions for the structure's impervious moisture barrier system in the construction documents and the inspection and approval of this barrier before sealing. They also increase the minimum uniform load requirements for balconies and decks and require ventilation below balconies or elevated walking surfaces exposed to water. For existing buildings, the IEBC-modeled regulations require the maintenance of buildings and structures in safe and sanitary conditions.

**Support (as of 5/14/18):**

Center for Public Interest Law  
City of Berkeley Rent Stabilization Board  
City of Berkeley, Office of the Mayor  
Consulate General of Ireland  
Consumer Attorneys of California

**Opposition as of 5/14/18):**

Apartment Association of Orange County  
Apartment Association, California Southern Cities  
Center for California Homeowner Association Law  
Community Associations Institute, California Legislative Action Committee  
East Bay Rental Housing Association  
North Valley Property Owners Association

**Fiscal Impact for CSLB:**

No fiscal impact on CSLB. This bill makes some changes to existing statute for the benefit of local enforcement agencies but does not require additional resources from CSLB.

**Previous Board Action**

**SUPPORT.** The Board took a "watch" position on this two-year bill at the June 2017 Board meeting. The Board passed a motion to "support" this bill at its April 13, 2018 Board meeting and no further action is required.

While the bill places its requirements within contractors' state license law, it does not impose any requirements on CSLB, and CSLB would not have the ability to enforce its provisions. However, staff believes the legislation is an effective consumer protection

tool that provides CSLB and its licensees further opportunity to confer with local agencies about permit and building code compliance issues within its jurisdiction.

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Date: May 14, 2018

AMENDED IN SENATE JANUARY 11, 2018

AMENDED IN SENATE JANUARY 3, 2018

AMENDED IN SENATE MAY 15, 2017

AMENDED IN SENATE APRIL 27, 2017

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 27, 2017

**SENATE BILL**

**No. 721**

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**Introduced by Senator Hill  
(Coauthor: Senator Skinner)**

February 17, 2017

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An act to add Section 7071.20 to the Business and Professions Code, and to add Section 4776 to the Civil Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 721, as amended, Hill. Contractors: decks and balconies: inspection.

(1) Existing law provides authority for an enforcement agency to enter and inspect any buildings or premises whenever necessary to secure compliance with or prevent a violation of the building standards published in the California Building Standards Code and other rules and regulations that the enforcement agency has the power to enforce.

This bill would require an inspection of exterior elevated elements and associated waterproofing elements, as defined, including decks and balconies, for buildings with 3 or more multifamily dwelling units by a licensed architect, licensed civil or structural engineer, or an individual certified as a building inspector or building official, as specified. The

bill would require the inspections, including any necessary testing, to be completed by January 1, 2024, with certain exceptions, and would require subsequent inspections every 6 years, except as specified. The bill would require the inspection report to contain specified items and would require that a copy of the inspection report be presented to the owner of the building within 45 days of the completion of the inspection. The bill would require that if the inspection reveals conditions that pose an immediate hazard to the safety of the occupants, the inspection report be delivered to the owner of the building within 15 days and emergency repairs be undertaken, as specified, with notice given to the local enforcement agency. The nonemergency repairs made under these provisions would be required to be completed within 120 days, unless an extension is granted by the local authorities. The bill would authorize local enforcement agencies to recover enforcement costs associated with these requirements. The bill would require the local enforcement agency to send a 30-day corrective notice to the owner of the building if repairs are not completed on time and would provide for specified civil penalties and liens against the property for the owner of the building who fails to comply with these provisions. The bill would authorize a local governing entity to enact stricter requirements than those imposed by these provisions.

(2) The Davis-Stirling Common Interest Development Act defines and regulates common interest developments, which include community apartment projects, condominium projects, and stock cooperatives. The act requires the homeowners association to maintain the common areas of the development.

This bill would require the board of directors of a common interest development, at least once every 6 years, to have an inspection conducted by a licensed architect, licensed civil or structural engineer, or an individual certified as a building inspector or building official, as specified, of the exterior elevated elements, as defined, that the association is obligated to repair, replace, restore, or maintain. The bill would require the inspections, including any necessary testing, to be completed by January 1, 2024, with certain exceptions, and would require subsequent inspections every 6 years. The bill would require the inspection reports to contain specified items. The bill would require that the results of the report be used in calculating the reserve study for the development, as specified. The bill would require the inspection report to be presented to the association within 45 days of the completion of the inspection and would require copies of the reports to be

permanently maintained in the association’s records. The bill would require that if the inspection reveals conditions that pose an immediate hazard to the safety of the occupants, the inspection report be delivered to the association within 15 days and emergency repairs be undertaken, as specified, with notice given to the local enforcement agency. Nonemergency repairs made under these provisions would be required to be completed within 180 days, unless an extension is granted by the local authorities. The bill would, with regard to a condominium conversion, require an inspection be completed prior to the close of escrow on the first separate interest and would require the disclosure of the results of these inspections to the Bureau of Real Estate prior to the issuance of a final public report. A copy of the report would also be required to be sent to the local jurisdiction in which the property is located prior to the issuing of a final inspection or certificate of occupancy. The bill would authorize a local enforcement agency to recover its costs associated with enforcing these provisions. The bill would authorize a local governing entity to enact stricter requirements than those imposed by these provisions. The bill would provide that its provisions do not apply to those areas constituting an individual owner’s separate interest or to a planned development, as defined.

(3) Because this bill would impose new duties upon local enforcement authorities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7071.20 is added to the Business and
- 2 Professions Code, to read:
- 3 7071.20. (a) Exterior elevated elements that include
- 4 load-bearing components in all buildings containing three or more
- 5 multifamily dwelling units shall be inspected. The inspection shall
- 6 be performed by a licensed architect, licensed civil or structural
- 7 engineer, or an individual certified as a building inspector or
- 8 building official from a recognized state, national, or international

1 association, as determined by the local jurisdiction. These  
2 individuals shall not be employed by the local jurisdiction while  
3 performing these inspections. The purpose of the inspection is to  
4 determine that ~~building assemblies~~ *exterior elevated elements* and  
5 their associated waterproofing elements are in a generally safe  
6 condition, adequate working order, and free from any hazardous  
7 condition caused by fungus, deterioration, decay, or improper  
8 alteration to the extent that the life, limb, health, property, safety,  
9 or welfare of the public or the occupants is not endangered. The  
10 person or business performing the inspection shall be hired by the  
11 owner of the building.

12 (b) For purposes of this section, the following terms have the  
13 following definitions:

14 (1) “Associated waterproofing elements” include flashings,  
15 membranes, coatings, and sealants that protect the load-bearing  
16 components of exterior elevated elements from exposure to water  
17 and the elements.

18 (2) “Exterior elevated element” means balconies, decks, porches,  
19 stairways, walkways, entry structures, and their supports and  
20 railings, that extend beyond exterior walls of the building and  
21 which have a walking surface that is elevated more than six feet  
22 above ground level, are designed for human occupancy or use, and  
23 rely in whole or in substantial part on wood or wood-based  
24 products for structural support or stability of the exterior elevated  
25 element.

26 (3) “Load-bearing components” are those components that  
27 extend beyond the exterior walls of the building to deliver structural  
28 loads from the exterior elevated element to the building.

29 (c) The inspection required by this section shall at a minimum  
30 include:

31 (1) Identification of each exterior elevated element that, if found  
32 to be defective, decayed, or deteriorated to the extent that it does  
33 not meet its load requirements, would, in the opinion of the  
34 inspector, constitute a threat to the health or safety of the occupants.

35 (2) Assessment of the load-bearing components and associated  
36 waterproofing elements of the exterior elevated elements using  
37 methods allowing for evaluation of their performance by direct  
38 visual examination or comparable means of evaluating their  
39 performance. For purposes of this section, a sample of at least 15  
40 percent of each type of exterior elevated element shall be inspected.

1 (3) The evaluation and assessment shall address each of the  
2 following as of the date of the evaluation:

3 (A) The current condition of the exterior elevated elements.

4 (B) Expectations of future performance and projected service  
5 life.

6 (C) Recommendations of any further inspection necessary.

7 (D) Recommendations of any necessary repair or replacement.

8 (4) A written report of the evaluation stamped or signed by the  
9 inspector presented to the owner of the building or the owner's  
10 designated agent within 45 days of completion of the inspection.  
11 The report shall include photographs, any test results, and narrative  
12 sufficient to establish a baseline of the condition of the components  
13 inspected that can be compared to the results of subsequent  
14 inspections. In addition to the evaluation required by this section,  
15 the report shall advise which, if any, exterior elevated element  
16 poses an immediate threat to the safety of the occupants, and  
17 whether preventing occupant access or conducting emergency  
18 repairs, including shoring, are necessary.

19 (d) The inspection shall be completed by January 1, 2024, and  
20 by January 1 every six years thereafter. The inspector conducting  
21 the inspection shall produce an initial report pursuant to paragraph  
22 (4) of subdivision (c) and a final report indicating that any required  
23 repairs have been completed. A copy of any report that  
24 recommends immediate repairs, advises that any building assembly  
25 poses an immediate threat to the safety of the occupants, or that  
26 preventing occupant access or emergency repairs, including  
27 shoring, are necessary shall be provided by the inspector to the  
28 owner of the building and to the local enforcement agency within  
29 15 days of completion of the report. Local enforcement agencies  
30 may determine whether any additional information is to be  
31 provided in the report and may require a copy of the initial or final  
32 reports, or both, be submitted to the local jurisdiction. Copies of  
33 all inspection reports shall be maintained in the building owner's  
34 permanent records and disclosed and delivered to the buyer at the  
35 time of any subsequent sale of the building.

36 (e) The inspection of buildings for which a building permit  
37 application has been submitted on or after January 1, 2019, shall  
38 occur no later than six years following issuance of a certificate of  
39 occupancy from the local jurisdiction and shall otherwise comply  
40 with the provisions of this section.

1 (f) If the property was inspected within three years prior to  
2 January 1, 2019, by an inspector as described in subdivision (a)  
3 and a report of that inspector was issued stating that the exterior  
4 elevated elements and associated waterproofing elements are in  
5 proper working condition and do not pose a threat to the health  
6 and safety of the public, no new inspection pursuant to this section  
7 shall be required until six years from the date of that report.

8 (g) An exterior elevated element found to be in need of repair  
9 or replacement by the inspector, shall be corrected by the owner  
10 of the building. All necessary permits for repair or replacement  
11 shall be obtained from the local jurisdiction. All repair and  
12 replacement work shall be performed by a qualified and licensed  
13 contractor in compliance with all of the following:

14 (1) The inspector's recommendations or alternative  
15 recommendations by a licensed professional described in  
16 subdivision (a).

17 (2) Any applicable manufacturer's specifications.

18 (3) The California Building Standards Code, consistent with  
19 subdivision (d) of Section 17922 of the Health and Safety Code.

20 (4) All local jurisdictional requirements.

21 (h) (1) An exterior elevated element that the inspector advises  
22 poses an immediate threat to the safety of the occupants, or finds  
23 preventing occupant access or emergency repairs, including  
24 shoring, or both, are necessary, shall be considered an emergency  
25 condition and the owner of the building shall perform required  
26 preventive measures immediately. Repairs of emergency conditions  
27 shall comply with the requirements of subdivision (g), be inspected  
28 by the inspector, and reported to the local enforcement agency.

29 (2) The owner of the building requiring corrective work to an  
30 exterior elevated element that, in the opinion of the inspector, does  
31 not pose an immediate threat to the safety of the occupants, shall  
32 apply for a permit within 120 days of receipt of the inspection  
33 report. Once the permit is approved, the owner of the building  
34 shall have 120 days to make the repairs unless an extension of time  
35 is granted by the local enforcement agency.

36 (i) (1) The owner of the building shall be responsible for  
37 complying with the requirements of this section.

38 (2) If the owner of the building does not comply with the repair  
39 requirements within 120 days, the inspector shall notify the local  
40 enforcement agency and the owner of the building. If within 30

1 days of the date of the notice the repairs are not completed, the  
2 owner of the building shall be assessed a civil penalty based on  
3 the fee schedule set by the local authority of not less than one  
4 hundred dollars (\$100) nor more than five hundred dollars (\$500)  
5 per day until the repairs are completed, unless an extension of time  
6 is granted by the local enforcement agency.

7 (3) In the event that a civil penalty is assessed pursuant to this  
8 section, a building safety lien may be recorded in the county  
9 recorder's office by the local jurisdiction in the county in which  
10 the parcel of land is located and from the date of recording shall  
11 have the force, effect, and priority of a judgment lien.

12 (j) (1) A building safety lien authorized by this section shall  
13 specify the amount of the lien, the name of the agency on whose  
14 behalf the lien is imposed, the street address, the legal description  
15 and assessor's parcel number of the parcel on which the lien is  
16 imposed, and the name and address of the recorded owner of the  
17 building.

18 (2) In the event that the lien is discharged, released, or satisfied,  
19 either through payment or foreclosure, notice of the discharge  
20 containing the information specified in paragraph (1) shall be  
21 recorded by the governmental agency. A safety lien and the release  
22 of the lien shall be indexed in the grantor-grantee index.

23 (3) A building safety lien may be foreclosed by an action  
24 brought by the appropriate local jurisdiction for a money judgment.

25 (4) Notwithstanding any other law, the county recorder may  
26 impose a fee on the city to reimburse the costs of processing and  
27 recording the lien and providing notice to the owner of the building.  
28 A city may recover from the owner of the building any costs  
29 incurred regarding the processing and recording of the lien and  
30 providing notice to the owner of the building as part of its  
31 foreclosure action to enforce the lien.

32 (k) The continued and ongoing maintenance of exterior elevated  
33 elements in a safe and functional condition in compliance with  
34 these provisions shall be the responsibility of the owner of the  
35 building.

36 (l) Local enforcement agencies shall have the ability to recover  
37 enforcement costs associated with the requirements of this section.

38 (m) This section shall not apply to a common interest  
39 development, as defined in Section 4100 of the Civil Code, that

1 complies with, or is exempt from, the provisions of Section 4776  
2 of the Civil Code.

3 (n) The governing body of any city, county, or city and county,  
4 may enact ordinances or laws imposing requirements greater than  
5 those imposed by this section.

6 SEC. 2. Section 4776 is added to the Civil Code, to read:

7 4776. (a) At least once every six years, the board of directors  
8 of a common interest development shall cause to be conducted a  
9 reasonably competent and diligent inspection by a licensed  
10 architect, licensed civil or structural engineer, or an individual  
11 certified as a building inspector or building official from a  
12 recognized state, national, or international association, as  
13 determined by the local jurisdiction, of the load-bearing  
14 components and associated waterproofing elements of exterior  
15 elevated elements. The inspector shall not be employed by the  
16 local jurisdiction while performing these inspections. The purpose  
17 of the inspection is to determine that exterior elevated elements  
18 and their associated waterproofing elements are in a generally safe  
19 condition, adequate working order, and free from any hazardous  
20 condition caused by fungus, deterioration, decay, or improper  
21 alteration to the extent that the life, limb, health, property, safety,  
22 or welfare of the public or the occupants is not endangered.

23 (b) For purposes of this section, the following terms have the  
24 following definitions:

25 (1) “Associated waterproofing elements” include flashings,  
26 membranes, coatings, and sealants that protect the load-bearing  
27 components of exterior elevated elements from exposure to water  
28 and the elements.

29 (2) “Exterior elevated element” means common area and  
30 exclusive use common area balconies, decks, porches, stairways,  
31 walkways, entry structures, and their supports and railings, that  
32 extend beyond exterior walls of the building and which have a  
33 walking surface that is elevated more than six feet above ground  
34 level, are designed for human occupancy or use, rely in whole or  
35 in substantial part on wood or wood-based products for structural  
36 support or stability of the exterior elevated element.

37 (3) “Load-bearing components” are those components that  
38 extend beyond the exterior walls of the building to deliver structural  
39 loads from the exterior elevated element to the building.

1 (c) The inspection required by this section shall at a minimum  
2 include:  
3 (1) Identification of each exterior elevated element that, if found  
4 to be defective, decayed, or deteriorated to the extent that it does  
5 not meet its load requirements, would, in the opinion of the  
6 inspector, constitute a threat to the health or safety of the occupants.  
7 (2) Assessment of the load-bearing components and associated  
8 waterproofing elements of the exterior elevated elements using  
9 methods allowing for evaluation of their performance by direct  
10 visual examination or comparable means of evaluating their  
11 performance. For purposes of this section, a sample of at least 15  
12 percent of each type of exterior elevated element shall be inspected.  
13 (3) The evaluation and assessment shall address each of the  
14 following as of the date of the evaluation:  
15 (A) The current condition of the exterior elevated elements.  
16 (B) Expectations of future performance and projected service  
17 life for purposes of subdivision (k).  
18 (C) Recommendations of any further inspection necessary.  
19 (D) Recommendations of any necessary repair or replacement.  
20 (4) A written report of the evaluation stamped or signed by the  
21 inspector presented to the board within 45 days of completion of  
22 the inspection. The report shall include photographs, any test  
23 results, and narrative sufficient to establish a baseline of the  
24 condition of the components inspected that can be compared to  
25 the results of subsequent inspections. In addition to the evaluation  
26 required by this section, the report shall advise which, if any,  
27 exterior elevated element poses an immediate threat to the safety  
28 of the occupants, and whether preventing occupant access or  
29 conducting emergency repairs, including shoring, are necessary.  
30 (d) The inspection shall be completed by January 1, 2024, and  
31 by January 1 every six years thereafter. The inspector conducting  
32 the inspection shall produce an initial report pursuant to paragraph  
33 (4) of subdivision (c) and a final report indicating that any required  
34 repairs have been completed. A copy of any report that  
35 recommends immediate repairs, advises that any building assembly  
36 poses an immediate threat to the safety of the occupants, or that  
37 preventing occupant access or emergency repairs, including  
38 shoring, are necessary shall be provided by the inspector to the  
39 association and to the local enforcement agency within 15 days of  
40 completion of the report. All inspection reports shall be

1 permanently maintained in the records of the association. Local  
2 enforcement agencies may determine whether any additional  
3 information is to be provided in the report and may require a copy  
4 of the initial or final reports, or both, to be submitted to the local  
5 jurisdiction.

6 (e) The inspection of buildings for which a building permit  
7 application has been submitted on or after January 1, 2019, shall  
8 occur no later than six years following issuance of a certificate of  
9 occupancy from the local jurisdiction and shall otherwise comply  
10 with the provisions of this section.

11 (f) If the property was inspected within three years prior to  
12 January 1, 2019, by an inspector as described in subdivision (a)  
13 and a report of that inspector was issued stating that the exterior  
14 elevated elements and associated waterproofing elements are in  
15 proper working condition and do not pose a threat to the health  
16 and safety of the public, no new inspection pursuant to this section  
17 shall be required until six years from the date of that report.

18 (g) An exterior elevated element found to be in need of repair  
19 or replacement by the inspector, shall be corrected by the  
20 association. All necessary permits for repair or replacement shall  
21 be obtained from the local jurisdiction. All repair and replacement  
22 work shall be performed by a qualified and licensed contractor in  
23 compliance with all of the following:

24 (1) The inspector’s recommendations or alternative  
25 recommendations by a licensed professional described in  
26 subdivision (a).

27 (2) Any applicable manufacturer’s specifications.

28 (3) The California Building Standards Code, consistent with  
29 subdivision (d) of Section 17922 of the Health and Safety Code.

30 (4) All local jurisdictional requirements.

31 (h) (1) An exterior elevated element that the inspector advises  
32 poses an immediate threat to the safety of the occupants, or finds  
33 that preventing occupant access or emergency repairs, including  
34 shoring, or both, are necessary, shall be considered an emergency  
35 condition and the association shall perform required preventive  
36 measures immediately. Repairs of emergency conditions shall  
37 comply with the requirements of subdivision (g), be inspected by  
38 the inspector, and reported to the local enforcement agency.

39 (2) If the building requires corrective work to an exterior  
40 elevated element that, in the opinion of the inspector, does not

1 pose an immediate threat to the safety of the occupants, the  
2 association shall apply for a permit within 120 days of receipt of  
3 the inspection report. Once the permit is approved, the association  
4 shall have 180 days to make the repairs unless an extension of time  
5 is granted by the local enforcement agency.

6 (3) All costs and fees associated with accomplishing the  
7 inspections and repairs required pursuant to this subdivision shall  
8 be considered an “emergency situation” as defined by subdivision  
9 (b) of Section 5610.

10 (i) (1) The association shall be responsible for complying with  
11 the requirements of this section and nothing required herein shall  
12 be the responsibility of the association’s managing agent or its  
13 employees.

14 (2) The continued and ongoing maintenance of ~~building~~  
15 ~~assemblies~~ *exterior elevated elements* and associated waterproofing  
16 elements, in a safe, functional, and sanitary condition, shall be the  
17 responsibility of the association as required by the association’s  
18 governing documents.

19 (3) Notwithstanding any provision of the association’s governing  
20 documents to the contrary, the association shall have an access  
21 easement through the separate interests as necessary to accomplish  
22 the inspections and repairs required by this section.

23 (j) Local enforcement agencies shall have the ability to recover  
24 enforcement costs associated with the requirements of this section.

25 (k) If, in the inspector’s opinion, any of the components or  
26 exterior elevated elements evaluated require repair or replacement  
27 in accordance with this section, or have a projected service life of  
28 less than 30 years, the reserve study required by Section 5550 shall  
29 consider that opinion in preparing the reserve funding evaluation.

30 (l) For condominium conversions proposed for sale after January  
31 1, 2019, the inspection required by this section shall be conducted  
32 prior to the first close of escrow of a separate interest in the project  
33 and thereafter as required by the section. The inspection report  
34 and written confirmation by the inspector that any repairs or  
35 replacements recommended by the inspector have been completed  
36 shall be submitted to the Bureau of Real Estate by the converter  
37 and shall be a condition to the issuance of the final public report.  
38 A complete copy of the inspection report and written confirmation  
39 by the inspector that any repairs or replacements recommended  
40 by the inspector have been completed shall be included with the

1 written statement of defects required by Section 1134, and provided  
2 to the local jurisdiction in which the project is located. The  
3 inspection, report, and confirmation of completed repairs shall be  
4 a condition of the issuance of a final inspection or certificate of  
5 occupancy by the local jurisdiction.

6 (m) The governing body of a city, county, or city and county,  
7 may enact ordinances or laws imposing requirements greater than  
8 those imposed by this section.

9 (n) This section shall not apply to an individual owner’s  
10 “separate interest,” as defined by Section 4185, or to a “planned  
11 development” as defined by Section 4175.

12 SEC. 3. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 a local agency or school district has the authority to levy service  
15 charges, fees, or assessments sufficient to pay for the program or  
16 level of service mandated by this act, within the meaning of Section  
17 17556 of the Government Code.

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**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS (UPDATED)**

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**Bill Number:** SB 981 (Dodd)  
**Status/Location:** Held at Desk in Assembly  
**Sponsor:** Pacific Water Quality Association  
**Subject:** Home Solicitation Contract or Offer: Water Treatment Devices: Rescission  
**Code Section:** Amend Business and Professions Code Section 17577.3

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**Summary:**

This bill would affect contractors and consumers who contract for the installation of a water treatment device or other materials and would allow the work to begin during the three-day rescission period. If the consumer subsequently rescinds the contract within the three-day period, the seller would be responsible for the costs of removing the device or any material and returning the property to its same condition prior to the contract.

Existing law authorizes a buyer to rescind a home solicitation contract or offer (for the sale, lease, or rental of goods or services or both, in an amount of \$25 or more made at other than appropriate trade premises) within a limited period of time (until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase) if specified requirements are met.

Under existing law, a contract or offer for the sale, lease, or rental of a water treatment device is considered a home solicitation contract or offer. Existing law prohibits a water treatment device or other materials that are the subject of a home solicitation contract or offer from being delivered or installed, or other services performed, until the expiration of the rescission period, if the contract or offer arises out of a scheduled presentation to promote the sale, lease, or rental of a water treatment device to a person invited to attend the presentation at a location other than a private residence. Existing law makes a violation of these provisions a crime.

This bill would authorize the delivery and installation of a water treatment device during the rescission period. If the buyer rescinds the contract before the rescission period expires, the bill would make the contractor responsible for all costs to remove the installed water treatment device or other materials and return the property to its same condition prior to the contract.

On April 13, 2018, the Board voted to “oppose SB 981, unless amended.” On April 16, 2018, the bill was amended. Prior to the amendments, the bill provided that if a buyer exercises the right to rescind within three days, the contractor would be responsible for

all costs in removing the device and any materials installed. With the newest amendments, the word “contractor” has been replaced by the word “seller,” and additional language provides that the removal of any installed device shall occur within 20 days of the buyer’s contract rescission and that the seller shall restore the property to its condition prior to the contract. These amendments reflect the author’s attempt to address the issues raised at the Board’s April 2018 meeting.

**Arguments in Support:**

According to the author, an unintended result of the “Right to Cancel” statute is that “unlicensed sellers are competing with legitimate sellers by illegally installing water treatment systems prior to expiration of the three-day window.” This bill, the author says, would level the playing field to allow licensed installers to do the same thing. The bill sponsors have noted an unfairness in the law that strictly prohibits installation of a water treatment system within three days, but no other system. While it is not recommended that a contractor begin installation within three days because a consumer can cancel at any time without obligation, the section of law this bill would amend is the only statute that strictly prohibits installation of a system within three days.

**Arguments in Opposition:**

According to the Department of Consumer Affairs Legal Guide, “Contracting with a Contractor,” the right to rescind a contract is a consumer protection measure that allows the buyer to cancel without any penalty or obligation within the rescission period.

Because water treatment systems can be installed in one day they are often subject to high pressure sales tactics. In addition, the installation of a whole-house water treatment system requires alterations to the plumbing and wall structure; as such, removing a water treatment system and returning the project to its original state is not a simple task. Further, the need for a water treatment system rarely constitutes an emergency that cannot wait for the three-day rescission period to pass. By allowing work to occur within these three days, the bill risks placing homeowners in a precarious position should they wish to cancel within the three-day rescission period but after an installation has occurred.

**Support:**

Pacific Water Quality Association (source)  
California Retailers Association  
Heritage Well Service  
Impact Water Products  
Plumbing-Heating-Cooling Contractors Association of California  
Quality Home Services  
San Diego, Southern California and Central California Chapters of Associated Builders and Contractors  
Water Quality Association

**Opposition:**

None on record

**Fiscal Impact for CSLB:**

No fiscal impact on CSLB.

**Staff Recommendation and Comments:**

**OPPOSE.** Because of concerns about consumer protection and high-pressure sales tactics, the Board passed a motion to “oppose unless amended” this bill at its April 13, 2018 meeting. Given the recent amendments, the Board may wish to reaffirm or alter its previous position.

Date: May 17, 2018

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AMENDED IN SENATE APRIL 16, 2018

**SENATE BILL**

**No. 981**

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**Introduced by Senator Dodd**

February 1, 2018

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An act to amend Section 17577.3 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 981, as amended, Dodd. Home solicitation contract or offer: water treatment devices: ~~recession~~: *rescission*.

Existing law authorizes a buyer to rescind a home solicitation contract or offer, as defined, within a limited period of time if specified requirements are met. Under existing law, a contract or offer, subject to approval, for the sale, lease, or rental of a water treatment device is deemed a home solicitation contract or offer. Existing law prohibits a water treatment device or other materials that are the subject of a home solicitation contract or offer from being delivered or installed, or other services performed, until the expiration of the rescission period, as provided. Existing law makes a violation of these provisions a crime.

This bill would authorize the delivery and installation of a water treatment device or other materials during the rescission period. The bill would make the ~~contractor~~ *seller* responsible for all costs in removing the installed water treatment device or other ~~materials~~ *materials, and would require that removal to occur within 20 days* if the buyer rescinds the contract before the expiration of the rescission period. *The bill would also require the seller to restore the property to substantially as good condition as it was at the time the services were rendered if the seller's services result in the alteration of property of*

*the buyer.* Because a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17577.3 of the Business and Professions  
 2 Code is amended to read:

3 17577.3. (a) A contract or offer which is subject to approval,  
 4 for the sale, lease, or rental of a water treatment device shall be  
 5 deemed a home solicitation contract or offer, as defined in  
 6 subdivision (a) of Section 1689.5 of the Civil Code regardless of  
 7 where the contract or offer was made, and shall be subject to the  
 8 provisions of Sections 1689.5 to 1689.13, inclusive, of the Civil  
 9 Code if the contract or offer arises out of a scheduled presentation  
 10 to promote the sale, lease, or rental of a water treatment device to  
 11 a person invited to attend the presentation at a location other than  
 12 a private residence.

13 (b) A water treatment device or any other materials that are the  
 14 subject of a contract offer described in subdivision (a) may be  
 15 delivered and installed during the rescission period provided in  
 16 Sections 1689.5 to 1689.13, inclusive, of the Civil Code.  
 17 Notwithstanding any other law, if a buyer exercises his or her right  
 18 to rescind the contract in accordance with those ~~recession~~ *rescission*  
 19 provisions, the ~~contractor~~ *seller* shall be responsible for all costs  
 20 in removing the installed water treatment device or other ~~materials.~~  
 21 *materials and shall remove that device or other materials within*  
 22 *20 days of the rescission. If the seller’s services result in the*  
 23 *alteration of property of the buyer, the seller shall restore the*  
 24 *property to substantially as good condition as it was at the time*  
 25 *the services were rendered.*

26 SEC. 2. No reimbursement is required by this act pursuant to  
 27 Section 6 of Article XIII B of the California Constitution because  
 28 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

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## CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

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Bill Number:	SB 1042 (Monning)
Status/Location:	Referred to Senate Committee on Business, Professions, and Economic Development
Sponsor:	Contractors State License Board
Subject:	Contractors: Informal Citation Settlement
Code Section:	Add Business & Professions Code section 7099.8

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### **Summary:**

Existing law authorizes the CSLB registrar to issue a citation not to exceed \$15,000 to a contractor if there is probable cause of a violation of the California contractors' license law. The statutory scheme for issuance and appeal of a citation is Business and Professions Code (BPC) sections 7028.6 through 7028.14 for unlicensed contractors, and BPC sections 7099 through 7099.6 for licensed contractors. As such, CSLB has statutory authority to issue civil penalties within a defined financial range.

Since 1995, CSLB has "settled" many administrative citations by hosting citation appeal conferences with CSLB staff and contractors. As used currently by CSLB, the conferences grant the board the chance to modify a citation and allow the resolution of many citations through an informal process. However, unlike other Department of Consumer Affairs boards and bureaus, contractors' license law does not provide CSLB express authority to "settle" or modify citation amounts before they become a final order of the registrar.

This bill would make CSLB's authority to host settlement conferences explicit, rather than implicit and formalize the existing citation conference process as currently conducted by CSLB. Specifically, it:

1. Provides cited contractors the opportunity to request an informal office conference to resolve a citation in lieu of, or in addition to, an appeal.
2. Provides that CSLB host the conference with the cited person's representative of choice.
3. Provides that, if the conference is held, any request for an administrative hearing would be withdrawn. After the conference, CSLB may affirm, modify, or dismiss the citation.
4. Provides that, if the cited person wishes to contest the result of the conference, the right to request an administrative hearing remains intact.

### **Background:**

CSLB licenses and regulates approximately 285,000 contractors in California and receives nearly 20,000 complaints annually.

Currently, CSLB can issue a citation to a licensee for a violation, and for the most serious offenses seek to suspend or revoke a license.

In the last few years, CSLB's costs to administer citations have grown significantly. CSLB issues more than 2,000 citations a year, and approximately 40 percent of these are appealed. The average cost per appealed citation that is forwarded to the Attorney General that results in a hearing is \$10,000. For this reason, CSLB attempts to minimize the number of appeals referred for a formal hearing by encouraging contractors to reach a resolution prior to the hearing. Approximately 10 percent of citations are resolved this way.

With the program authorized by this bill, CSLB can offer contractors the opportunity to more fully understand the circumstances around the citation and avoid the time and expense of a formal hearing. It also affords an informal setting in which contractors can commit to repayment plans without the formalities of an administrative hearing. By offering contractors this informal process, CSLB anticipates settling considerably more citations prior to any formal hearing than is currently the case.

Consumers and contractors both benefit from the settlement of a citation that is more quickly resolved at less cost than a formal hearing. CSLB expects that implementation of the informal citation appeal conferences will make additional financial resources available for the enforcement of more serious violations of the law, as well as further CSLB's efforts to address the underground economy in California.

Finally, at least five other boards and bureaus within the Department of Consumer Affairs have the statutory authority to informally resolve citations. This bill would extend that statutory authority to CSLB.

**Support:**

Contractors State License Board (source)  
Associated Builders and Contractors, Inc.  
Central California Chapter of Associated Builders and Contractors  
Plumbing-Heating-Cooling Contractors Association of California  
San Diego Chapter of Associated Builder and Contractors  
Southern California of Associated Builders and Contractors  
Western Electrical Contractors Associations

**Opposition:**

None at this time.

**Fiscal Impact for CSLB:**

As the legislation places an existing program into statute, there is no anticipated fiscal impact on CSLB.

**Previous Board Action:**

**SUPPORT.** This is a CSLB-sponsored bill. The board voted to “support” this bill at its April 13, 2018 meeting, and no further action is required.

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Date: May 14, 2018

AMENDED IN SENATE APRIL 10, 2018

**SENATE BILL**

**No. 1042**

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**Introduced by Senator Monning**

February 8, 2018

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An act to add Section 7099.8 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1042, as amended, Monning. Contractors: violations.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs. Existing law requires the board to appoint a registrar of contractors to carry out administrative duties, as provided. Existing law, if the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson without a license or registration in good standing, requires the registrar to issue a citation to that person, as specified. Existing law authorizes the registrar to issue a citation, as specified, to a licensee or applicant for a license, if the registrar has probable cause to believe that a licensee or applicant for a license has committed any acts or omissions that are grounds for denial, revocation, or suspension of a license. Existing law, if the person cited under these provisions notifies the registrar that the person intends to contest the citation, requires the registrar to provide an opportunity for an administrative hearing.

This bill would require that the person cited under those provisions file a written request for an administrative hearing within 15 days. The bill would authorize a person to contest the citation by submitting a written request for an informal citation conference in addition to, or

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instead of, requesting an administrative hearing. The bill would specify the procedures to be followed if an informal citation conference is requested.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7099.8 is added to the Business and  
2 Professions Code, to read:

3 7099.8. (a) Notwithstanding any other law, if a person cited  
4 pursuant to Section 7028.7 or 7099 wishes to contest the citation,  
5 that person shall, within 15 days after service of the citation, file  
6 in writing a request for an administrative hearing as provided  
7 pursuant to Section 7028.12 or Section 7099.5.

8 (b) (1) In addition to, or instead of, requesting an administrative  
9 hearing pursuant to subdivision (a), the person cited pursuant to  
10 Sections 7028.7 or 7099 may, within 15 days after service of the  
11 citation, contest the citation by submitting a written request for an  
12 informal citation conference to the chief of the enforcement  
13 division or a designee.

14 (2) Upon receipt of a written request for an informal citation  
15 conference, the chief of the enforcement division or a designee  
16 shall, within 60 days of the request, hold an informal citation  
17 conference with the person requesting the conference. The cited  
18 person may be accompanied and represented by an attorney or  
19 other authorized representative.

20 (3) If an informal citation conference is held, the request for an  
21 administrative hearing shall be deemed withdrawn and the chief  
22 of the enforcement division, or a designee, may affirm, modify,  
23 or dismiss the citation at the conclusion of the informal citation  
24 conference. If so affirmed or modified, the citation originally issued  
25 shall be considered withdrawn and an affirmed or modified citation,  
26 including reasons for the decision, shall be issued. The affirmed  
27 or modified citation shall be mailed to the cited person and that  
28 person’s counsel, if any, within 10 days of the date of the informal  
29 citation conference.

30 (4) If a cited person wishes to contest a citation affirmed or  
31 modified pursuant to paragraph (3), the person shall, within 30  
32 days after service of the modified or affirmed citation, contest the

1 affirmed or modified citation by submitting a written request for  
2 an administrative hearing to the chief of the enforcement division  
3 or a designee. An informal citation conference shall not be held  
4 for affirmed or modified citations.

5 *(c) The citation conference is informal and shall not be subject*  
6 *to the Administrative Procedure Act (Chapter 4.5 (commencing*  
7 *with Section 11400) of, or Chapter 5 (commencing with Section*  
8 *11500) of Part 1 of, Division 3 of Title 2 of the Government Code).*

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**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS (UPDATED)**

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Bill Number: AB 2138 (Chiu and Low)  
Status/Location: Assembly Appropriations  
Sponsor: East Bay Community Law Center, Anti-Recidivism Coalition, Legal Services for Prisoners with Children, and Root & Rebound  
Subject: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction  
Code Sections: Amend Sections 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 of; Add Section 481.5 to; and Repeal Section 490.5 of the Business and Professions Code

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**Summary:** This bill authorizes a board to deny, suspend, or revoke a license on the grounds of a criminal conviction only if the applicant or licensee is presently incarcerated or the conviction occurred within the preceding five (5) years and only if the crime is “directly and adversely related to the qualifications, functions, or duties” of the license. This bill exempts from the five-year limitation a “violent” felony (as defined in Section 667.5 of the Penal Code) and excludes from consideration for denial, suspension, or revocation any conviction that was dismissed, expunged, or pardoned or for which the applicant or licensee demonstrated rehabilitation. This bill also prohibits boards from requiring an applicant to provide his or her criminal history information and requires boards to produce annual reports for the Legislature and for public posting. This bill would equate the issuance of a “probationary license” with a license denial and revises other probationary license provisions and authorizes a board to issue a license immediately followed by a public reproof under certain circumstances. This bill provides that its provisions supersede any contradictory provisions in any licensing act.

**Existing law** authorizes the Department of Consumer Affairs (DCA) boards and bureaus to deny, suspend, or revoke a license or take disciplinary action against a licensee if the applicant or licensee:

- has been convicted of a crime unless it was dismissed or expunged under specified Penal Code sections;
- was convicted of a felony, unless a certificate of rehabilitation has been obtained;
- was convicted of a misdemeanor, unless meeting a board’s rehabilitation criteria;
- has knowingly made a false statement of fact required to be revealed in the application for licensure;
- has failed to comply with a child support order or judgment (license suspension only); or
- has engaged in professional misconduct even if the licensee has successfully completed certain diversion or drug and alcohol problem assessment programs.

Existing law also authorizes a board, following an applicant or licensee's appeal of a board decision and a hearing, to take various actions, including imposing probationary conditions on the license.

To execute these purposes, existing law requires the board to have developed criteria for considering the denial, suspension, or revocation of a license to determine two things: (1) if the crime is "substantially related to the qualifications, functions, or duties of the business or profession" the board regulates; and (2) if the applicant demonstrated rehabilitation.

Existing law provides in Section 868 of Title 16, Division 8 of the California Code of Regulations (CCR) that a crime or act is substantially related to the qualifications, functions, or duties of a contractor if it "evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, and welfare." The section further defines such crimes or acts to include those crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another, as well as those that involve physical violence against persons and that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

Existing law provides in Section 869 of the CCR that in evaluating a contractor's or applicant's rehabilitation and present eligibility for a license, the Board will consider if seven (7) years have passed from the date of release from incarceration or completion of probation if no time was served for a felony, or three (3) years have passed for a misdemeanor. Among several other detailed case-by-case considerations, the CSLB rehabilitation criteria involves considering the nature and severity of the crime, evidence of subsequent crimes or acts, testimonials regarding the applicant's or contractor's fitness for licensure, work history, compliance with imposed restrictions, evidence of conviction expungement, and other rehabilitation efforts, such as completion of drug diversion or anger management programs.

This bill would revise and recast the above provisions and, in some cases, supersede them. It would provide that a board may deny, revoke, or suspend a license for the conviction of a crime only if:

- the applicant or licensee is presently incarcerated, or the conviction occurred within the last five years (violent crimes are an exception to the five-year limitation); and
- the crime, regardless of type, is directly and adversely related to the qualifications, functions, or duties of the business or profession.

It would provide that a board may deny a license on the grounds that an applicant has been subject to formal discipline by a licensing board only if:

- the discipline was in the last five years and was based on professional misconduct that would have been cause for discipline before the current board; and

- the professional misconduct was directly and adversely related to the qualifications, functions, or duties of the business or profession.

This bill would prohibit a board from denying a person a license based on the conviction of a crime or for the acts underlying that conviction if the conviction was dismissed or expunged under specified Penal Code sections, if there is clemency or pardon, if an arrest did not result in a conviction, or if there is a showing of rehabilitation. The bill would define rehabilitation to mean that the applicant or licensee has “completed the criminal sentence at issue without a violation of parole or probation” or has worked in a related field or completed training in a related field for at least one year prior to licensure, which is a significantly lower threshold of rehabilitation than the current criteria in CCR section 869.

The bill would prohibit a board from denying a license based solely on an applicant’s failure to disclose a fact that would not have been cause for denial of the license if the fact had been disclosed. This bill would repeal the authorization of a board to suspend a license for failing to comply with a child support order or judgment; however, authority for such actions remains under Family Code section 17520.

This bill would prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

The bill would prohibit a board from requiring an applicant for licensure to disclose any information or documentation regarding his or her criminal history. The bill would require a board to follow certain procedures when requesting or acting on an applicant’s or licensee’s criminal history information, and would require the board to retain for a minimum of three years:

- applications, communications, and criminal history reports regarding an applicant or licensee;
- the number of applications received for each license and the number of inquiries regarding criminal history;
- the number of applicants or licensee with a criminal record who received notice of denial, suspension, or revocation or who were denied, suspended, or revoked;
- the number of applicants or licensees who provided evidence of mitigation or rehabilitation;
- the number of applicants or licensees who appealed any denial or disqualification of license, suspension, or revocation; and
- the final disposition and demographic information, including voluntarily provided information about race or gender.

The bill would also require CSLB to annually submit a report to the Legislature and post the report on its website containing specified information regarding actions taken by the Board based on an applicant’s or licensee’s criminal history information.

The bill would limit probationary terms or restrictions placed on a license by a board to two years or less, and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence.

The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision; require the board to issue a decision on the petition within 90 days; and deem the petition granted if the board does not file a decision denying the petition within 90 days. This bill would authorize a board to grant the license and immediately issue a public reapproval.

**Background:**

According to the author, the intent of the bill is to reduce barriers to entry in occupational licensure for individuals with a prior conviction. The author contends that nearly eight million people, or one in three adults, have an arrest or conviction record in California. The author notes that California has some of the highest recidivism rates in the country, which leads to prison and jail overcrowding, which is an issue the Legislature is trying to address.

The author contends that high recidivism rates are largely due to the inability of those with conviction records to find employment after release. The author states that 30 percent of California jobs require state agency oversight, which affects around 1,773 different occupations. The author believes that "qualified people are denied occupational licenses or have licenses revoked or suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed." The author states that assisting in the rehabilitation of criminal offenders by removing barriers to employment and, thereby, decreasing recidivism is in the interest of public safety.

CSLB staff have met with the authors' staff. In addition to the background information above, the author states that the bill is driven in part by the philosophical idea that once an offender is processed through the criminal justice system, including meeting all post-conviction requirements such as parole, probation, or diversion, the individual has complied with the law and should not be subject to "retrial" in the private sector when seeking employment or licensure. The sponsors also believe that the extent of the effect of this problem cannot be measured, because there are any number of prior offenders who never file an application due to their concerns about having to disclose their past; such individuals are necessarily left out of the workplace.

**Prior or Current Related Legislation**

AB 218 (Dickinson, Chapter 699, Statutes of 2013) prohibits a state or local agency from asking an applicant to disclose information regarding a criminal conviction until the

agency has determined the applicant meets the minimum *employment* qualifications for the position.

AB 2396 (Bonta, Chapter 737, Statutes of 2014) prohibited a board within the DCA from denying a license based solely on a conviction that has been dismissed pursuant to sections 1203.4, 1203.4a, or 1203.41 of the Penal Code.

AB 1008 (McCarty, Chapter 789, Statutes of 2017) prohibited an employer from inquiring into or considering the conviction history of an applicant until that applicant has received a conditional offer of *employment*, and, when conducting a conviction history background check, prohibited an employer from considering, distributing, or disseminating specified information related to the job applicant's conviction history background.

SB 1298 (Skinner, Introduced February 16, 2018) would prohibit the Department of Justice, which maintains state summary criminal history information, and the Attorney General, which furnishes such information to specified entities for employment, licensing, or certification, from releasing such information about certain convictions that were dismissed or exceed a certain age and would require the requester to furnish the information to whom it relates. (An analysis of this bill appears later in the packet.)

**Arguments in Support:**

DCA boards and bureaus currently have broad discretion to take disciplinary action against licensees and applicants for criminal convictions and uncharged acts. According to the Assembly Committee on Business and Professions, the provision in Business and Professions Code section 480 that allows a board to act upon “any action involving dishonesty, fraud, or deceit with the intent to substantially benefit” or “substantially injure another” has come under increased criticism. The perception is that this “broad discretion” goes “beyond criminal convictions” into non-criminal activity, which has “opened the door for many licensure applications to be denied purely on alleged misconduct that has not been determined to have occurred through standard due process.” The 2017 Assembly Business and Professions Committee sunset background paper for DCA expressed concern that there is a “serious lack of clarity for applicants as to what ‘substantially related’ means and this determination is often left to the discretion of individual boards.”

The belief is that if applicants are unaware of which conduct excludes them from licensure, they are more likely to fail to understand a board's disclosure requirements and over include or under include what they report, each of which will reflect negatively on the applicant. At its highest, California's rate of previously incarcerated persons returning to prison was close to 70 percent. The author contends that it would “close the revolving door” to prisons, reduce recidivism, and increase economic opportunity if barriers to entry to licensure are reduced to only those acts and crimes most directly and adversely related to the profession.

### **Arguments in Opposition:**

There is no evidence that criminal history is a significant barrier to entering the construction industry. The number of applicants denied licensure at CSLB because of a criminal conviction is very low. Since 2005, of the 176,668 applicants who fingerprinted for CSLB as part of their application, 30,166 (17.1%) returned criminal history hits. Only 314 (approximately 1%) of those were denied licensure due to criminal convictions. Another 492 (approximately 1.6%) were issued probationary licenses because of their conviction(s). If an impetus of the bill is to reduce barriers to licensure, there should first be evidence that it is a wide-ranging problem.

As indicated by the numbers, CSLB denies licenses to only those with the most serious convictions, which can include both violent and non-violent crimes. Because a contractor's place of work is regularly conducted in the home of another, CSLB must evaluate criminal convictions in terms of victim vulnerability just as much as it considers if a crime was violent. There are a substantial number of non-violent crimes that bear significantly upon the "qualifications, functions, and duties" of a contractor that are serious enough to warrant license denial. These include, financial fraud, criminal diversion of funds, and other theft crimes, or crimes for which a pattern has developed over a number of years. It would also include multiple sexual crimes that may be deemed quite "serious" but are not identified as "violent" in California Penal Code section 667.5. If this bill is passed, CSLB would be unable to deny a license on the grounds of a conviction for several crimes and acts for which it currently has discretion to deny a license.

This bill also replaces the existing standard for determining if a conviction is "substantially related" with a higher burden of "directly and adversely related" (to the qualifications, functions, and duties of the business or profession). The "substantially related" criteria have already passed constitutional due process challenge in the California Supreme Court (see Morrison v. State Board of Education (1969) 1 C 3d 214, 230-235); the "directly and adversely related" standard has not. Defining a new standard requires replacing the existing regulations for analyzing convictions (CCR section 868), a process that can take up to two years. While the authors believe that the current standard is misapplied or too broadly applied, there is no reason to believe that the new "directly and adversely related" standard would be applied or defined any more or less effectively by boards and bureaus than the "substantially related" currently is, and there is no evidence that CSLB has misapplied the current standard in its denial cases.

Further, to uphold a decision of the agency to deny or revoke a license for a criminal conviction before an administrative law judge, the agency must first analyze the facts and circumstances of the crime to determine if the crime meets the requisite standard above and if there is evidence of rehabilitation. This will be especially true to meet the new evidentiary standard of clear and convincing evidence to impose the probationary conditions proposed by the bill. This requires the agency to obtain criminal indictments or complaints, dispositions, dockets, minute orders, and any evidence of rehabilitation or case dismissal. If this bill is passed, the agency would be forced to obtain that

information from third parties at great time and expense, which would only *create* not *remove* barriers to licensure.

**Support:**

All of Us or None  
Anchor of Hope Ministries  
Anti-Recidivism Coalition  
Because Black is Still Beautiful  
Californians for Prop 57  
Californians for Safety and Justice  
Center for Employment Opportunities (CEO)  
Center for Living and Learning  
Checkr  
East Bay Community Law Center  
Legal Services for Prisoners with Children  
Los Angeles Regional Reentry Partnership (LARRP)  
National Association of Social Workers - California Chapter  
Prisoner Reentry Network  
Project Rebound: Expanded  
REDF (Roberts Enterprise Development Fund)  
Rise Together Bay Area  
Root & Rebound  
San Jose State University Record Clearance Project  
The Young Women's Freedom Center

**Opposition:**

Contractors State License Board  
Plumbing-Heating-Cooling Contractors Association of California  
Western Electrical Contractors Association  
San Diego, Southern, and Central California Chapters of Associated Builders and Contractors

**Fiscal Impact for CSLB:**

Because AB 2138 would preclude agencies from asking applicants or licensees for certain criminal histories, the agency would need to utilize other sources to obtain the information. This requires the agency to contact counties and local law enforcement agencies, as well as paying any associated costs for such documents, including possible certification costs from the courts pursuant to Sections 70633(b) and 70627 of the Government Code. CSLB has discovered that it can take two weeks to six months to obtain this information from local agencies, at an average cost of \$100 per record.

CSLB estimates approximately 2,500 of its applicants a year have criminal convictions. The time to process these applications if this bill is passed will extend processing times from the current three weeks to possibly months. CSLB's fiscal analysis of this bill is \$1,010,000 in initial, non-absorbable costs, with \$880,000 in ongoing, non-absorbable costs.

**Previous Board Action:**

**OPPOSE.** The Board voted to “oppose” this bill at its April 13, 2018 meeting, and no further action is required.

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Date: May 18, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2138**

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**Introduced by Assembly Members Chiu and Low**

February 12, 2018

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An act to amend ~~Sections 480 and~~ Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 ~~of of~~, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: *revocation or suspension of licensure*: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and Affairs. Existing law authorizes a board to ~~deny deny~~, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria 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 the

*business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.*

~~This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes.~~ *revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.*

*The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.*

*Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.*

*This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.*

*Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.*

*This bill would repeal that authorization.*

*Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.*

*This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.*

*Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.*

*This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board’s decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.*

*This bill would also make necessary conforming changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 7.5 of the Business and Professions Code
- 2     is amended to read:
- 3     7.5. (a) A conviction within the meaning of this code means
- 4     a judgment following a plea or verdict of guilty or a conviction
- 5     following a plea of nolo contendere, contendere or finding of guilt.
- 6     Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for  
2 appeal has elapsed, or the judgment of conviction has been affirmed  
3 on appeal or when an order granting probation is made suspending  
4 the imposition of sentence, irrespective of a subsequent order under  
5 the provisions of Section 1203.4 of the Penal Code: *sentence*.  
6 However, a board may not deny a license to an applicant who is  
7 otherwise qualified pursuant to subdivision (b) *or* (c) of Section  
8 480.

9 **Nothing**

10 (b) *Nothing* in this section shall apply to the licensure of persons  
11 pursuant to Chapter 4 (commencing with Section 6000) of Division  
12 3.

13 (c) *Except as provided in subdivision (b), this section controls*  
14 *over and supersedes the definition of conviction contained within*  
15 *individual practice acts under this code.*

16 **SECTION 1.**

17 **SEC. 2.** Section 480 of the Business and Professions Code is  
18 amended to read:

19 480. (a) ~~A(1)~~ *Notwithstanding any other provision of this*  
20 *code, a board may deny a license regulated by this code on the*  
21 *grounds that the applicant has one of the following: been convicted*  
22 *of a crime or has been subject to formal discipline only if either*  
23 *of the following conditions are met:*

24 ~~(1) Been convicted of a crime. A conviction within the meaning~~  
25 ~~of this section means a plea or verdict of guilty or a conviction~~  
26 ~~following a plea of nolo contendere. Any action that a board is~~  
27 ~~permitted to take following the establishment of a conviction may~~  
28 ~~be taken when the time for appeal has elapsed, or the judgment of~~  
29 ~~conviction has been affirmed on appeal, or when an order granting~~  
30 ~~probation is made suspending the imposition of sentence,~~  
31 ~~irrespective of a subsequent order under the provisions of Section~~  
32 ~~1203.4, 1203.4a, or 1203.41 of the Penal Code.~~

33 ~~(2) Done any act involving dishonesty, fraud, or deceit with the~~  
34 ~~intent to substantially benefit himself or herself or another, or~~  
35 ~~substantially injure another.~~

36 ~~(3) (A) Done any act that if done by a licentiate of the business~~  
37 ~~or profession in question, would be grounds for suspension or~~  
38 ~~revocation of license.~~

39 ~~(B) The board may deny a license pursuant to this subdivision~~  
40 ~~only if the crime or act is substantially related to the qualifications;~~

1 ~~functions, or duties of the business or profession for which~~  
2 ~~application is made.~~

3 (A) *The applicant has been convicted of a crime for which the*  
4 *applicant is presently incarcerated or for which the conviction*  
5 *occurred within the preceding five years. However, the preceding*  
6 *five year limitation shall not apply to a conviction for a violent*  
7 *felony, as defined in Section 667.5 of the Penal Code.*

8 *The board may deny a license pursuant to this subparagraph*  
9 *only if the crime is directly and adversely related to the*  
10 *qualifications, functions, or duties of the business or profession*  
11 *for which application is made.*

12 (B) *The applicant has been subjected to formal discipline by a*  
13 *licensing board within the preceding five years based on*  
14 *professional misconduct that would have been cause for discipline*  
15 *before the board for which the present application is made and*  
16 *that is directly and adversely related to the qualifications,*  
17 *functions, or duties of the business or profession for which the*  
18 *present application is made. However, prior disciplinary action*  
19 *by a licensing board within the preceding five years shall not be*  
20 *the basis for denial of a license if the basis for that disciplinary*  
21 *action was a conviction that has been dismissed pursuant to Section*  
22 *1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable*  
23 *dismissal or expungement.*

24 (2) *Denial of a license includes denial of an unrestricted license*  
25 *by issuance of a restricted or probationary license.*

26 (b) *Notwithstanding any other provision of this code, a person*  
27 *shall not be denied a license solely on the basis that he or she has*  
28 *been convicted of a ~~nonviolent crime.~~ crime, or on the basis of*  
29 *acts underlying a conviction for a crime, if he or she has obtained*  
30 *a certificate of rehabilitation under Chapter 3.5 (commencing with*  
31 *Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been*  
32 *granted clemency or a pardon by a state or federal executive, or*  
33 *has made a showing of rehabilitation pursuant to Section 482.*

34 (c) *Notwithstanding any other provision of this code, a person*  
35 *shall not be denied a license on the basis of any conviction, or on*  
36 *the basis of the acts underlying the conviction, that has been*  
37 *dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the*  
38 *Penal Code, or a comparable dismissal or expungement. An*  
39 *applicant who has a conviction that has been dismissed pursuant*  
40 *to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code*

1 shall provide proof of the dismissal if it is not reflected on the  
2 report furnished by the Department of Justice.

3 (d) Notwithstanding any other provision of this code, a board  
4 shall not deny a license on the basis of an arrest that resulted in  
5 a disposition other than a conviction, including an arrest that  
6 resulted in an infraction, citation, or a juvenile adjudication.

7 ~~(e)~~

8 (e) A board may deny a license regulated by this code on the  
9 ground that the applicant knowingly made a false statement of fact  
10 that is required to be revealed in the application for the license. A  
11 board shall not deny a license based solely on an applicant's  
12 failure to disclose a fact that would not have been cause for denial  
13 of the license had it been disclosed.

14 (f) A board shall follow the following procedures in requesting  
15 or acting on an applicant's criminal history information:

16 (1) A board shall not require an applicant for licensure to  
17 disclose any information or documentation regarding the  
18 applicant's criminal history.

19 (2) If a board decides to deny an application based solely or in  
20 part on the applicant's conviction history, the board shall notify  
21 the applicant in writing of all of the following:

22 (A) The denial or disqualification of licensure.

23 (B) Any existing procedure the board has for the applicant to  
24 challenge the decision or to request reconsideration.

25 (C) That the applicant has the right to appeal the board's  
26 decision.

27 (D) The processes for the applicant to request a copy of his or  
28 her complete conviction history and question the accuracy or  
29 completeness of the record pursuant to Sections 11122 to 11127  
30 of the Penal Code.

31 (g) (1) For a minimum of three years, each board under this  
32 code shall retain application forms and other documents submitted  
33 by an applicant, any notice provided to an applicant, all other  
34 communications received from and provided to an applicant, and  
35 criminal history reports of an applicant.

36 (2) Each board under this code shall retain the number of  
37 applications received for each license and the number of  
38 applications requiring inquiries regarding criminal history. In  
39 addition, each licensing authority shall retain all of the following  
40 information:

1 (A) *The number of applicants with a criminal record who*  
2 *received notice of denial or disqualification of licensure.*

3 (B) *The number of applicants with a criminal record who*  
4 *provided evidence of mitigation or rehabilitation.*

5 (C) *The number of applicants with a criminal record who*  
6 *appealed any denial or disqualification of licensure.*

7 (D) *The final disposition and demographic information,*  
8 *including, but not limited to, voluntarily provided information on*  
9 *race or gender, of any applicant described in subparagraph (A),*  
10 *(B), or (C).*

11 (3) (A) *Each board under this code shall annually make*  
12 *available to the public through the board's Internet Web site and*  
13 *through a report submitted to the appropriate policy committees*  
14 *of the Legislature deidentified information collected pursuant to*  
15 *this subdivision. Each board shall ensure confidentiality of the*  
16 *individual applicants.*

17 (B) *A report pursuant to subparagraph (A) shall be submitted*  
18 *in compliance with Section 9795 of the Government Code.*

19 (h) *"Conviction" as used in this section shall have the same*  
20 *meaning as defined in Section 7.5.*

21 (i) *This section supersedes any contradictory provision in a*  
22 *licensing act under this code or initiative act referred to in Division*  
23 *2 (commencing with Section 500) that authorizes license denial*  
24 *based on a criminal conviction, arrest, or the acts underlying an*  
25 *arrest or conviction.*

26 *SEC. 3. Section 481 of the Business and Professions Code is*  
27 *amended to read:*

28 481. (a) ~~Each board under the provisions of this code shall~~  
29 ~~develop criteria to aid it, when considering the denial, suspension~~  
30 ~~suspension, or revocation of a license, to determine whether a~~  
31 ~~crime or act is substantially~~ *is directly and adversely related to the*  
32 *qualifications, functions, or duties of the business or profession it*  
33 *regulates.*

34 (b) *Criteria for determining whether a crime is directly and*  
35 *adversely related to the qualifications, functions, or duties of the*  
36 *business or profession a board regulates shall include all of the*  
37 *following:*

38 (1) *The nature and gravity of the offense.*

39 (2) *The number of years elapsed since the date of the offense.*

1 (3) *The nature and duties of the profession in which the*  
2 *applicant seeks licensure or in which the licensee is licensed.*

3 (c) *A board shall not deny a license based in whole or in part*  
4 *on a conviction without considering evidence of rehabilitation.*

5 (d) *Each board shall post on its Internet Web site a summary*  
6 *of the criteria used to consider whether a crime is considered to*  
7 *be directly and adversely related to the qualifications, functions,*  
8 *or duties of the business or profession it regulates consistent with*  
9 *this section.*

10 SEC. 4. *Section 481.5 is added to the Business and Professions*  
11 *Code, to read:*

12 481.5. (a) *Probationary terms or restrictions placed on a*  
13 *license by a board shall be limited to two years or less. Any*  
14 *additional conditions may be imposed only if the board determines*  
15 *that there is clear and convincing evidence that additional*  
16 *conditions are necessary to address a risk shown by clear and*  
17 *convincing evidence.*

18 (b) *Each board under this code shall develop criteria to aid it*  
19 *when considering the imposition of probationary conditions or*  
20 *restrictions to determine what conditions may be imposed to*  
21 *address a risk shown by clear and convincing evidence.*

22 (c) (1) *A licensee or registrant whose license or registration*  
23 *has been placed on probation may petition the board for a change*  
24 *to the probation, including modification or termination of*  
25 *probation, one year from the effective date of the decision. The*  
26 *board shall issue its decision on the petition within 90 days of*  
27 *submission of the petition. The petition shall be deemed granted*  
28 *by operation of law if the board does not file a decision denying*  
29 *the petition within 90 days of submission of the petition.*

30 (2) *The one-year time period to petition for modification or*  
31 *termination of penalty shall control over longer time periods under*  
32 *a licensing act under this code or initiative act referred to in*  
33 *Division 2 (commencing with Section 500).*

34 SEC. 5. *Section 482 of the Business and Professions Code is*  
35 *amended to read:*

36 482. (a) *Each board under ~~the provisions of~~ this code shall*  
37 *develop criteria to evaluate the rehabilitation of a person ~~when:~~*  
38 *when doing either of the following:*

39 (a)

1 (1) Considering the denial of a license by the board under  
2 Section ~~480~~, or 480.

3 ~~(b)~~

4 (2) Considering suspension or revocation of a license under  
5 Section 490.

6 ~~Each~~

7 (b) ~~Each board shall take into account all competent evidence~~  
8 ~~of rehabilitation furnished by the applicant or licensee. find that~~  
9 ~~an applicant or licensee has made a showing of rehabilitation if~~  
10 ~~any of the following are met:~~

11 (1) ~~The applicant or licensee has completed the criminal~~  
12 ~~sentence at issue without a violation of parole or probation.~~

13 (2) (A) ~~The applicant or licensee documents that he or she has~~  
14 ~~worked in a related field continuously for at least one year prior~~  
15 ~~to licensure or successfully completed a course of training in a~~  
16 ~~related field, unless the board finds a public record of an official~~  
17 ~~finding that the applicant committed professional misconduct in~~  
18 ~~the course of that work.~~

19 (B) ~~Work in a related field may include, but is not limited to,~~  
20 ~~work performed without compensation and work performed while~~  
21 ~~incarcerated.~~

22 (C) ~~“Related field,” for purposes of this paragraph, means a~~  
23 ~~field of employment whose duties are substantially similar to the~~  
24 ~~field regulated by the board.~~

25 (3) ~~The applicant or licensee has satisfied criteria for~~  
26 ~~rehabilitation developed by the board.~~

27 ~~SEC. 6. Section 488 of the Business and Professions Code is~~  
28 ~~amended to read:~~

29 488. Except as otherwise provided by law, following a hearing  
30 requested by an applicant pursuant to subdivision (b) of Section  
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing  
33 requirements by the applicant.

34 (b) Grant the license effective upon completion of all licensing  
35 requirements by the applicant, *grant the license and immediately*  
36 *issue a public reproof pursuant to Section 495,* immediately  
37 revoke the license, stay the revocation, and impose probationary  
38 conditions on the license, which may include suspension.

39 (c) Deny the license.

1 (d) Take other action in relation to denying or granting the  
 2 license as the board in its discretion may deem proper.

3 *SEC. 7. Section 490 of the Business and Professions Code is*  
 4 *amended to read:*

5 490. (a) (1) In addition to any other action that a board is  
 6 permitted to take against a licensee, a board may suspend or revoke  
 7 a license on the ground that the licensee has been convicted of a  
 8 ~~crime, if the crime is substantially related to the qualifications,~~  
 9 ~~functions, or duties of the business or profession for which the~~  
 10 ~~license was issued: crime for which the applicant is presently~~  
 11 ~~incarcerated or for which the conviction occurred within the~~  
 12 ~~preceding five years. However, the preceding five year limitation~~  
 13 ~~shall not apply to a conviction for a violent felony, as defined in~~  
 14 ~~Section 667.5 of the Penal Code.~~

15 (2) ~~The board may suspend or revoke a license pursuant to this~~  
 16 ~~subdivision only if the crime is directly and adversely related to~~  
 17 ~~the qualifications, functions, or duties of the business or profession~~  
 18 ~~for which application is made.~~

19 (b) Notwithstanding any other provision of law, a board may  
 20 exercise any authority to discipline a licensee for conviction of a  
 21 crime that is independent of the authority granted under subdivision  
 22 (a) only if ~~the both of the following are met:~~

23 (1) ~~The crime is substantially directly and adversely related to~~  
 24 ~~the qualifications, functions, or duties of the business or profession~~  
 25 ~~for which the licensee’s license was issued.~~

26 (2) ~~The licensee was convicted of the crime within the preceding~~  
 27 ~~five years or is presently incarcerated for the crime. However, the~~  
 28 ~~preceding five year limitation shall not apply to a conviction for~~  
 29 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

30 ~~(e) A conviction within the meaning of this section means a~~  
 31 ~~plea or verdict of guilty or a conviction following a plea of nolo~~  
 32 ~~contendere. An action that a board is permitted to take following~~  
 33 ~~the establishment of a conviction may be taken when the time for~~  
 34 ~~appeal has elapsed, or the judgment of conviction has been affirmed~~  
 35 ~~on appeal, or when an order granting probation is made suspending~~  
 36 ~~the imposition of sentence, irrespective of a subsequent order under~~  
 37 ~~Section 1203.4 of the Penal Code.~~

38 ~~(d) The Legislature hereby finds and declares that the application~~  
 39 ~~of this section has been made unclear by the holding in Petropoulos~~  
 40 ~~v. Department of Real Estate (2006) 142 Cal.App.4th 554, and~~

1 ~~that the holding in that case has placed a significant number of~~  
2 ~~statutes and regulations in question, resulting in potential harm to~~  
3 ~~the consumers of California from licensees who have been~~  
4 ~~convicted of crimes. Therefore, the Legislature finds and declares~~  
5 ~~that this section establishes an independent basis for a board to~~  
6 ~~impose discipline upon a licensee, and that the amendments to this~~  
7 ~~section made by Chapter 33 of the Statutes of 2008 do not~~  
8 ~~constitute a change to, but rather are declaratory of, existing law.~~

9 *(c) Notwithstanding any other provision of this code, a board*  
10 *shall not suspend or revoke a license on the basis of a conviction,*  
11 *or of the acts underlying a conviction, where that conviction has*  
12 *been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or*  
13 *1203.42 of the Penal Code or a comparable dismissal or*  
14 *expungement.*

15 *(d) Notwithstanding any other provision of this code, a board*  
16 *shall not suspend or revoke a license on the basis of an arrest that*  
17 *resulted in a disposition other than a conviction, including an*  
18 *arrest that resulted in an infraction, citation, or juvenile*  
19 *adjudication.*

20 *(e) The board shall use the following procedures in requesting*  
21 *or acting on a licensee's criminal history information:*

22 *(1) A board shall not require a licensee to disclose any*  
23 *information or documentation regarding the licensee's criminal*  
24 *history.*

25 *(2) If a board chooses to file an accusation against a licensee*  
26 *based solely or in part on the licensee's conviction history, the*  
27 *board shall notify the licensee in writing of the processes for the*  
28 *licensee to request a copy of the licensee's complete conviction*  
29 *history and question the accuracy or completeness of his or her*  
30 *criminal record pursuant to Sections 11122 to 11127, inclusive,*  
31 *of the Penal Code.*

32 *(f) (1) For a minimum of three years, each board under this*  
33 *code shall retain all documents submitted by a licensee, notices*  
34 *provided to a licensee, all other communications received from or*  
35 *provided to a licensee, and criminal history reports of a licensee.*

36 *(2) Each board under this code shall retain all of the following*  
37 *information:*

38 *(A) The number of licensees with a criminal record who received*  
39 *notice of potential revocation or suspension of their license or who*  
40 *had their license suspended or revoked.*

1 (B) *The number of licensees with a criminal record who*  
 2 *provided evidence of mitigation or rehabilitation.*

3 (C) *The number of licensees with a criminal record who*  
 4 *appealed any suspension or revocation of a license.*

5 (D) *The final disposition and demographic information,*  
 6 *including, but not limited to, voluntarily provided information on*  
 7 *race or gender, of any applicant described in subparagraph (A),*  
 8 *(B), or (C).*

9 (3) (A) *Each board under this code shall annually make*  
 10 *available to the public through the board’s Internet Web site and*  
 11 *through a report submitted to the appropriate policy committees*  
 12 *of the Legislature deidentified information collected pursuant to*  
 13 *this subdivision. Each board shall ensure the confidentiality of the*  
 14 *individual licensees.*

15 (B) *A report pursuant to subparagraph (A) shall be submitted*  
 16 *in compliance with Section 9795 of the Government Code.*

17 (g) (1) *This section supersedes any contradictory provision in*  
 18 *a licensing act under this code or initiative act referred to in*  
 19 *Division 2 (commencing with Section 500) that authorizes action*  
 20 *based on a criminal conviction, arrest, or the acts underlying an*  
 21 *arrest or conviction.*

22 (2) *This section shall not prohibit any agency from taking*  
 23 *disciplinary action against a licensee for professional misconduct*  
 24 *in the course and scope of the licensee’s profession that is based*  
 25 *on evidence that is independent of an arrest.*

26 *SEC. 8. Section 490.5 of the Business and Professions Code*  
 27 *is repealed.*

28 ~~490.5. A board may suspend a license pursuant to Section~~  
 29 ~~17520 of the Family Code if a licensee is not in compliance with~~  
 30 ~~a child support order or judgment.~~

31 *SEC. 9. Section 492 of the Business and Professions Code is*  
 32 *amended to read:*

33 492. (a) *Notwithstanding any other provision of law, successful*  
 34 *completion of any diversion program under the Penal Code,*  
 35 *successful completion by a licensee or applicant of any*  
 36 *nonstatutory diversion program, deferred entry of judgment, or*  
 37 *successful completion of an alcohol and drug problem assessment*  
 38 *program under Article 5 (commencing with Section 23249.50) of*  
 39 *Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit*  
 40 *any agency established under Division 2 (commencing with Section*

1 500) of this code, or any initiative act referred to in that division,  
2 board from taking disciplinary action against a licensee or from  
3 denying a license for professional misconduct, notwithstanding  
4 that evidence of that misconduct may be recorded in a record  
5 pertaining to an arrest. *misconduct.*

6 This section shall not be construed to apply to any drug diversion  
7 program operated by any agency established under Division 2  
8 (commencing with Section 500) of this code, or any initiative act  
9 referred to in that division.

10 (b) This section shall not prohibit any agency established under  
11 Division 2 (commencing with Section 500) of this code, or any  
12 initiative act referred to in that division, from taking disciplinary  
13 action against a licensee for professional misconduct in the course  
14 and scope of the profession, which is based on evidence that is  
15 independent of an arrest.

16 SEC. 10. Section 493 of the Business and Professions Code is  
17 amended to read:

18 493. (a) Notwithstanding any other provision of law, in a  
19 proceeding conducted by a board within the department pursuant  
20 to law to deny an application for a license or to suspend or revoke  
21 a license or otherwise take disciplinary action against a person  
22 who holds a license, upon the ground that the applicant or the  
23 licensee has been convicted of a crime ~~substantially~~ *directly and*  
24 *adversely* related to the qualifications, functions, and duties of the  
25 licensee in question, the record of conviction of the crime shall be  
26 conclusive evidence of the fact that the conviction occurred, but  
27 only of that fact, and the board may inquire into the circumstances  
28 surrounding the commission of the crime in order to fix the degree  
29 of discipline or to determine if the conviction is substantially  
30 related to the qualifications, functions, and duties of the licensee  
31 in question. *fact.*

32 (b) (1) Criteria for determining whether a crime is directly and  
33 adversely related to the qualifications, functions, or duties of the  
34 business or profession the board regulates shall include all of the  
35 following:

36 (A) The nature and gravity of the offense.

37 (B) The number of years elapsed since the date of the offense.

38 (C) The nature and duties of the profession.

1 (2) A board shall not categorically bar an applicant based solely  
2 on the type of conviction without considering evidence of  
3 rehabilitation.

4 ~~As~~

5 (c) As used in this section, “license” includes “certificate,”  
6 “permit,” “authority,” and “registration.”

7 *SEC. 11. Section 1005 of the Business and Professions Code*  
8 *is amended to read:*

9 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,  
10 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,  
11 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, ~~490.5~~,  
12 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,  
13 710, 716, 730.5, 731, and 851 are applicable to persons licensed  
14 by the State Board of Chiropractic Examiners under the  
15 Chiropractic Act.

16 ~~SEC. 2.~~

17 *SEC. 12. Section 11345.2 of the Business and Professions Code*  
18 *is amended to read:*

19 11345.2. (a) An individual shall not act as a controlling person  
20 for a registrant if any of the following apply:

21 (1) The individual has entered a plea of guilty or no contest to,  
22 or been convicted of, a felony. If the individual’s felony conviction  
23 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41  
24 of the Penal Code, the bureau may allow the individual to act as  
25 a controlling person.

26 (2) The individual has had a license or certificate to act as an  
27 appraiser or to engage in activities related to the transfer of real  
28 property refused, denied, canceled, or revoked in this state or any  
29 other state.

30 (b) Any individual who acts as a controlling person of an  
31 appraisal management company and who enters a plea of guilty  
32 or no contest to, or is convicted of, a felony, or who has a license  
33 or certificate as an appraiser refused, denied, canceled, or revoked  
34 in any other state shall report that fact or cause that fact to be  
35 reported to the office, in writing, within 10 days of the date he or  
36 she has knowledge of that fact.

O

**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS (UPDATED)**

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Bill Number:	AB 2353 (Frazier)
Status/Location:	Assembly / Ordered to Second Reading
Sponsor:	California Community Builders
Subject:	Construction Defects: Actions
Code Section:	Add Civil Code Section 916.5

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**Summary:** A previous version of this bill would have shortened the statute of limitations from 10 years to five years for the commencement of a civil lawsuit for construction defects under the 2003 “Fix It” bill or “Right to Repair Act” (SB 800). On May 10, 2018, the bill was substantially amended and no longer impacts the statute of limitations; instead, it adds a new section to the Civil Code dealing with prelitigation inspections by a licensed contractor.

Existing law provides that, for all residential homes sold on or after January 1, 2003, a comprehensive set of laws known as the SB 800 “Fix It” bill or “Right to Repair Act” shall govern construction defect actions. The Act established functionality requirements and certain procedures that must be followed before a civil suit can be filed.

As part of that procedure, if there is a claim of unmet building standards, existing law provides that the builder may choose to have the work in question inspected. Existing law further provides that the builder complete the inspection and testing within 14 days after receiving the claim. Existing law also provides that the builder bear the cost of inspection and testing, any resulting damage, liability insurance to cover it, and restoration of the building to the prior state.

Additionally, existing law provides that within 30 days of the inspection or testing, the builder may offer in writing to repair the violation, and that that offer must also compensate the homeowner for all applicable recoverable damages. Upon receipt of the offer to repair, the homeowner has 30 days to authorize the builder to begin the repair.

This bill would require that a licensed contractor conduct the inspection described above. The bill provides that the contractor be licensed in the field and scope for which the inspection and report is required. The requirement would not preclude a subject matter expert without the applicable contractor license from conducting the inspection when required by the subject matter of the inspection.

**Background:**

According to the author, the bill arises out of California’s severe housing crisis, which includes housing high costs and low availability. The author contends that California

needs twice as much new housing than is actually being built and that only 29 percent of Californians earn sufficient income to afford a median-priced single-family home.

The author notes that construction defect statutes present a barrier to affordable and available housing because they “encourage predatory lawyers and homeowners to file suits up to 10 years after the project is completed.” The author notes that as a result, builders are forced to carry extensive general liability insurance and have funds for attorney’s fees, which inflates costs that are passed on to homebuyers.

The brunt of construction defect lawsuits involve condominiums with homeowner associations. The author notes that the resulting settlements and judgments drive up insurance rates and make it difficult for builders to obtain financial backing for condominium construction, which discourages building.

Additionally, according to the author, because current construction defect statutes do not require plaintiff litigants to prove damage to file the lawsuits, there is a proliferation of defect lawsuit filings. In addition to not requiring proof of damage, the current law does not require that contractors licensed in the relevant scope of work perform the prelitigation inspections.

According to the Assembly Committee on Judiciary, the inspections are designed to enable the builder to ascertain the scope and validity of the alleged defect and enable the builder to offer to repair the property prior to the commencement of litigation. The claim is that inspections by unqualified parties contribute to frivolous litigation because the claims and findings are not substantiated. This bill assumed that if the number of lawsuits filed decreases, insurance and legal costs for builders would decline, which would result in savings that, in turn, can be passed on to homebuyers.

The author states, “by requiring licensed inspectors for plaintiffs and builders in construction defect cases, AB 2353 would both reduce the likelihood and size of class action-like suits that prove to be timely and expensive. By minimizing costs related to construction defect suits, this will encourage increased production of homes, especially condominiums.”

**Support:**

California Community Builders (sponsor)  
Associated Builders and Contractors, Inc. - Northern California Chapter  
Associated Builders and Contractors, Inc. - San Diego, Southern California, Central California Chapters  
Associated General Contractors of California  
Building Owners and Managers Association  
California Building Industry Association  
California Business Properties Association  
California Chamber of Commerce  
California Legislative Conference of the Plumbing, Heating and Piping Industry  
California Professional Association of Specialty Contractors

Civil Justice Association of California  
Commercial Real Estate Development Association of California  
Construction Employers Association  
International Council of Shopping Centers  
National Electrical Contractors Association, California Chapters  
Northern California Allied Trades  
Plumbing-Heating-Cooling Contractors Association of California  
Southern California Contractors Association  
Union Roofing Contractors Association  
United Contractors  
Wall and Ceiling Alliance  
Western Electrical Contractors Association  
Western Wall and Ceiling Contractors Association

**Opposition:**

Community Associations Institute of California  
Consumer Attorneys of California  
Housing and Economic Rights Advocates

**Fiscal Impact for CSLB:**

No anticipated fiscal impact.

**Staff Recommendation and Comments:**

**WATCH.** Based on the previous version of this bill that dealt with statutes of limitations, the Board voted to take a “watch” position at its April 13, 2018 meeting. On May 10, 2018, the bill was amended to deal with prelitigation inspections. As a result, the Board may wish to reaffirm or alter its previous position.

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Date: May 17, 2018

AMENDED IN ASSEMBLY MAY 10, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2353**

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**Introduced by Assembly Member Frazier**

February 13, 2018

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An act to ~~amend Section 941 of~~ *add Section 916.5 to* the Civil Code, relating to construction defects.

LEGISLATIVE COUNSEL'S DIGEST

AB 2353, as amended, Frazier. Construction defects: ~~actions: statute of limitations: actions.~~

Existing law specifies the requirements for actions for construction defects. ~~Existing law includes a statute of limitations that, except as specified, prohibits an action from being brought to recover under these provisions more than 10 years after substantial completion of the improvement but no later than the date the notice of completion is recorded.~~ *defects and includes a nonadversarial procedure for the parties to resolve the dispute. Existing law requires, as part of this nonadversarial procedure, a builder who elects to inspect a claim of unmet building standards to meet certain requirements for the inspection.*

This bill would ~~shorten the 10-year period to 5 years.~~ *require that an inspection for purposes of the above-described provisions be conducted by a person who is licensed as a contractor with a license that applies to the field and scope in which the person is conducting the inspection and issuing his or her inspection findings or report.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 916.5 is added to the Civil Code, to read:  
 2     916.5. (a) An inspection conducted pursuant to this chapter  
 3 shall be conducted by a person licensed pursuant to the  
 4 Contractor’s State License Law (Chapter 9 (commencing with  
 5 Section 7000) of Division 3 of the Business and Professions Code)  
 6 with a license that applies to the field and scope in which the  
 7 person is conducting the inspection and issuing inspection findings  
 8 or a report.

9     (b) Nothing in this section shall preclude a subject matter expert  
 10 in the field and scope of the inspection who is not licensed pursuant  
 11 to the Contractor’s State License Law from conducting the  
 12 inspection and issuing inspection findings or a report when the  
 13 subject matter of the inspection requires it.

14     SECTION 1. Section 941 of the Civil Code is amended to read:

15     941. (a) ~~Except as specifically set forth in this title, no action~~  
 16 ~~may be brought to recover under this title more than five years~~  
 17 ~~after substantial completion of the improvement but not later than~~  
 18 ~~the date of recordation of a valid notice of completion.~~

19     ~~(b) As used in this section, “action” includes an action for~~  
 20 ~~indemnity brought against a person arising out of that person’s~~  
 21 ~~performance or furnishing of services or materials referred to in~~  
 22 ~~this title, except that a cross-complaint for indemnity may be filed~~  
 23 ~~pursuant to subdivision (b) of Section 428.10 of the Code of Civil~~  
 24 ~~Procedure in an action which has been brought within the time~~  
 25 ~~period set forth in subdivision (a).~~

26     ~~(c) The limitation prescribed by this section may not be asserted~~  
 27 ~~by way of defense by any person in actual possession or the control,~~  
 28 ~~as owner, tenant or otherwise, of such an improvement, at the time~~  
 29 ~~any deficiency in the improvement constitutes the proximate cause~~  
 30 ~~for which it is proposed to make a claim or bring an action.~~

31     ~~(d) Sections 337.15 and 337.1 of the Code of Civil Procedure~~  
 32 ~~do not apply to actions under this title.~~

33     ~~(e) Existing statutory and decisional law regarding tolling of~~  
 34 ~~the statute of limitations shall apply to the time periods for filing~~  
 35 ~~an action or making a claim under this title, except that repairs~~  
 36 ~~made pursuant to Chapter 4 (commencing with Section 910), with~~  
 37 ~~the exception of the tolling provision contained in Section 927, do~~  
 38 ~~not extend the period for filing an action, or restart the time~~

1 ~~limitations contained in subdivision (a) or (b) of Section 7091 of~~  
2 ~~the Business and Professions Code. If a builder arranges for a~~  
3 ~~contractor to perform a repair pursuant to Chapter 4 (commencing~~  
4 ~~with Section 910), as to the builder the time period for calculating~~  
5 ~~the statute of limitation in subdivision (a) or (b) of Section 7091~~  
6 ~~of the Business and Professions Code shall pertain to the substantial~~  
7 ~~completion of the original construction and not to the date of~~  
8 ~~repairs under this title. The time limitations established by this~~  
9 ~~title do not apply to any action by a claimant for a contract or~~  
10 ~~express contractual provision. Causes of action and damages to~~  
11 ~~which this chapter does not apply are not limited by this section.~~

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**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS (UPDATED)**

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**Bill Number:** AB 2483 (Voepel)  
**Status/Location:** Senate Rules for Assignment  
**Sponsor:** Author (Assembly Member Randy Voepel, R-Santee)  
**Subject:** Indemnification of Public Officers and Employees:  
Antitrust Awards  
**Code Section:** Amend Government Code Section 825

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**Summary:**

A previous version of this bill would have created an “Office of Supervision of Occupational Boards” within the Department of Consumer Affairs (DCA). On April 9, 2018, the bill was substantially amended and no longer creates such an office; instead it would require a public entity to pay a judgment or settlement for treble damage antitrust awards (which means “triple damages” against a party that violated antitrust laws) against a member of a regulatory board within DCA for an act or omission occurring within the scope of the member’s official capacity as a member of that regulatory board.

Existing law provides that a public entity pay any judgment, compromise, or settlement of a claim or action against a current or former employee of that entity under certain conditions:

- 1) The employee in question must request the public entity to defend him or her;
- 2) The claim must involve an injury arising out of an act or omission occurring within the scope of the employee’s employment for the public entity;
- 3) The request [for representation?] must be made in writing not less than 10 days before the day of trial; and
- 4) The employee must cooperate with the defense of the claim.

Existing law prohibits the public entity from paying punitive or exemplary damages for these purposes, as they arise out of a defendant’s reckless or willful act.

This bill would require that a public entity pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within DCA for an act or omission occurring within the scope of the member’s official capacity as a member of that regulatory board.

The bill would also specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not considered punitive or exemplary damages within the Act.

**Background:**

According to the Assembly Committee on Appropriations, this bill seeks to ensure that DCA board members are not personally liable in the event they are sued in an antitrust matter related to their board service.

This bill was motivated, in part, by the findings of a study conducted by The Little Hoover Commission, which was prepared following the U.S. Supreme Court decision in N.C. State Board of Dental Examiners v. Federal Trade Commission. That case held that state boards controlled by licensees can only claim immunity from antitrust claims if they are subject to active supervision by the state.

In the North Carolina case, the state’s dental board took state action to prohibit private retailers from selling teeth whitening services, an activity the board considered “unlicensed” work. The Federal Trade Commission brought antitrust actions against the dental board and claimed that the actions of the state’s dental board were anticompetitive because the board was comprised of practicing dentists with a financial interest in the outcome of the actions.

Before the North Carolina case, it was believed that if a state board member was furthering a legal state policy in making decisions there was immunity from antitrust liability; after the case, however, this belief is no longer clear. As a result, the California State Senate requested an Attorney General opinion to clarify matters.

The Attorney General opinion noted that while the Government Claims Act allows a board member to ask the state to represent him or her in a damages case, it does not apply to a punitive damage actions against a board member. The opinion noted that it is unclear in the law if treble damage awards from an antitrust action would be “punitive” and, thus, outside the protections of the Government Claims Act. The opinion recommended that this uncertainty could be removed by clarifying if such damages are punitive under California law.

According to the Assembly Committee on Appropriations, this bill seeks to enact that recommendation.

**Support:**

None at this time.

**Opposition:**

None at this time.

**Fiscal Impact for CSLB:**

None.

**Staff Recommendation and Comments:**

**WATCH.** Based on its prior language, which would have created a DCA Office of Supervision, the CSLB Legislative Committee passed a motion to recommend the full Board “oppose” this bill at its March 2, 2018 meeting. On April 13, 2018, the Board voted to “watch” this bill, based on the amendments described above, which were orally presented but not included in the Board packet. The Board may wish to reaffirm or alter its previous position.

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Date: May 17, 2018

AMENDED IN ASSEMBLY APRIL 9, 2018

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2483**

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**Introduced by Assembly Member Voepel**

February 14, 2018

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An act to add Chapter 10 (commencing with Section 473) to Division 1 of the Business and Professions amend Section 825 of the Government Code, relating to professions: *liability*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Voepel. ~~Department of Consumer Affairs: Office of Supervision of Occupational Boards. Indemnification of public officers and employees: antitrust awards.~~

*The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.*

*This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble*

*damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.*

Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.

This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a “covered board,” defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board’s rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 825 of the Government Code is amended
- 2     to read:
- 3     825. (a) Except as otherwise provided in this section, if an
- 4     employee or former employee of a public entity requests the public
- 5     entity to defend him or her against any claim or action against him
- 6     or her for an injury arising out of an act or omission occurring

1 within the scope of his or her employment as an employee of the  
2 public entity and the request is made in writing not less than 10  
3 days before the day of trial, and the employee or former employee  
4 reasonably cooperates in good faith in the defense of the claim or  
5 action, the public entity shall pay any judgment based thereon or  
6 any compromise or settlement of the claim or action to which the  
7 public entity has agreed.

8 If the public entity conducts the defense of an employee or  
9 former employee against any claim or action with his or her  
10 reasonable good-faith cooperation, the public entity shall pay any  
11 judgment based thereon or any compromise or settlement of the  
12 claim or action to which the public entity has agreed. However,  
13 where the public entity conducted the defense pursuant to an  
14 agreement with the employee or former employee reserving the  
15 rights of the public entity not to pay the judgment, compromise,  
16 or settlement until it is established that the injury arose out of an  
17 act or omission occurring within the scope of his or her  
18 employment as an employee of the public entity, the public entity  
19 is required to pay the judgment, compromise, or settlement only  
20 if it is established that the injury arose out of an act or omission  
21 occurring in the scope of his or her employment as an employee  
22 of the public entity.

23 Nothing in this section authorizes a public entity to pay that part  
24 of a claim or judgment that is for punitive or exemplary damages.

25 (b) Notwithstanding subdivision (a) or any other provision of  
26 law, a public entity is authorized to pay that part of a judgment  
27 that is for punitive or exemplary damages if the governing body  
28 of that public entity, acting in its sole discretion except in cases  
29 involving an entity of the state government, finds all of the  
30 following:

31 (1) The judgment is based on an act or omission of an employee  
32 or former employee acting within the course and scope of his or  
33 her employment as an employee of the public entity.

34 (2) At the time of the act giving rise to the liability, the employee  
35 or former employee acted, or failed to act, in good faith, without  
36 actual malice and in the apparent best interests of the public entity.

37 (3) Payment of the claim or judgment would be in the best  
38 interests of the public entity.

39 As used in this subdivision with respect to an entity of state  
40 government, “a decision of the governing body” means the

1 approval of the Legislature for payment of that part of a judgment  
2 that is for punitive damages or exemplary damages, upon  
3 recommendation of the appointing power of the employee or  
4 former employee, based upon the finding by the Legislature and  
5 the appointing authority of the existence of the three conditions  
6 for payment of a punitive or exemplary damages claim. The  
7 provisions of subdivision (a) of Section 965.6 shall apply to the  
8 payment of any claim pursuant to this subdivision.

9 The discovery of the assets of a public entity and the introduction  
10 of evidence of the assets of a public entity shall not be permitted  
11 in an action in which it is alleged that a public employee is liable  
12 for punitive or exemplary damages.

13 The possibility that a public entity may pay that part of a  
14 judgment that is for punitive damages shall not be disclosed in any  
15 trial in which it is alleged that a public employee is liable for  
16 punitive or exemplary damages, and that disclosure shall be  
17 grounds for a mistrial.

18 (c) Except as provided in subdivision (d), if the provisions of  
19 this section are in conflict with the provisions of a memorandum  
20 of understanding reached pursuant to Chapter 10 (commencing  
21 with Section 3500) of ~~Division 4 of Title 1, 4~~, the memorandum  
22 of understanding shall be controlling without further legislative  
23 action, except that if those provisions of a memorandum of  
24 understanding require the expenditure of funds, the provisions  
25 shall not become effective unless approved by the Legislature in  
26 the annual Budget Act.

27 (d) The subject of payment of punitive damages pursuant to this  
28 section or any other provision of law shall not be a subject of meet  
29 and confer under the provisions of Chapter 10 (commencing with  
30 Section 3500) of ~~Division 4 of Title 1, 4~~, or pursuant to any other  
31 law or authority.

32 (e) Nothing in this section shall affect the provisions of Section  
33 818 prohibiting the award of punitive damages against a public  
34 entity. This section shall not be construed as a waiver of a public  
35 entity's immunity from liability for punitive damages under Section  
36 1981, 1983, or 1985 of Title 42 of the United States Code.

37 (f) (1) Except as provided in paragraph (2), a public entity shall  
38 not pay a judgment, compromise, or settlement arising from a  
39 claim or action against an elected official, if the claim or action is  
40 based on conduct by the elected official by way of tortiously

1 intervening or attempting to intervene in, or by way of tortiously  
2 influencing or attempting to influence the outcome of, any judicial  
3 action or proceeding for the benefit of a particular party by  
4 contacting the trial judge or any commissioner, court-appointed  
5 arbitrator, court-appointed mediator, or court-appointed special  
6 referee assigned to the matter, or the court clerk, bailiff, or marshal  
7 after an action has been filed, unless he or she was counsel of  
8 record acting lawfully within the scope of his or her employment  
9 on behalf of that party. Notwithstanding Section 825.6, if a public  
10 entity conducted the defense of an elected official against such a  
11 claim or action and the elected official is found liable by the trier  
12 of fact, the court shall order the elected official to pay to the public  
13 entity the cost of that defense.

14 (2) If an elected official is held liable for monetary damages in  
15 the action, the plaintiff shall first seek recovery of the judgment  
16 against the assets of the elected official. If the elected official's  
17 assets are insufficient to satisfy the total judgment, as determined  
18 by the court, the public entity may pay the deficiency if the public  
19 entity is authorized by law to pay that judgment.

20 (3) To the extent the public entity pays any portion of the  
21 judgment or is entitled to reimbursement of defense costs pursuant  
22 to paragraph (1), the public entity shall pursue all available  
23 creditor's remedies against the elected official, including  
24 garnishment, until that party has fully reimbursed the public entity.

25 (4) This subdivision shall not apply to any criminal or civil  
26 enforcement action brought in the name of the people of the State  
27 of California by an elected district attorney, city attorney, or  
28 attorney general.

29 (g) *Notwithstanding subdivision (a), a public entity shall pay*  
30 *for a judgment or settlement for treble damage antitrust awards*  
31 *against a member of a regulatory board within the Department of*  
32 *Consumer Affairs for an act or omission occurring within the scope*  
33 *of the member's official capacity as a member of that regulatory*  
34 *board.*

35 (h) *For purposes of this section, treble damages awarded*  
36 *pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,*  
37 *of Title 15 of, and Sections 52 and 53 of Title 29 of, the United*  
38 *States Code) for a violation of the federal Sherman Act (Sections*  
39 *1 to 7, inclusive, of Title 15 of the United States Code) are not*  
40 *punitive or exemplary damages under this division.*

1 SECTION 1. ~~Chapter 10 (commencing with Section 473) is~~  
2 ~~added to Division 1 of the Business and Professions Code, to read:~~

3  
4 CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL  
5 BOARDS  
6

7 473. ~~The following are policies of the state:~~

8 (a) ~~Occupational licensing laws should be construed and applied~~  
9 ~~to increase economic opportunity, promote competition, and~~  
10 ~~encourage innovation.~~

11 (b) ~~Regulators should displace competition through occupational~~  
12 ~~licensing only where less restrictive regulation will not suffice to~~  
13 ~~protect consumers from present, significant, and substantiated~~  
14 ~~harms that threaten public health, safety, or welfare.~~

15 (c) ~~An occupational licensing restriction should be enforced~~  
16 ~~against an individual only to the extent the individual sells goods~~  
17 ~~and services that are included explicitly in the statute or regulation~~  
18 ~~that defines the occupation's scope of practice.~~

19 473.1. ~~As used in this chapter:~~

20 (a) ~~“Covered board” means any entity listed in Section 101.~~

21 (b) ~~“Office” means the Office of Supervision of Occupational~~  
22 ~~Boards established in Section 473.2.~~

23 473.2. (a) ~~There is hereby established an Office of Supervision~~  
24 ~~of Occupational Boards within the department.~~

25 (b) (1) ~~Notwithstanding Section 109, the office shall be~~  
26 ~~responsible for exercising active supervision over each covered~~  
27 ~~board to ensure compliance with the policies in Section 473.~~

28 (2) ~~In exercising active supervision over covered boards under~~  
29 ~~paragraph (1), the office shall independently do the following:~~

30 (A) ~~Play a substantial role in the development of a covered~~  
31 ~~board's rules and policies to ensure they benefit consumers and~~  
32 ~~do not serve the private interests of providers of goods and services~~  
33 ~~regulated by the covered board.~~

34 (B) ~~Disapprove the use of any rule or policy of a covered board~~  
35 ~~and terminate any enforcement action, including any action pending~~  
36 ~~on January 1, 2019, that is not consistent with Section 473.~~

37 (C) ~~Exercise control over each covered board by reviewing and~~  
38 ~~affirmatively approving only rules, policies, and enforcement~~  
39 ~~actions that are consistent with Section 473.~~

1 ~~(D) Analyze existing and proposed rules and policies and~~  
2 ~~conduct investigations to gain additional information to promote~~  
3 ~~compliance with Section 473, including, but not limited to, less~~  
4 ~~restrictive regulatory approaches.~~

5 ~~(3) In exercising active supervision over covered boards under~~  
6 ~~paragraph (1), the office shall be staffed by not fewer than one~~  
7 ~~attorney who does not provide general counsel to any covered~~  
8 ~~board.~~

9 ~~(e) (1) Notwithstanding Section 109, the office shall review~~  
10 ~~and approve or reject any rule, policy, enforcement action, or other~~  
11 ~~occupational licensure action proposed by each covered board~~  
12 ~~before the covered board may adopt or implement the rule, policy,~~  
13 ~~enforcement action, or other occupational licensure action.~~

14 ~~(2) For purposes of paragraph (1), approval by the office shall~~  
15 ~~be express and silence or failure to act shall not constitute approval.~~

16 ~~473.3. (a) Any person may file a complaint to the office about~~  
17 ~~a rule, policy, enforcement action, or other occupational licensure~~  
18 ~~action of a covered board that the person believes is not consistent~~  
19 ~~with Section 473.~~

20 ~~(b) Not later than 90 days after the date on which the office~~  
21 ~~receives a complaint filed under paragraph (1), notwithstanding~~  
22 ~~Section 109, the office shall investigate the complaint, identify~~  
23 ~~remedies, and instruct the covered board to take action as the office~~  
24 ~~determines to be appropriate, and respond in writing to the~~  
25 ~~complainant.~~

26 ~~(e) (1) There shall be no right to appeal a decision of the office~~  
27 ~~under subdivision (b) unless the challenged rule, policy,~~  
28 ~~enforcement action, or other occupational licensure action would~~  
29 ~~prevent the complainant from engaging in a lawful occupation or~~  
30 ~~employing or contracting others for the performance of a lawful~~  
31 ~~occupation and the complainant has taken material steps in an~~  
32 ~~attempt to engage in a lawful occupation or employ or contract~~  
33 ~~others for the performance of a lawful occupation.~~

34 ~~(2) Any appeal authorized under paragraph (1) shall be to the~~  
35 ~~superior court.~~

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## CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

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Bill Number: AB 2705 (Holden)  
Status/Location: Senate – Referred to Business, Professions and Economic Development on 5/3/18  
Sponsor: Contractors State License Board  
Subject: Contractors: Violations  
Code Section: Amend Business & Professions Code §7126

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### **Summary:**

Existing law provides that employers in California compensate employees who are injured in the scope of their employment and that employers who fail to do so by obtaining sufficient workers' compensation are subject to prosecution for a misdemeanor, and that such prosecution shall commence within one year of commission of the offense.

Existing law provides that contractors licensed pursuant to contractors' state license law either provide proof of workers' compensation when they employ persons subject to the workers' compensation laws of California or certify that they are exempt from such requirements. Existing law also provides that licensed contractors who fail to comply with the workers' compensation provisions of contractors' state license law are guilty of a misdemeanor and that prosecution shall commence within two years of commission of the offense.

This bill would include persons not licensed in the statute that currently makes it a misdemeanor for licensed contractors who fail to comply with the workers' compensation requirements of contractors' state license law. Consequently, any person licensed or subject to licensure under contractors' state license law who fails to provide workers' compensation for employees would be subject to a two year statute of limitations.

### **Background:**

Consumers and legitimate contractors face real threats from those who fail to secure workers' compensation for their employees. They are part of a \$60 to \$140 billion annual underground economy that takes money away from healthcare, roads, and schools.

Furthermore, one year is an insufficient period in which to refer a criminal violation of workers' compensation laws for reactive complaints to CSLB (those filed by a consumer rather than proactively opened by CSLB). Consumers routinely file complaints with CSLB many months after the construction work subject to their complaint is completed, which often leaves minimal time for CSLB to complete an investigation to allege a workers' compensation violation. This results in a large number of criminal cases

against unlicensed contractors for workers' compensation violations that cannot be filed each year. This bill is intended to make the statute of limitations periods in which to prosecute unlicensed and licensed contractors for this violation consistent.

**Support:**

CA Chapters of the National Electrical Contractors Association  
CA Legislative Conference of the Plumbing Heating and Piping Industry  
United Contractors  
Northern California Allied Trades  
Wall and Ceiling Alliance

**Opposition:**

None at this time.

**Fiscal Impact for CSLB:**

Minor and absorbable.

**Previous Board Action:**

**SUPPORT.** This is a CSLB-sponsored bill. On April 13, 2018, the board voted to support this bill and no further action is required.

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Date: May 15, 2018

**ASSEMBLY BILL**

**No. 2705**

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**Introduced by Assembly Member Holden**

February 15, 2018

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An act to amend Section 7126 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2705, as introduced, Holden. Contractors: violations.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained in the course of employment. Existing law generally requires an employer to secure the payment of compensation, as specified, and makes it a misdemeanor to fail to secure the payment of compensation by one who knew, or should be reasonably expected to have known, of the obligation to secure the payment of compensation, punishable by imprisonment in the county jail for up to one year, a specified fine of not less than \$10,000, or both. Existing law, except as specified, generally requires that prosecution for an offense not punishable by death or imprisonment in the state prison, as specified, be commenced within one year after commission of the offense.

Existing law, the Contractor's State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs and requires an applicant for a contractor's license, or a licensee, to have on file a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. Existing law makes a violation of the provisions governing these certificates a misdemeanor. Existing law requires that

prosecution for a violation of these provisions be commenced within 2 years after commission of the offense.

This bill additionally would make it a misdemeanor violation not to secure the payment of compensation, as specified, by any licensee or agent or officer thereof, or by any person licensed in accordance with these provisions acting as a contractor, and would make that violation subject to the 2-year statute of limitations. By expanding the scope of an existing crime and by creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7126 of the Business and Professions  
2 Code is amended to read:

3 7126. ~~Any~~(a) Any licensee or agent or officer thereof, who  
4 violates, or omits to comply with, any of the provisions of this  
5 ~~article~~ article, or with Section 3700.5 of the Labor Code, is guilty  
6 of a misdemeanor.

7 (b) Any person not licensed in accordance with this chapter  
8 who is acting as a contractor and who violates, or omits to comply  
9 with, Section 3700.5 of the Labor Code is guilty of a misdemeanor.

10 SEC. 2. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

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## AGENDA ITEM D-2

# Review, Discussion, and Possible Action on 2017-18 Pending Legislation

- a. SB 1087 (Roth) (2018) Property Assessed Clean Energy Program
- b. SB 1298 (Skinner) (2018) The Increasing Access to Employment Act
- c. SB 1465 (Hill) (2018) Contractors: Reporting Requirement
- d. AB 2371 (Carrillo) (2018) Landscape Contractors: Water Use Efficiency
- e. AB 3126 (Brough) (2018) Contractor's State License Law: Cash Deposit in Lieu of Bond







# CONTRACTORS STATE LICENSE BOARD

## 2017-18 PENDING LEGISLATION

This section contains five pending legislative bills that affect CSLB. Neither the Board or the Legislative Committee have reviewed these bills. Below is a brief summary of the five bills; CSLB analyses and bill language follow.

**a. SB 1087 (Roth) (2018) PACE Program: Program Administrators.** This bill is a “clean-up” to last year’s AB 1284 (Dababneh), which required the licensing and regulation of Property Assessed Clean Energy (PACE) program administrators by the Department of Business Oversight (DBO). The Board took a “watch” position on AB 1284 at its September 2017 meeting, and the Governor signed the bill into law in October 2017. SB 1087 addresses consumer protection concerns and provides for discipline of PACE solicitors and solicitor agents, which AB 1284 did not include.

**b. SB 1298 (Skinner) (2018) The Increasing Access to Employment Act.** This bill, in an attempt to increase opportunities for occupational licensure or employment, would prevent licensing agencies from learning of expunged, dismissed, relieved, or sealed convictions of applicants or licensees. This bill relates to the issues addressed in AB 2138 (Chiu and Low). The analysis that follows summarizes the difference between the two bills.

**c. SB 1465 (Hill) (2018) Contractors: Civil Actions: Reporting.** In response to the June 2015 Berkeley balcony collapse, this bill requires licensed contractors and insurers to report to CSLB any final civil judgments, settlements, or arbitration awards involving damage claims for construction defects in multi-family rental residential structures. Following the Board’s findings at its December 7, 2017 meeting, regarding CSLB’s study of construction defect settlements, CSLB staff worked with the legislature to craft the SB 1465 language. CSLB sent a letter of support for this bill on May 2, 2018, which reflects the Board’s determination that requiring contractors to report civil construction defect settlements would be a good “tool” in the Board’s consumer protection “tool box.”

**d. AB 2371 (Carrillo) (2018) Water Use Efficiency.** This bill is intended to make landscape water use in California more efficient and sustainable, in part by requiring updates to CSLB’s “A” (General Engineering), “B” (General Building), and C-27 (Landscape) contractor license trade examinations to reflect changing landscape irrigation efficiency practices and requires updates to the building codes. The bill would also require, beginning on January 1, 2020, a home inspection report for dwelling units that contain in-ground landscaping irrigation systems.

**e. AB 3126 (Brough) (2018) Contractors’ State License Law: Cash Deposit in Lieu of a Bond.** This CSLB-sponsored bill would eliminate the cash deposit in lieu of a contractor license bond, bond of qualifying individual, or disciplinary bond. The Board authorized staff to pursue this legislative proposal at its December 2017 meeting. The previous version of this bill was amended and formally introduced in its current form on April 19, 2018. The Board has not voted on this bill.

**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS**

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**Bill Number:** SB 1087 (Roth)  
**Status/Location:** Senate - Appropriation Suspense File  
**Sponsor:** Author  
**Subject:** PACE Program: Program Administrators  
**Code Sections:** Amend sections 22105, 22680, 22681, 22682, 22684, 22685, 22686, 22687, 22688, 22689, 22690, 22693, 22694, 22716 of, and add section 22690.5 to the Financial Code

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**Summary:** According to the author, this bill is a “clean-up” to last year’s AB 1284 (Dababneh), which required the licensing and regulation of Property Assessed Clean Energy (PACE) program administrators by the Department of Business Oversight (DBO). The Board took a “watch” position on AB 1284 at its September 2017 meeting, and the Governor signed it into law in October 2017. SB 1087 addresses consumer protection concerns and provides for discipline of PACE solicitors and solicitor agents, which AB 1284 did not include.

Existing law, under the PACE program, authorizes public agency officials and property owners to enter into voluntary, contractual assessments to finance the installation of “distributed generation renewable energy sources,” or energy or water efficiency improvements that are permanently affixed to real property and are repaid through property taxes.

Existing law, under the California Financing Law (CFL) (contained in Division 9 of the California Financial Code, commencing with Section 22000), requires that by January 1, 2019, a program administrator who administers a PACE program on behalf of a public agency be licensed by the DBO. At that time, program administrators will be required to establish and maintain a process for the “enrollment of” a PACE solicitor and a PACE solicitor agent, as well as for the “cancellation of that enrollment.” The “enrollment” process would involve registering the names of the PACE solicitors and solicitor agents with the DBO.

Existing law provides that a “PACE solicitor” is a person authorized by a program administrator to solicit a property owner to enter into an assessment contract, and that a “PACE solicitor agent” is authorized by the PACE solicitor to represent the PACE solicitor agent in selling these contracts.

Existing law requires that a PACE program administrator conduct a background check of each PACE solicitor agent and allows the administrator to rely on a background check conducted by CSLB, since a PACE solicitor or solicitor agent must maintain a contractor license or home improvement salesperson registration in good standing with CSLB. As such, when the DBO licensing program takes effect, it can be anticipated that

the majority of PACE solicitors and PACE solicitor agents will be contractors and home improvement salespeople licensed and registered by CSLB.

This bill would require the program administrator to maintain the enrollment process of a PACE solicitor or solicitor agent a manner acceptable to the DBO commissioner.

This bill would require PACE administrators to underwrite homeowners earlier than is required by AB 1284 to ensure that homeowners know if they will qualify for PACE financing before they obligate themselves on a home improvement contract in expectation of receiving PACE financing.

This bill provides that if, following DBO's investigation of a PACE solicitor or solicitor agent, there are reasonable grounds to believe that the solicitor or solicitor agent is conducting business in an unlawful manner, DBO may, in certain circumstances, bring an order against that person.

This would affect CSLB to the extent a PACE solicitor and PACE solicitor agent is a CSLB licentiate (registrant or licensee) who has been found to have violated the CFL. If a CSLB licentiate has done so, it would mean they have violated state law in connection with the solicitation of a home improvement contract. The CSLB is working with the authors of this bill to ensure CSLB has the authority to impose discipline on a CSLB license for an established violation of PACE laws.

Lastly, this bill would require the commissioner of the DBO to maintain on its website a searchable list of PACE solicitors and solicitor agents who have agreed to, or been required to, cease soliciting property owners in connection with PACE assessments. CSLB has executed an MOU with the DBO to share information in this regard.

### **Background:**

According to the author, while AB 1284 included a number of consumer protections, it was "hastily drafted" at the end of the 2017 legislative year and contained provisions that the Legislature agreed would require "clean-up." The author contends that SB 1087 will better protect consumers who use PACE financing to pay for energy efficiency improvements and ensure greater public transparency regarding PACE providers.

CSLB staff has met with the author's office on multiple occasions to ensure that CSLB has the tools to support the policy and intent behind holding PACE solicitors and solicitor agents accountable. The author is currently considering amendments to contractors' state license law to facilitate this effort.

### **The PACE Program**

PACE is a financing tool that property owners can use to pay for renewable energy upgrades for their homes or commercial buildings. The creation of local PACE assessment districts allows local agencies to issue bonds to pay for the construction of these improvements. The law allows local agencies to create within their jurisdictions a PACE "assessment district" in order to create a PACE loan program. The result is a

“joint power authority” to either administer the program directly or contract with private entities to administer it. For example, Sonoma and Placer counties, administer the PACE program; however, more commonly the local agencies contract with private entities, such as Renew Financial, Renovate America, Ygrene, etc.

The PACE assessment contract allows a property owner to voluntarily enter into an agreement with a local agency within a defined assessment district. The payments the property owner makes against the agreement goes toward paying off bonds that were issued to private investors to finance the up-front costs of improvements and are paid via an “assessment” on the owner’s property tax bill. The result for homeowners is a higher property tax assessment, as the costs are paid over time; this assessment remains on the property even if it is sold or transferred because the assessments are “permanently fixed” to the property. As a result, the assessments carry a “super-lien” status on the property.

An “energy audit” may be conducted on the property to identify areas of improvement which, among other things, involves ensuring that the owner has equity in the property. The owner or administrator then contacts a PACE-certified contractor to provide an estimate of the improvement costs. The owner then applies, often for a fee, to the PACE program for approval, and if approved, construction contract is executed.

### **Related Pending Legislation**

AB 2063 – Aguiar-Curry (2018) Requires among other things that a homeowner’s ability to pay a PACE assessment be fully verified before an assessment or home improvement contract is signed and before work begins.

AB 2984 – Limon (2018) Strengthens the enforcement authority provided by CFL to the DBO and authorizes DBO to seek consumer restitution through administrative order. The bill also requires that DBO exam each CFL licensee at least once every four years.

AB 2150 – Chen (2018) Existing law requires program administrators to report annually to the DBO all PACE assessment contracts approved for funding and recording in certain circumstances and that DBO then prepare and make public an annual composite of these reports. This bill would require that the program administrator reports submitted to DBO also be made public.

### **Fiscal Impact for CSLB:**

Pending.

### **Staff Recommendation and Comments:**

**SUPPORT.** CSLB operations may be affected if there is a sudden influx of applications from home improvement salespersons who seek to be enrolled as PACE solicitors or solicitor agents, or if there is an increase in consumer complaints related to the activities of PACE solicitors or solicitor agents. The provisions of this bill will increase consumer protection for homeowners who enter into PACE assessment contracts following

solicitation by PACE program administrators, contractors, and home improvement salespersons. In addition, the author is working with CSLB to amend contractors' state license law to ensure that CSLB can address the activities of disreputable individuals or companies in the PACE industry whether the violations are of California financing law or contractors' state license law.

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Date: May 18, 2018

**Introduced by Senator Roth**February 12, 2018

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An act to amend Sections 22105, 22680, 22681, 22682, 22684, 22685, 22686, 22687, 22688, 22689, 22690, 22693, 22694, 22716 of, and to add Section 22690.5 to, the Financial Code, relating to the Property Assessed Clean Energy program.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1087, as introduced, Roth. PACE program: program administrators.

(1) Existing law, known commonly as the Property Assessed Clean Energy (PACE) program, authorizes a public agency, by making specified findings, to authorize public agency officials and property owners to enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property.

Existing law, the California Financing Law (CFL), requires a program administrator who administers a PACE program on behalf of, and with the written consent of, a public agency to comply with specified requirements relating to the PACE program, including requiring, commencing on January 1, 2019, a program administrator to be licensed by the Commissioner of Business Oversight. Existing law requires a program administrator, as of that date, to establish and maintain a process for the enrollment of, and the cancellation of that enrollment, a PACE solicitor and a PACE solicitor agent.

This bill would require the program administrator to maintain the processes described above in writing, and in a manner that is acceptable to the commissioner.

(2) The CFL requires a program administrator who administers a PACE program on behalf of, and with the written consent of, a public agency to comply with specified requirements relating to the PACE program, including requiring a program administrator to ensure criteria related to the assessment contract are satisfied before the contract is approved for recordation. The CFL requires a program administrator to derive market value for those purposes in accordance with certain requirements, including by an appraisal that meets specified requirements.

This bill would, instead, prohibit a program administrator from executing an assessment contract unless the program administrator ensures that certain criteria are met that are similar to the criteria described above, including underwriting requirements that currently apply to persons who participate in a PACE Reserve program established by the California Alternative Energy and Advanced Transportation Financing Authority. The bill would require a program administrator that is seeking to use an appraisal to determine market value to comply with independence appraisal requirements set out in federal law.

(3) The CFL, commencing on April 1, 2018, prohibits a program administrator from approving an assessment contract for funding and recording by a public agency unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the PACE assessments, subject to specified requirements and procedures, including a requirement that the program administrator verify the property owner's income.

This bill would, instead, prohibit a program administrator from executing an assessment contract unless the program administrator makes a reasonable good faith determination that the property owner has a reasonable ability to pay the PACE assessments. The bill would also require a program administrator that is unable to verify the property owner's income before the assessment contract is executed, to verify that information in a timely manner following the execution of the contract.

(4) The CFL requires the commissioner to file an annual report with the department as a public record that is a composite of the annual reports and any comments on that report that the commissioner determines to be in the public interest. The CFL, commencing on April 1, 2018, requires a program administrator to report annually to the commissioner all PACE assessments that were funded and recorded.

This bill would require a program administrator to include information on all PACE assessments that were funded and recorded into the annual composite report described above.

(5) Existing law, the California Financial Information Privacy Act, prohibits a financial institution from selling, sharing, transferring, or otherwise disclosing nonpublic personal information to, or with, nonaffiliated 3rd parties without the explicit prior consent from the consumer to whom the information relates. The CFL, commencing on April 1, 2018, requires a program administrator to comply with the California Financial Information Privacy Act.

This bill would require a program administrator to comply with all laws regarding the duty to safeguard nonpublic personal information or personal information, including the California Financial Information Privacy Act, and would deem a program administrator a financial institution for these purposes.

(6) The CFL, commencing on January 1, 2019, authorizes the commissioner to conduct an examination under oath of every person engaged in the business of program administrator for the purpose of discovering violations of the CFL. Existing law provides that if during the course of an inspection, examination, or investigation of a program administrator the commissioner has cause to believe that the program administrator, PACE solicitor, or PACE solicitor agent may have committed a violation of the CFL or that certain conditions are met, the commissioner may take specified actions to investigate a PACE solicitor or a PACE solicitor agent, including inspecting specified files and communications of the PACE solicitor or PACE solicitor agent and requiring the attendance of witnesses under oath. The CFL provides that if, after an inspection, examination, or investigation, the commissioner has cause to believe that a PACE solicitor or PACE solicitor agent has committed a violation of the CFL, the commissioner is required to exhaust a procedure before bringing an order. Under existing law, that procedure requires the commissioner to issue a report to that person identifying each violation, and provides a process whereby the investigation will cease if the person either complies with any demands of the commissioner or the commissioner and that person otherwise reach a mutually agreeable solution regarding the violations. The CFL requires that, in that instance, any examinations and correspondence related to that investigation remain confidential, but authorizes the commissioner to make publicly available the identity of

any PACE solicitor or PACE solicitor agent who has agreed to discontinue engaging in business as a consequence of an investigation.

This bill would provide that if, after investigation, the commissioner has reasonable grounds to believe that a person is conducting business as a PACE solicitor or PACE solicitor agent, or both, in an unsafe manner, the commissioner bring an order against that person, without having to first exhaust the procedure described above that requires the commissioner to issue a report identifying each violation to a person and to cease the investigation in certain circumstances.

This bill would require the commissioner, upon request, to disclose, pursuant to the California Public Records Act, any documents related to an investigation described above. The bill would require the commissioner to make publicly available the identity of any PACE solicitor or PACE solicitor agent who has agreed to, or been required to, discontinue engaging in business as a consequence of an investigation. The bill would require the commissioner to maintain on its Internet Web site a searchable list of PACE solicitors and PACE solicitor agents who have agreed to, or been required to, cease soliciting property owners in connection with PACE assessments.

(7) This bill would make other clarifying changes to the provisions of the CFL relating to program administrators, PACE solicitors, and PACE solicitor agents.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22105 of the Financial Code, as added  
2 by Section 2 of Chapter 475 of the Statutes of 2017, is amended  
3 to read:  
4 22105. (a) Upon the filing of an application pursuant to Section  
5 22101 and the payment of the fees, the commissioner shall  
6 investigate the applicant and its general partners and persons  
7 owning or controlling, directly or indirectly, 10 percent or more  
8 of the outstanding interests or any person responsible for the  
9 conduct of the applicant’s lending *or program administration*  
10 activities in this state, if the applicant is a partnership. If the  
11 applicant is a corporation, trust, limited liability company, or  
12 association, including an unincorporated organization, the  
13 commissioner shall investigate the applicant, its principal officers,

1 directors, managing members, and persons owning or controlling,  
2 directly or indirectly, 10 percent or more of the outstanding equity  
3 securities or any person responsible for the conduct of the  
4 applicant’s lending activities or for administering PACE programs  
5 for the applicant in this state. Upon the filing of an application  
6 pursuant to Section 22102 and the payment of the fees, the  
7 commissioner shall investigate the person responsible for the  
8 lending activity of the licensee, or for administering one or more  
9 PACE programs for the licensee, at the new location described in  
10 the application. The investigation may be limited to information  
11 that was not included in prior applications filed pursuant to this  
12 division. If the commissioner determines that the applicant has  
13 satisfied this division and does not find facts constituting reasons  
14 for denial under Section 22109, the commissioner shall issue and  
15 deliver a license to the applicant.

16 (b) For the purposes of this section, “principal officers” shall  
17 mean president, chief executive officer, treasurer, and chief  
18 financial officer, as may be applicable, and any other officer with  
19 direct responsibility for the conduct of the applicant’s lending  
20 activities or for PACE program administration for the applicant  
21 within the state.

22 (c) This section shall become operative on January 1, 2019.

23 SEC. 2. Section 22680 of the Financial Code is amended to  
24 read:

25 22680. (a) A program administrator shall establish and  
26 maintain a process for enrolling PACE ~~solicitors, which~~ *solicitors*.  
27 *That process* shall include both of the following:

28 (1) A written agreement between the program administrator and  
29 the PACE ~~solicitor, which~~ *solicitor*. *That agreement* shall set forth  
30 the obligations of the PACE solicitor and its PACE solicitor agents.

31 (2) A review of readily and publicly available information  
32 regarding each PACE solicitor.

33 (b) A program administrator shall establish and maintain a  
34 process for enrolling PACE ~~solicitor-agents, which~~ *agents*. *That*  
35 *process* shall include a background check of each PACE solicitor  
36 agent. A program administrator may rely on a background check  
37 conducted by the Contractors’ State License Board to comply with  
38 this requirement.

1 (c) A program administrator shall not enroll a PACE solicitor  
2 or a PACE solicitor agent that does not satisfy at least one of the  
3 following criteria:

4 (1) Maintain in good standing a license from the Contractors’  
5 State License Board.

6 (2) Maintain a registration in good standing with the  
7 Contractors’ State License Board as a home improvement  
8 salesperson.

9 (3) Be exempt from, or not subject to, licensure or registration  
10 under the Contractors’ State License Law (Chapter 9 (commencing  
11 with Section 7000) of Division 3 of the Business and Professions  
12 Code).

13 (d) A program administrator shall not enroll a PACE solicitor  
14 if, as a result of the review conducted as part of the program  
15 administrator’s enrollment process, the program administrator  
16 finds any of the following:

17 (1) A clear pattern of consumer complaints about the PACE  
18 solicitor regarding dishonesty, misrepresentations, or omissions.

19 (2) A high likelihood that the PACE solicitor will solicit  
20 assessment contracts in a manner that does not comply with  
21 applicable law.

22 (3) A clear pattern on the part of the PACE solicitor of failing  
23 to timely receive and respond to property owner complaints  
24 regarding the PACE solicitor.

25 (e) A program administrator shall establish and maintain a  
26 process to promote and evaluate the compliance of PACE solicitors  
27 and PACE solicitor agents with the requirements of applicable  
28 ~~law, which law.~~ *That process* shall include all of the following, at  
29 a minimum:

30 (1) A risk-based, commercially reasonable procedure to monitor  
31 and test the compliance of PACE solicitors and PACE solicitor  
32 agents with the requirements of subdivision (a) of Section 22689.

33 (2) A procedure to regularly monitor the license or registration  
34 status of PACE solicitors and PACE solicitor agents.

35 (3) A periodic review of the solicitation activities of PACE  
36 solicitors enrolled with the program administrator, to be conducted  
37 at least once every two years.

38 (f) A program administrator shall establish and implement a  
39 process for canceling the enrollment of PACE solicitors and PACE  
40 solicitor agents who fail to maintain the minimum qualifications

1 required by this section, or who violate any provision of this  
2 division.

3 (g) *The processes required to be developed by program*  
4 *administrators pursuant to subdivisions (a), (b), (d) and (f) shall*  
5 *be in writing and shall be acceptable to the commissioner.*

6 SEC. 3. Section 22681 of the Financial Code is amended to  
7 read:

8 22681. A program administrator shall establish and maintain  
9 a training program for PACE solicitor ~~agents, which~~ *agents that*  
10 *is acceptable to the commissioner.*

11 (a) A program administrator shall require each PACE solicitor  
12 agent to complete an introductory training that addresses the topics  
13 listed in ~~subsection~~ *subdivision* (b) as part of the program  
14 administrator's enrollment process for PACE solicitor agents. The  
15 introductory training shall require that the PACE solicitor agent  
16 pass a test that measures the PACE solicitor agent's knowledge  
17 and comprehension of the training material. The introductory  
18 training shall not be subject to any minimum duration requirements.

19 (b) In addition to the introductory training, a program  
20 administrator shall require that each PACE solicitor agent complete  
21 six hours of education provided by the program administrator  
22 within three months of completing the program administrator's  
23 enrollment process. The training shall include the following topics:

- 24 (1) PACE programs and assessment contracts.
- 25 (2) PACE disclosures.
- 26 (3) Ethics.
- 27 (4) Fraud prevention.
- 28 (5) Consumer protection.
- 29 (6) Nondiscrimination.
- 30 (7) Senior financial abuse.

31 SEC. 4. Section 22682 of the Financial Code is amended to  
32 read:

33 22682. (a) A program administrator shall, in the manner  
34 prescribed by the commissioner, *timely* notify the commissioner  
35 of each PACE solicitor and PACE solicitor agent enrolled by the  
36 program administrator.

37 (b) A program administrator shall, in the manner prescribed by  
38 the commissioner, *timely* notify the commissioner of each  
39 enrollment cancellation and withdrawal of a PACE solicitor or a  
40 PACE solicitor agent pursuant to subdivision (f) of Section 22680.

1 SEC. 5. Section 22684 of the Financial Code is amended to  
2 read:

3 ~~22684. A program administrator shall not submit, present, or~~  
4 ~~otherwise approve for recordation by a public agency an assessment~~  
5 ~~contract unless *Before an assessment contract is executed, a*~~  
6 ~~program administrator shall ensure that the following criteria are~~  
7 ~~satisfied:~~

8 ~~(a) All property taxes for the property that will be subject to the~~  
9 ~~assessment contract are current. The program administrator shall~~  
10 ~~ask a property owner whether there has been no more than one~~  
11 ~~late payment of property taxes on the property for the previous~~  
12 ~~three years or since the current owner acquired the property,~~  
13 ~~whichever period is shorter.~~

14 ~~(b) The property that will be subject to the assessment contract~~  
15 ~~has no recorded and outstanding involuntary liens in excess of one~~  
16 ~~thousand dollars (\$1,000).~~

17 ~~(c) The property that will be subject to the assessment contract~~  
18 ~~has no notices of default currently recorded which have not been~~  
19 ~~reseinded.~~

20 ~~(d) The property owner has not been a party to any bankruptcy~~  
21 ~~proceedings within the last seven years, except that the property~~  
22 ~~owner may have been party to a bankruptcy proceeding that was~~  
23 ~~discharged or dismissed between two and seven years before the~~  
24 ~~application date and the property owner has had no payments more~~  
25 ~~than 30 days past due on any mortgage debt or nonmortgage debt,~~  
26 ~~excluding medical debt, during the 12 months immediately~~  
27 ~~preceding the application date.~~

28 ~~(e) The property owner is current on all mortgage debt on the~~  
29 ~~subject property and has no more than one late payment during~~  
30 ~~the 12 months immediately preceding the application date and if~~  
31 ~~the late payment did not exceed 30 days past due.~~

32 ~~(f) The property that will be subject to the assessment contract~~  
33 ~~is within the geographical boundaries of the applicable PACE~~  
34 ~~program.~~

35 ~~(g) The measures to be installed pursuant to the assessment~~  
36 ~~contract are eligible under the terms of the applicable PACE~~  
37 ~~program.~~

38 ~~(h) The financing is for less than 15 percent of the value of the~~  
39 ~~property, up to the first seven hundred thousand dollars (\$700,000)~~  
40 ~~inclusive of the existing assessments, and is for less than 10 percent~~

1 of the remaining value of the property above seven hundred  
2 thousand dollars (\$700,000).

3 (i) ~~The total PACE assessments and the mortgage-related debt~~  
4 ~~on the property subject to the PACE assessment will not exceed~~  
5 ~~97 percent of the market value of the property as established by~~  
6 ~~the valuation required by Section 22685.~~

7 (a) *The program administrator shall ensure that all assessment*  
8 *contracts comply with the underwriting requirements in subdivision*  
9 *(b) of Section 10081 of Title 4 of the California Code of*  
10 *Regulations, as that subdivision and that section may be amended*  
11 *from time to time. This requirement shall apply regardless of*  
12 *whether a program administrator participates in the reserve*  
13 *program established pursuant to Article 2 (commencing with*  
14 *Section 26060) of Chapter 4 of Division 16 of the Public Resources*  
15 *Code.*

16 (j)

17 (b) The term of the assessment contract shall not exceed the  
18 estimated useful life of the measure to which the greatest portion  
19 of funds disbursed under the assessment contract is attributable.  
20 The program administrator shall determine useful life for purposes  
21 of this subdivision based upon credible third-party standards or  
22 certification criteria that have been established by appropriate  
23 government agencies or nationally recognized standards and testing  
24 organizations.

25 (k)

26 (c) The program administrator shall verify the existence of  
27 recorded PACE assessments and shall ask if the property owner  
28 has authorized additional PACE assessments on the same subject  
29 property that have not yet been recorded. The failure of a property  
30 owner to comply with this subdivision shall not invalidate an  
31 assessment contract or any obligations thereunder, notwithstanding  
32 where the combined amount of the PACE assessments exceed the  
33 criteria set forth in ~~subdivision (h) or (i):~~ *the underwriting*  
34 *requirements described in subdivision (a).* The existence of a prior  
35 PACE assessment or a prior assessment contract shall not constitute  
36 evidence that the assessment contract under consideration is  
37 affordable or meets any other program requirements.

38 (t)

39 (d) The program administrator shall use commercially  
40 reasonable and available methods to verify the above.

1 ~~(m) Notwithstanding Section 22696, this section shall become~~  
2 ~~operative on January 1, 2018.~~

3 SEC. 6. Section 22685 of the Financial Code is amended to  
4 read:

5 22685. (a) A program administrator shall derive market value  
6 using one of the following:

7 (1) ~~An automated~~ *Automated* valuation ~~model~~, *models*, using  
8 the following criteria:

9 (A) ~~The~~ *Each* automated valuation model must be provided by  
10 a third-party vendor.

11 (B) ~~The~~ *Each* automated valuation model must have estimation  
12 models with confidence scores and regular statistical calibration  
13 by the third-party vendor.

14 (C) ~~The PACE program must~~ *program administrator shall*  
15 *utilize at least three automated valuation models for each property.*  
16 *The estimated value for each model shall be the average between*  
17 *the high and low values, if a range is provided.*

18 (D) ~~The PACE program~~ *program administrator shall utilize the*  
19 *estimated value with the highest confidence score for a property.*  
20 *If an automated valuation model meeting the criteria of*  
21 *subparagraphs (A),(B), and (C) does not obtain a confidence score*  
22 *for a subject property, the PACE Program shall utilize the average*  
23 *of all estimated values.*

24 (2) An appraisal conducted within six months of the application  
25 date by a state-licensed real estate appraiser licensed pursuant to  
26 Part 3 (commencing with Section 11300) of Division 4 of the  
27 Business and Professions Code.

28 (3) For paragraph (2), program administrators shall conform to  
29 the requirements of ~~California Code of Regulations, Title 10,~~  
30 ~~Chapter 6.5 (commencing with Section 3500), including but not~~  
31 ~~limited to, Section 3577 governing Minimum Standards of Practice,~~  
32 ~~or with the Appraiser Independence Requirements that were~~  
33 ~~developed by the Federal Housing Finance Agency. Section 1639e~~  
34 ~~of Title 15 of the United States Code, regarding appraisal~~  
35 ~~independence requirements. A program administrator shall not~~  
36 ~~use an appraisal provided by a property owner to satisfy the~~  
37 ~~requirements of paragraph (2).~~

38 (b) The market value determination by the program administrator  
39 shall be disclosed to the property owner prior to signing the  
40 assessment contract.

1 ~~(e) Notwithstanding Section 22696, this section shall become~~  
2 ~~operative on January 1, 2018.~~

3 SEC. 7. Section 22686 of the Financial Code is amended to  
4 read:

5 22686. ~~A~~*Before an assessment contract is executed, a program*  
6 ~~administrator shall not approve for funding, and recordation by a~~  
7 ~~public agency, an assessment contract unless the program~~  
8 ~~administrator makes~~ *make* a reasonable good faith determination  
9 that the property owner has a reasonable ability to pay the annual  
10 payment obligations for the PACE assessment.

11 ~~Notwithstanding Section 22696, this section shall become~~  
12 ~~operative on April 1, 2018.~~

13 SEC. 8. Section 22687 of the Financial Code is amended to  
14 read:

15 22687. (a) ~~A~~*Before an assessment contract is executed, a*  
16 ~~program administrator shall determine, prior to funding, and~~  
17 ~~recordation by a public agency of the assessment contract~~ *determine*  
18 that the property owner has a reasonable ability to pay the annual  
19 payment obligations for the PACE assessment based on the  
20 property owner income, assets, and current debt obligations. The  
21 determination process shall be based on the following factors:

22 (1) The property owner shall submit on their application their  
23 monthly income and their monthly housing expenses.

24 (2) Housing expenses shall include all mortgage principal and  
25 interest payments, insurance, property taxes, mortgage guaranty  
26 insurance, and other preexisting fees and assessments on the  
27 property. Household income shall include the income of the  
28 mortgagor on the subject property and may include the income of  
29 any persons age 18 or older who are on title to the property. For  
30 any person whose income is considered, their debt obligations  
31 must also be considered pursuant to the provisions of this section.  
32 There is no requirement to consider more income than is necessary,  
33 nor to verify assets if verified income is sufficient to determine  
34 the ability to pay the annual payment obligations.

35 (3) Debt obligations in accordance with subdivision (c).

36 (4) In evaluating the income, assets and current debt obligations  
37 of the property owner, the equity of the property that will secure  
38 the assessment shall not be considered.

39 (5) Pursuant to Section 5913 of the Streets and Highways Code,  
40 the program administrator shall ask the homeowner open-ended

1 questions during the confirm terms call, to confirm the income  
2 provided on the application and to identify the sources of their  
3 income.

4 (b) (1) The program administrator shall ~~determine~~ *verify* and  
5 consider the current or reasonably expected income or assets of  
6 the property owner that the program administrator relies on in  
7 order to determine a property owner's ability to pay the PACE  
8 assessment annual payment obligations using reasonably reliable  
9 third-party records of the property owner's income or assets. The  
10 program administrator may use automated verification provided  
11 the source of that verification is specific to the income of the  
12 property owner and not based on predictive or estimation  
13 methodologies, and has been determined sufficient for such  
14 verification purposes by a federal mortgage lending authority or  
15 regulator. Examples of records the program administrator may use  
16 to verify the property owner's income or assets include:

17 (A) A Pay stub showing the most recent 30-day pay period or  
18 financial institution records showing regular deposits consistent  
19 with reported income for the most recent 60 days.

20 (B) Copies of most recent tax returns the property owner filed  
21 with the Internal Revenue Service or the Franchise Tax Board.

22 (C) Copies of the most recent Internal Revenue Service Form  
23 W-2 (Wage and Tax Statement), or other similar Internal Revenue  
24 Service forms that are used for reporting wages or tax withholding.

25 (D) Payroll statements, including the Department of Defense  
26 Leave and Earnings Statement (LES).

27 (E) Financial institution records, such as bank statements or  
28 investment account statements reflecting the value of particular  
29 assets.

30 (F) Records from the property owner's employer or a third party  
31 that obtained income information from the employer.

32 (G) Records from a federal, state, or local government agency  
33 stating the property owner's income from benefits or entitlements.  
34 Income from benefits paid by a government entity shall not include  
35 any benefits for which the recipient must satisfy a means test or  
36 any cash equivalent non-monetary benefits, such as food stamps.

37 (2) Income may not be derived from temporary sources of  
38 income, illiquid assets, or proceeds derived from the equity from  
39 the subject property.

1 (c) A program administrator shall consider the monthly debt  
2 obligations of the property owner to ~~determine~~ *verify* a property  
3 owner's ability to pay the annual payment PACE assessment  
4 obligations using reasonably reliable third-party records, including  
5 one or more consumer credit reports from agencies that meet the  
6 requirements of Section 1681a(p) of Title 15 of the United States  
7 Code. Program administrators shall use at least a two-file Merged  
8 Credit Report (MCR) or a Residential Mortgage Credit Report  
9 (RMCR). For purposes of this subdivision, monthly debt  
10 obligations include, but are not limited to, the following:

- 11 (1) All secured and unsecured debt.
- 12 (2) Alimony.
- 13 (3) Child support.
- 14 (4) Monthly housing expenses. If property tax and insurance  
15 obligations are not included in a property owner's escrow, a  
16 program administrator shall use reasonably reliable methods to  
17 determine these obligations.

18 (d) In calculating the ability of the property owner to pay the  
19 annual payment obligations, the program administrator shall  
20 determine that the property owner's income is sufficient to meet:

- 21 (1) The PACE payment, including all interest and fees.
- 22 (2) Any ~~mortgage~~ *housing* payments, as defined by the higher  
23 of the borrowers self-reported housing payment or housing  
24 expenses determined in accordance with paragraph (1) and (2) of  
25 subdivision (a).
- 26 (3) All existing debts and obligations as identified in subdivision  
27 (c).
- 28 (4) ~~Sufficient residual income to meet basic~~ *Basic* household  
29 living expenses, defined as expected expenses which may be  
30 variable based on circumstances and consumption patterns of the  
31 household. A program administrator may make reasonable  
32 estimation of basic living expenses based on the number of persons  
33 in the household. Examples of basic living expenses include, but  
34 are not limited to, categories such as food and other necessary  
35 household consumables; transportation costs to work or school  
36 (fuel, auto insurance and maintenance, public transit, etc.); and  
37 utilities expenses for telecommunication, water, sewage, electricity,  
38 and gas.

39 (e) In the case of emergency or immediate necessity, the  
40 requirements of paragraph (1) of subdivision (b) may be waived,

1 in accordance with the requirements of Section 5940 of the Streets  
2 and ~~Highway~~ *Highways* Code, for the funding and recordation of  
3 a PACE assessment to finance a heating, ventilation, and air  
4 conditioning (HVAC) system, boiler, or other system whose  
5 primary function is temperature regulation in a home if all the  
6 following are met:

7 (1) The program administrator first attempted to use an  
8 automated means of verification as described in paragraph (1) of  
9 subdivision (b).

10 (2) If the program administrator was unable to verify the  
11 property owner's income pursuant to paragraph (1) of subdivision  
12 (b), pursuant to Section 5913 of the Streets and Highways Code,  
13 the program administrator shall ask the property owner open-ended  
14 questions during the oral confirmation to identify their income and  
15 the sources of their income. The program administrator shall  
16 comply with the requirements of subdivision (a), paragraph (2) of  
17 subdivision (b), and subdivisions (c) and (d).

18 (3) The funding is limited to the emergency or immediate  
19 necessity improvement and any required improvements directly  
20 necessary to the installation and safe operation of the improvement.

21 (4) Any efficiency improvement funded is eligible for PACE  
22 financing.

23 (5) The property owner executes a waiver of their right to cancel  
24 pursuant to subdivision (d) of Section 5940 of the Streets and  
25 Highways Code, and confirms, pursuant to Section 5913 of the  
26 Streets and Highways Code, the emergency or immediate necessity  
27 of the improvement.

28 (6) The amount of the assessment contract does not exceed  
29 fifteen thousand dollars (\$15,000) or a monthly equivalent payment  
30 on the PACE assessment of one hundred twenty-five dollars (\$125),  
31 as adjusted by any annual increase in the California Consumer  
32 Price Index as determined pursuant to Section 2212 of the Revenue  
33 and Taxation Code, whichever is greater.

34 (7) *If a program administrator is unable to verify the property*  
35 *owner's income pursuant to paragraph (1) of subdivision (b) before*  
36 *the assessment contract is executed, the program administrator*  
37 *shall do so in a timely manner following the execution of that*  
38 *contract.*

39 (f) The program administrator shall report annually all PACE  
40 assessments that were funded and recorded pursuant to subdivision

1 (e) in a form acceptable to the commissioner. *The commissioner*  
2 *shall include this information in the annual composite report issued*  
3 *in accordance with Section 22160.*

4 (g) If there is a difference between the determination of the  
5 property owner’s ability to pay the annual PACE obligations and  
6 the actual amount financed for the property owner, and the property  
7 owner is obligated on the underlying home improvement contract,  
8 the program administrator shall be responsible for that difference.  
9 This subdivision does not apply in a case of intentional  
10 misrepresentation by the property owner.

11 ~~(h) Notwithstanding Section 22696, this section shall become~~  
12 ~~operative on April 1, 2018.~~

13 SEC. 9. Section 22688 of the Financial Code is amended to  
14 read:

15 22688. ~~(a)~~ A program administrator shall comply with  
16 ~~requirements regarding the duty to safeguard nonpublic personal~~  
17 ~~information imposed by all laws regarding the duty to safeguard~~  
18 ~~nonpublic personal information, including, but not limited to, the~~  
19 California Financial Information Privacy Act (Division 1.4  
20 (commencing with Section ~~4050~~)), and Title 1.81  
21 (commencing with Section 1798.80) of Part 4 of Division 3 of the  
22 Civil Code. A program administrator shall be treated as a financial  
23 institution for purposes of these laws and this section.

24 ~~(b) Notwithstanding Section 22696, this section shall become~~  
25 ~~operative on April 1, 2018.~~

26 SEC. 10. Section 22689 of the Financial Code is amended to  
27 read:

28 22689. (a) A program administrator shall not permit a PACE  
29 solicitor to do any of the following:

30 (1) Solicit a property owner to enter into an assessment contract  
31 with a program administrator, unless the PACE solicitor and the  
32 program administrator comply with the requirements of this chapter  
33 and any rules adopted by the commissioner.

34 (2) Engage in any act in violation of Section 5898.16 or 5898.17  
35 of the Streets and Highways Code or Chapter 29.1 (commencing  
36 with Section 5900) of Part 3 of Division 7 of the Streets and  
37 Highways Code, including offering an assessment contract with  
38 terms, conditions, or disclosures that are not in compliance with  
39 applicable laws or that omits terms, conditions, or disclosures

1 required by applicable law, excepting the reporting requirements  
2 of Section 5954 of the Streets and Highways Code.

3 (b) A program administrator shall be subject to the enforcement  
4 authority of the commissioner for any violations of this division,  
5 to the extent such violations have been committed by the program  
6 administrator or by a PACE solicitor *or PACE solicitor agent*  
7 authorized by that program administrator, in connection with  
8 activity related to that program administrator.

9 (c) A violation of any provision of Section 5898.16 or 5898.17  
10 of the Streets and Highways Code or of any provision of Chapter  
11 29.1 (commencing with Section 5900) of Part 3 of Division 7 of  
12 the Streets and Highways Code by a program administrator,  
13 excepting the reporting requirements of Section ~~5954~~, *5954 of the*  
14 *Streets and Highways Code*, or by a PACE solicitor *or PACE*  
15 *solicitor agent* authorized by that program administrator in  
16 connection with activity related to that program administrator,  
17 shall represent a violation of this division.

18 SEC. 11. Section 22690 of the Financial Code is amended to  
19 read:

20 22690. (a) A program administrator is subject to an inspection,  
21 examination, or investigation in accordance with Section 22701.

22 (b) If, in the course of an inspection, examination, or  
23 investigation of a program administrator, the commissioner has  
24 cause to believe that the program administrator, the PACE solicitor,  
25 or the PACE solicitor agent may have committed a violation of  
26 this division or any rule or order thereunder, or the commissioner  
27 seeks to obtain or provide information necessary to the  
28 commissioner in the administration of the division, with respect  
29 to a matter related to a PACE solicitor or PACE solicitor agent,  
30 and either this information is not available directly from the  
31 program administrator or the commissioner seeks to validate the  
32 information obtained from the program administrator, the  
33 commissioner may do the following:

34 (1) Inspect, examine, or investigate any and all documents,  
35 records, files, and communications of the PACE solicitor or PACE  
36 solicitor agent that are relevant to the violation or the matter. For  
37 purposes of the inspection, examination, or investigation, the  
38 commissioner and his or her representatives shall have access to  
39 the records of the PACE solicitor or PACE solicitor agent related  
40 to assessment contracts associated with the violation or matter.

1 (2) Require the attendance of witnesses and examine under oath  
2 all persons whose testimony he or she requires relative to the  
3 violation or matter.

4 (c) If, upon inspection, examination, or investigation, the  
5 commissioner has cause to believe that a PACE solicitor or PACE  
6 solicitor agent is violating any provision of this division or any  
7 rule or order thereunder, the commissioner or his or her designee  
8 shall exhaust the procedure set forth in paragraph (1) before  
9 bringing any action authorized under paragraph (2). *However, the*  
10 *requirement to exhaust the procedure set forth in paragraph (1)*  
11 *described in the previous sentence, does not apply if, after*  
12 *investigation, the commissioner has reasonable grounds to believe*  
13 *that a person is conducting business as a PACE solicitor or PACE*  
14 *solicitor agent, or both, in an unsafe or injurious manner.*

15 (1) (A) The commissioner shall issue a report to the program  
16 administrator, the PACE solicitor, and, if applicable, the PACE  
17 solicitor agent, identifying each violation of this division or any  
18 rule or order thereunder.

19 (B) The program administrator, PACE solicitor, and, if  
20 applicable, PACE solicitor, PACE solicitor agent, or any  
21 combination thereof, shall have the opportunity to provide a written  
22 answer to the report submitted pursuant to subparagraph (A) within  
23 a reasonable period.

24 (C) If upon expiration of that period, the commissioner believes  
25 further action is necessary or appropriate, the commissioner may  
26 do any of the following, in any combination:

27 (i) Demand a corrective action by the program administrator,  
28 PACE solicitor, PACE solicitor agent, or any combination thereof.

29 (ii) Demand the program administrator, PACE solicitor, PACE  
30 solicitor agent, or any combination thereof, stop violating the  
31 division, rule, or order.

32 (iii) Demand the PACE solicitor or PACE solicitor agent, or  
33 both, discontinue engaging in the business of soliciting property  
34 owners to enter into assessment contracts related to any or all  
35 program administrators, or demand the program administrator  
36 deauthorize the PACE solicitor or PACE solicitor agent, or both,  
37 for a defined period not exceeding 12 months, or indefinitely.

38 ~~(D) If the program administrator, PACE solicitor, and PACE~~  
39 ~~solicitor agent, as applicable, agree to the commissioner's demand~~  
40 ~~issued under subparagraph (C), or otherwise reach a mutually~~

1 agreeable resolution with the commissioner, the examination and  
2 correspondence related thereto shall remain confidential under  
3 paragraph (2) of subdivision (d) of Section 6254 of the Government  
4 Code. The

5 (D) Notwithstanding paragraph (2) of subdivision (d) of Section  
6 6254 of the Government Code, the commissioner shall, upon  
7 request, disclose, pursuant to the California Public Records Act  
8 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
9 Title 1 of the Government Code), all documents, records, files,  
10 and communications relied upon by the commissioner as the basis  
11 for any action taken pursuant to subparagraph (C).

12 (E) The commissioner ~~may~~ shall make publicly available the  
13 identity of any PACE solicitor or PACE solicitor agent, or both,  
14 who has agreed ~~to~~, or been required to, discontinue engaging  
15 in the business of soliciting property owners to enter into  
16 assessment ~~contracts~~: contracts, in accordance with Section  
17 22690.5.

18 ~~(E)~~

19 (F) If the program administrator, PACE solicitor, or PACE  
20 solicitor agent, or any combination thereof, do not agree to the  
21 commissioner's demand issued under subparagraph (C), or  
22 otherwise reach a mutually agreeable resolution with the  
23 commissioner within a reasonable period, the commissioner may  
24 proceed under paragraph (2) or subdivision (d).

25 (2) Upon exhaustion of the procedure in paragraph (1), or, if,  
26 upon investigation, the commissioner has reasonable grounds to  
27 believe that a person is conducting business as a PACE solicitor  
28 or PACE solicitor agent, or both, in an unsafe or injurious manner,  
29 the commissioner may bring an order against a PACE solicitor,  
30 PACE solicitor agent, or both, as provided in this paragraph.

31 (A) The commissioner may order a PACE solicitor or PACE  
32 solicitor agent, or both, to desist and refrain from engaging in  
33 business as a PACE solicitor or PACE solicitor agent, or further  
34 violating this division, or the rules thereunder, in accordance with  
35 clause (i) and (ii) of this subparagraph. This paragraph does not  
36 authorize the commissioner to restrict the ability of a PACE  
37 solicitor or PACE solicitor agent to engage in any business that  
38 does not involve soliciting a property owner to enter into an  
39 assessment contract.

40 (i) The order shall be effective immediately.

1     ~~(i)~~

2     (ii) If, within 30 days of the receipt of the order, the PACE  
3 solicitor or PACE solicitor agent, or both, fails to request a hearing,  
4 the order shall become final.

5     ~~(ii)~~

6     (iii) If, within 30 days of the receipt of the order, the PACE  
7 solicitor or PACE solicitor agent, or both, requests a hearing, the  
8 hearing shall be conducted in accordance with Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title  
10 2 of the Government Code.

11     (B) The commissioner may, after appropriate notice and  
12 opportunity for a hearing, by order, censure or suspend for a period  
13 not exceeding 12 months, or bar any natural person from directly  
14 or indirectly soliciting a property owner to enter into an assessment  
15 contract, in accordance with clause (i) to (iv), inclusive, of this  
16 subparagraph. This paragraph does not authorize the commissioner  
17 to restrict the ability of a natural person to engage in any business  
18 that does not involve soliciting a property owner to enter into an  
19 assessment contract, or being employed by a PACE solicitor in a  
20 capacity that does not involve soliciting a property owner to enter  
21 into an assessment contract.

22     (i) Within 15 days from the date of a notice of intention to issue  
23 an order pursuant to this subparagraph, the person may request a  
24 hearing under the Administrative Procedure Act (Chapter 4.5  
25 (commencing with Section 11400) of Division 3 of Title 2 of the  
26 Government Code).

27     (ii) Upon receipt of a request submitted pursuant to clause (i),  
28 the matter shall be set for hearing to commence within 30 days  
29 after the commissioner receives the request pursuant to clause (i),  
30 unless the person subject to the notice consents to a later date.

31     (iii) If no hearing is requested within 15 days after the mailing  
32 or service of the notice of intention as described in clause (i), and  
33 the commissioner does not order a hearing, the right to a hearing  
34 shall be deemed to be waived.

35     (iv) Upon receipt of a notice of intention to issue an order  
36 pursuant to this subparagraph, the person who is the subject of the  
37 proposed order is immediately prohibited from directly or indirectly  
38 soliciting a property owner to enter into an assessment contract.

39     ~~(d) Upon exhaustion of the procedure in paragraph (1) of~~  
40 ~~subdivision (c), if after investigation, the commissioner has~~

1 reasonable grounds to believe that a person is conducting business  
 2 as a PACE solicitor or PACE solicitor agent, or both, in an unsafe  
 3 or injurious manner that will result in irreparable harm, the  
 4 commissioner shall, by order, direct the person to discontinue the  
 5 unsafe or injurious practice, in accordance with the following:

6 ~~(1) The order shall be effective immediately.~~  
 7 ~~(2) If, within 30 days of the receipt of the order, the PACE~~  
 8 ~~solicitor fails to request a hearing, the order shall become final.~~  
 9 ~~(3) If, within 30 days of the receipt of the order, the PACE~~  
 10 ~~solicitor requests a hearing, the hearing shall be conducted in~~  
 11 ~~accordance with Chapter 5 (commencing with Section 11500) of~~  
 12 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~

13 ~~(e)~~  
 14 ~~(d) An order brought under paragraph (2) of subdivision (c) or~~  
 15 ~~subdivision (d) shall be public.~~

16 ~~(f)~~  
 17 ~~(e) A PACE solicitor or PACE solicitor agent subject to this~~  
 18 ~~section shall not be subject to Chapter 4 (commencing with Section~~  
 19 ~~22700).~~

20 ~~(g)~~  
 21 ~~(f) The commissioner shall not be bound to the provisions of~~  
 22 ~~this section in connection with his or her enforcement of this~~  
 23 ~~division with respect to a program administrator.~~

24 SEC. 12. Section 22690.5 is added to the Financial Code, to  
 25 read:

26 22690.5. The commissioner shall maintain, on its Internet Web  
 27 site, a searchable list of PACE solicitors and PACE solicitor agents  
 28 who have agreed to, or been required to, cease soliciting property  
 29 owners in connection with PACE assessments. At a minimum,  
 30 this list shall include PACE solicitors and PACE solicitor agents  
 31 whose enrollments have been canceled for failure to meet the  
 32 minimum requirements for enrollment and those who have agreed  
 33 to, or been directed to, cease soliciting property owners pursuant  
 34 to Section 22690.

35 SEC. 13. Section 22693 of the Financial Code is amended to  
 36 read:

37 22693. (a) The commissioner may, by rule, require a program  
 38 administrator to use a real-time registry or database system for  
 39 tracking PACE assessments in order to carry out his or her  
 40 regulatory duties and to support enforcement. That registry or

1 database system shall enable the program administrator to trace  
2 PACE assessments and shall include, but not be limited to, features  
3 for providing or obtaining information about a property's status  
4 with regard to PACE assessments placed on the property, whether  
5 recorded or not. All costs associated with the real-time registry or  
6 database system shall be apportioned among licensed program  
7 administrators based on the volume and amount of PACE  
8 assessments by each program administrator, or such other method  
9 that fairly apportions the costs, as required by rule. The  
10 commissioner may contract with an independent third party for  
11 the development and ongoing maintenance and support of the  
12 real-time registry or database system, and may require the program  
13 administrators to pay the cost of development and ongoing  
14 maintenance and support directly to the independent third party.  
15 In no event, the costs apportioned to a program administrator shall  
16 not exceed a reasonable regulatory cost.

17 (b) On *or before* January 1, 2020, the commissioner shall  
18 determine whether to proceed with a rulemaking action. This  
19 subdivision shall not restrict the ability of the commissioner to  
20 proceed with a rule under this section at any time.

21 SEC. 14. Section 22694 of the Financial Code is amended to  
22 read:

23 22694. This chapter does not apply to a finance lender,  
24 mortgage loan originator, or broker ~~licensee~~. *licensee, unless they*  
25 *engage in the business of a program administrator, PACE solicitor,*  
26 *or PACE solicitor agent.*

27 SEC. 15. Section 22716 of the Financial Code, as added by  
28 Section 2 of Chapter 475 of the Statutes of 2017, is amended to  
29 read:

30 22716. (a) The revocation, suspension, expiration, or surrender  
31 of any license does not impair or affect the obligation of any  
32 preexisting lawful contract between the licensee and any borrower  
33 or property owner, nor the validity and enforceability of any bonds  
34 issued and secured by such contracts. This division does not affect  
35 the validity and enforceability of any PACE assessment contracts  
36 entered into or bonds ~~issues~~ *issued* and secured by such contracts.

37 (b) This section shall become operative on January 1, 2019.

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**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS**

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**Bill Number:** SB 1298 (Skinner)  
**Status/Location:** Senate: Appropriations Suspense File  
**Sponsor:** Californians for Safety and Justice  
**Subject:** The Increasing Access to Employment Act  
**Code Section:** Amend section 11105 of the Penal Code

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**Summary:** In an attempt to increase opportunities for occupational licensure or employment, this bill would prevent licensing agencies from learning of expunged, dismissed, relieved, or sealed convictions of applicants or licensees. This bill relates to similar issues addressed in AB 2138 (Chiu and Low). The analysis that follows summarizes the difference between the two bills.

Existing law requires that the California Department of Justice (DOJ) maintain state summary criminal history information and requires that the Attorney General (AG) provide that information through Criminal Offender Record Information (CORI) to authorized parties who request it for licensing and other purposes. Existing law, as it relates to CSLB, requires this information to include all convictions, unless the verdict was set aside pursuant to specified Penal Code sections.

Existing law also provides that someone can pay to get a copy of his or her criminal record check from DOJ and establishes a procedure by which the person can question the accuracy or completeness of the record.

Existing law further provides that whenever DOJ provides state or federal summary criminal history information for licensing or other purposes, the authorized agency shall “expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing or certification decision.”

This bill would exclude from the criminal information DOJ reports to authorized persons including licensing agencies, the following convictions, if:

- The person has withdrawn their plea after satisfying the terms of a misdemeanor.
- The plea was withdrawn after serving a jail felony
- The conviction was expunged
- The juvenile records have been sealed
- The crime was a result of human trafficking and the person has been given relief
- The person was granted relief because he/she was a combat veteran and the conviction was ultimately dismissed.

Currently, these convictions are reported on the CORI but this bill would provide that those convictions that have been expunged or dismissed would not be taken into consideration in a denial decision.

This bill would provide that, rather than the authorized agency doing so, DOJ would first furnish a copy of the CORI to the subject of the request. The bill also provides that DOJ first allow a subject “a reasonable opportunity of not less than five days” to challenge the accuracy or completeness of any information in the CORI, as well as time for DOJ to correct the record prior to submission of the CORI results to a third party.

**Background:**

According to the author, criminal background checks prevent people who have proven rehabilitation by virtue of a dismissed or expunged conviction from becoming employed in numerous occupations because current law allows licensing boards and public employers to deny, suspend, or revoke employment and licensure based on expunged and dismissed convictions.

According to the author, “boards and agencies must be prevented from accessing information about old and dismissed convictions.” Part of the problem, according to the author, is that “expungement” in California does not completely remove sealed records. Rather, the record still exists and is differentiated from other convictions by a notation that says “expunged.” Legally, the expunged party may tell employers he or she does not have a conviction; however, the record will show otherwise on background check information from DOJ.

According to the author, appealing a denial from a licensing agency is difficult, in part, because individuals do not know which records a board will receive. The author intends to ameliorate this problem by ensuring that the subject and agency have the same information.

This bill differs from AB 2138 in that it relates to the content of the information released to CSLB through the CORI; AB 2138 relates to the grounds that may be used for denial, suspension, or revocation of a license and related processes.

**Support:**

Californians for Safety and Justice (Sponsor)  
California Public Defenders Association  
SEIU California

**Opposition:**

None on file.

**Fiscal Impact for CSLB:**

Pending.

**Staff Recommendation and Comments:**

**WATCH.** The foreseeable effect on CSLB operations would be to delay processing applications because of the time involved for subjects to correct their criminal record with DOJ.

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**Date:** May 18, 2018

AMENDED IN SENATE APRIL 4, 2018

**SENATE BILL**

**No. 1298**

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**Introduced by Senator Skinner**

February 16, 2018

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An act to amend Sections 11105, 11121, 11126, and 13300 of, to add Section 11128 to, and to repeal and add Section 11122 of, *Section 11105* of the Penal Code, relating to criminal records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1298, as amended, Skinner. The Increasing Access to Employment Act.

~~(1) Existing~~

*Existing* law requires the Department of Justice to maintain state summary criminal history information, as defined, and requires the Attorney General to furnish state summary criminal history information to specified entities and ~~individuals if needed in the course of their duties~~; *individuals, including an authorized entity for employment, licensing, or certification relative to community care facilities, residential care facilities, and other specified health facilities. Existing law requires the department to provide the requester with every conviction of an offense rendered against the applicant, except for a conviction for which relief was granted to a victim of human trafficking, as specified.*

~~This bill would limit the information the department provides to specified requesters to more recent misdemeanors and felonies, generally within 5 years, and other information, as specified, including offenses for which registration as a sex offender is required. The bill would, for specified requesters, prohibit the disclosure of a conviction that has been dismissed, an arrest that was subsequently deemed a detention, or~~

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~~an arrest that resulted in the successful completion of a diversion program, exoneration, or an arrest that has been sealed. The bill would specify what information is to be provided to a consumer reporting agency, as defined. *prohibit the department from releasing, for these purposes, the record of convictions that were dismissed pursuant to specified provisions.*~~

*Existing law requires the department to provide an agency, organization, or individual, including, but not limited to, a cable corporation, in-home supportive services recipient, or property security organization, requesting the information for specified employment purposes with every conviction for which registration as a sex offender is required and, except as specified, every conviction that occurred within 10 years of the date of the request or for which the person was incarcerated within 10 years of the request for information.*

*This bill would require that only convictions from the prior 7 years or for which the person was incarcerated or on probation or parole within 7 years of the request be provided.*

*Existing law requires, when state summary criminal history information is furnished as a result of specified requests, and the information is to be used for employment, licensing, or certification purposes, that the requester furnish the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision.*

~~This bill would *instead* require the department to furnish a copy of the Criminal Offender Record Information (CORI) to the subject when a state or federal summary criminal history information is requested and the information is to be used for employment, licensing, or certification purposes of the request and would require the department to allow the subject a reasonable opportunity of not less than five days to challenge the accuracy or completeness of any matter contained in the CORI prior to furnishing a report to a third party. *The bill would require the department to make specified corrections prior to furnishing the information to the requester.*~~

~~Existing law requires a person who wants a copy of the his or her state summary criminal history information to obtain an application form furnished by the department and provide his or her fingerprints, in addition to other information specified by the department.~~

~~This bill would remove the requirement that a person submit fingerprints to obtain his or her state summary criminal history~~

~~information and would require only that information the department deems necessary.~~

~~(2) Existing law authorizes a person who desires to question the accuracy or completeness of any material matter contained in the record to submit a written request to the department and, if the accuracy of the source document is questioned, requires the department to forward it to the person or agency that furnished the questioned information. Existing law gives person or agency 30 days from the receipt of the written request for clarification, to review its information and forward to the department the results of the review. Under existing law, if the person or agency that created the source document concurs in the allegations of inaccuracy or incompleteness in the record, and finds that the error is material, it is required to correct its record and inform the department. Existing law provides the department 30 within which to inform the applicant of its correction of the record.~~

~~This bill would authorize an applicant to question the accuracy or completeness of any matter and, if the source document is questioned, would require the department, within 5 days, to verify the accuracy of the source document with the person or agency that furnished the questioned information. The bill would require the department to correct its record, destroy and purge the incorrect information if the department is unable to verify the accuracy or completeness of the source document and would require to destroy and purge the incorrect information. The bill would require the department to inform the applicant of the correction and destruction of the record within 10 days. The bill would also require a person or agency to which the incorrect record has been disseminated to, upon notification, correct the record accordingly and destroy and purge the incorrect information within 30 days. By increasing the requirements on local agencies that supply the source documents, this bill would impose a state-mandated local program.~~

~~(3) This bill would establish the Increasing Access to Employment Fund and would make funds available, upon appropriation, to the California Workforce Investment Board to administer a grant program aimed at improving rehabilitation, reentry, and employment and licensing outcomes for people with criminal convictions, as specified.~~

~~(4) Existing law requires the disclosure of local summary criminal history information by a local criminal justice agency to certain authorized entities and authorizes the disclosure of that information to other entities in specified circumstances.~~

~~The bill would require a local agency to disclose local summary criminal history information to the subject of the request or to an individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation. By increasing the duties of local criminal justice agencies, this bill would impose a state-mandated local program. The bill would also reduce the entities to which local summary criminal history is required to be disclosed and to which that information is authorized to be disclosed, as specified.~~

~~Existing law prohibits a local criminal justice agency from releasing information under specified circumstances, including information concerning an arrest or detention followed by a dismissal or release without attempting to determine whether the individual was exonerated.~~

~~This bill would prohibit a local criminal justice agency from releasing information relating to convictions that were dismissed, arrests subsequently deemed a detention, arrests that resulted in the successful completion of a diversion program, exoneration, or arrests that were sealed. The bill would also limit the information that a local criminal justice agency can disclose to convictions for which registration as a sex offender is required, information concerning misdemeanor convictions that occurred before 2 years of the date of the request for information, and felony convictions that occurred before 5 years of the date of the request for information.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: *yes-no*.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) This act shall be known, and may be cited,
- 2 as the Increasing Access to Employment Act.
- 3 (b) It is the intent of the Legislature that criminal conviction
- 4 records not operate as an automatic bar to employment, licensure,
- 5 and certification. It is the intent of the Legislature not to change

1 or impact in any way the role or authority of a licensing board or  
2 state agency to assess the fitness of applicants seeking licensure,  
3 certification, and employment pursuant to provisions of the  
4 Business and Professions Code, Health and Safety Code, Insurance  
5 Code, and Welfare and Institutions Code, as applicable. This act  
6 supercedes any statute, regulation, rule, or decision directing a  
7 licensing board, state agency, employer, or any other applicable  
8 person or entity, to obtain criminal history records in a manner  
9 that conflicts with the intent of this act.

10 ~~(c) It is the intent of the Legislature to create the Increasing~~  
11 ~~Access to Employment Fund for rehabilitation and reentry services~~  
12 ~~to improve prospects for licensing, certification, and professional~~  
13 ~~employment for people with criminal conviction records.~~  
14 Recidivism is reduced when people with criminal convictions are  
15 given the opportunity to secure employment and engage in a trade,  
16 occupation, or profession. It is in the interest of public safety to  
17 assist in the rehabilitation of criminal offenders by removing  
18 impediments and restrictions on an offenders' ability to obtain  
19 employment or engage in a trade, occupation, or profession when  
20 those impediments and restrictions are based solely upon the  
21 existence of a criminal record. Increasing opportunities for people  
22 with criminal records improves the economic well-being of families  
23 and communities and is a path to full employment in California.

24 *SEC. 2. Section 11105 of the Penal Code is amended to read:*

25 11105. (a) (1) The Department of Justice shall maintain state  
26 summary criminal history information.

27 (2) As used in this section:

28 (A) "State summary criminal history information" means the  
29 master record of information compiled by the Attorney General  
30 pertaining to the identification and criminal history of a person,  
31 ~~such as~~ *including* name, date of birth, physical description,  
32 fingerprints, photographs, dates of arrests, arresting agencies and  
33 booking numbers, charges, dispositions, sentencing information,  
34 and similar data about the person.

35 (B) "State summary criminal history information" does not refer  
36 to records and data compiled by criminal justice agencies other  
37 than the Attorney General, nor does it refer to records of complaints  
38 ~~to or to~~, investigations conducted by, or records of intelligence  
39 information or security procedures of, the office of the Attorney  
40 General and the Department of Justice.

- 1 (b) The Attorney General shall furnish state summary criminal  
2 history information to the following, if needed in the course of  
3 their duties, provided that when information is furnished to assist  
4 an agency, officer, or official of state or local government, a public  
5 utility, or any other entity, in fulfilling employment, certification,  
6 or licensing duties, Chapter 1321 of the Statutes of 1974 and  
7 Section 432.7 of the Labor Code shall apply:
- 8 (1) The courts of the state.
  - 9 (2) Peace officers of the state, as defined in Section 830.1,  
10 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section  
11 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and  
12 (b) of Section 830.5.
  - 13 (3) District attorneys of the state.
  - 14 (4) Prosecuting city attorneys or city prosecutors of a city within  
15 the state.
  - 16 (5) City attorneys pursuing civil gang injunctions pursuant to  
17 Section 186.22a, or drug abatement actions pursuant to Section  
18 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
19 and Safety Code.
  - 20 (6) Probation officers of the state.
  - 21 (7) Parole officers of the state.
  - 22 (8) A public defender or attorney of record when representing  
23 a person in proceedings upon a petition for a certificate of  
24 rehabilitation and pardon pursuant to Section ~~4852.08~~. 4852.01.
  - 25 (9) A public defender or attorney of record when representing  
26 a person in a criminal case, or a parole, mandatory supervision  
27 pursuant to paragraph (5) of subdivision (h) of Section 1170, or  
28 postrelease community supervision revocation or revocation  
29 extension proceeding, and if authorized access by statutory or  
30 decisional law.
  - 31 (10) An agency, officer, or official of the state if the state  
32 summary criminal history information is required to implement a  
33 statute or regulation that expressly refers to specific criminal  
34 conduct applicable to the subject person of the state summary  
35 criminal history information, and contains requirements or  
36 exclusions, or both, expressly based upon that specified criminal  
37 conduct. The agency, officer, or official ~~of the state~~ authorized by  
38 this paragraph to receive state summary criminal history  
39 information may also transmit fingerprint images and related

1 information to the Department of Justice to be transmitted to the  
2 Federal Bureau of Investigation.

3 (11) ~~A city or~~ city, county, city and county, district, or an officer  
4 or official ~~thereof~~ thereof, if access is needed in order to assist that  
5 agency, officer, or official in fulfilling employment, certification,  
6 or licensing duties, and if the access is specifically authorized by  
7 the city council, board of supervisors, or governing board of the  
8 city, county, or district if the state summary criminal history  
9 information is required to implement a statute, ordinance, or  
10 regulation that expressly refers to specific criminal conduct  
11 applicable to the subject person of the state summary criminal  
12 history information, and contains requirements or exclusions, or  
13 both, expressly based upon that specified criminal conduct. The  
14 ~~city or~~ city, county, city and county, district, or the officer or  
15 official thereof authorized by this paragraph may also transmit  
16 fingerprint images and related information to the Department of  
17 Justice to be transmitted to the Federal Bureau of Investigation.

18 (12) The subject of the state summary criminal history  
19 information under procedures established under Article 5  
20 (commencing with Section 11120).

21 (13) A person or entity when access is expressly authorized by  
22 statute if the criminal history information is required to implement  
23 a statute or regulation that expressly refers to specific criminal  
24 conduct applicable to the subject person of the state summary  
25 criminal history information, and contains requirements or  
26 exclusions, or both, expressly based upon that specified criminal  
27 conduct.

28 (14) Health officers of a city, county, city and county, or district  
29 when in the performance of their official duties enforcing Section  
30 120175 of the Health and Safety Code.

31 (15) A managing or supervising correctional officer of a county  
32 jail or other county correctional facility.

33 (16) A humane society, or society for the prevention of cruelty  
34 to animals, for the specific purpose of complying with Section  
35 14502 of the Corporations Code for the appointment of humane  
36 officers.

37 (17) Local child support agencies established by Section 17304  
38 of the Family Code. When a local child support agency closes a  
39 support enforcement case containing state summary criminal  
40 history information, the agency shall delete or purge from the file

1 and destroy any documents or information concerning or arising  
2 from offenses for or of which the parent has been arrested, charged,  
3 or convicted, other than for offenses related to the parent's having  
4 failed to provide support for minor children, consistent with the  
5 requirements of Section 17531 of the Family Code.

6 (18) County child welfare agency personnel who have been  
7 delegated the authority of county probation officers to access state  
8 summary criminal history information pursuant to Section 272 of  
9 the Welfare and Institutions Code for the purposes specified in  
10 Section 16504.5 of the Welfare and Institutions Code. Information  
11 from criminal history records provided pursuant to this subdivision  
12 shall not be used for a purpose other than those specified in this  
13 section and Section 16504.5 of the Welfare and Institutions Code.  
14 When an agency obtains records both on the basis of name checks  
15 and fingerprint checks, final placement decisions shall be based  
16 only on the records obtained pursuant to the fingerprint check.

17 (19) The court of a tribe, or court of a consortium of tribes, that  
18 has entered into an agreement with the state pursuant to Section  
19 10553.1 of the Welfare and Institutions Code. This information  
20 may be used only for the purposes specified in Section 16504.5  
21 of the Welfare and Institutions Code and for tribal approval or  
22 tribal licensing of foster care or adoptive homes. Article 6  
23 (commencing with Section 11140) shall apply to officers, members,  
24 and employees of a tribal court receiving state summary criminal  
25 history information pursuant to this section.

26 (20) Child welfare agency personnel of a tribe or consortium  
27 of tribes that has entered into an agreement with the state pursuant  
28 to Section 10553.1 of the Welfare and Institutions Code and to  
29 whom the state has delegated duties under paragraph (2) of  
30 subdivision (a) of Section 272 of the Welfare and Institutions Code.  
31 The purposes for use of the information shall be for the purposes  
32 specified in Section 16504.5 of the Welfare and Institutions Code  
33 and for tribal approval or tribal licensing of foster care or adoptive  
34 homes. When an agency obtains records on the basis of name  
35 checks and fingerprint checks, final placement decisions shall be  
36 based only on the records obtained pursuant to the fingerprint  
37 check. Article 6 (commencing with Section 11140) shall apply to  
38 child welfare agency personnel receiving criminal record offender  
39 information pursuant to this section.

1 (21) An officer providing conservatorship investigations  
2 pursuant to Sections 5351, 5354, and 5356 of the Welfare and  
3 Institutions Code.

4 (22) A court investigator providing investigations or reviews  
5 in conservatorships pursuant to Section 1826, 1850, 1851, or  
6 2250.6 of the Probate Code.

7 (23) A person authorized to conduct a guardianship investigation  
8 pursuant to Section 1513 of the Probate Code.

9 (24) A humane officer pursuant to Section 14502 of the  
10 Corporations Code for the purposes of performing his or her duties.

11 (25) A public agency described in subdivision (b) of Section  
12 15975 of the Government Code, for the purpose of oversight and  
13 enforcement policies with respect to its contracted providers.

14 (26) (A) A state entity, or its designee, that receives federal tax  
15 information. A state entity or its designee that is authorized by this  
16 paragraph to receive state summary criminal history information  
17 also may transmit fingerprint images and related information to  
18 the Department of Justice to be transmitted to the Federal Bureau  
19 of Investigation for the purpose of the state entity or its designee  
20 obtaining federal level criminal offender record information from  
21 the Department of Justice. This information shall be used only for  
22 the purposes set forth in Section 1044 of the Government Code.

23 (B) For purposes of this paragraph, “federal tax information,”  
24 “state entity” and “designee” are as defined in paragraphs (1), (2),  
25 and (3), respectively, of subdivision (f) of Section 1044 of the  
26 Government Code.

27 (c) The Attorney General may furnish state summary criminal  
28 history information and, when specifically authorized by this  
29 subdivision, federal level criminal history information upon a  
30 showing of a compelling need to any of the following, provided  
31 that when information is furnished to assist an agency, officer, or  
32 official of state or local government, a public utility, or any other  
33 entity in fulfilling employment, certification, or licensing duties,  
34 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the  
35 Labor Code shall apply:

36 (1) A public utility, as defined in Section 216 of the Public  
37 Utilities Code, that operates a nuclear energy facility when access  
38 is needed in order to assist in employing persons to work at the  
39 facility, provided that, if the Attorney General supplies the data,

1 he or she shall furnish a copy of the data to the person to whom  
2 the data relates.

3 (2) To a peace officer of the state other than those included in  
4 subdivision (b).

5 (3) To an illegal dumping enforcement officer as defined in  
6 subdivision (j) of Section 830.7.

7 (4) To a peace officer of another country.

8 (5) To ~~a public officers, officer, other than a peace officers,~~  
9 ~~officer, of the United States, other states, or possessions or~~  
10 ~~territories another state, or a possession or territory of the United~~  
11 ~~States, provided that access to records similar to state summary~~  
12 ~~criminal history information is expressly authorized by a statute~~  
13 ~~of the United States, other states, or possessions or territories the~~  
14 ~~other state, or the possession or territory of the United States if~~  
15 ~~the information is needed for the performance of their official~~  
16 ~~duties.~~

17 (6) To a person ~~when~~ if disclosure is requested by a probation,  
18 parole, or peace officer with the consent of the subject of the state  
19 summary criminal history information and for purposes of  
20 furthering the rehabilitation of the subject.

21 (7) The courts of the United States, other states, or territories  
22 or possessions of the United States.

23 (8) Peace officers of the United States, other states, or territories  
24 or possessions of the United States.

25 (9) To an individual who is the subject of the record requested  
26 if needed in conjunction with an application to enter the United  
27 States or a foreign nation.

28 (10) (A) (i) A public utility, as defined in Section 216 of the  
29 Public Utilities Code, or a cable corporation as defined in  
30 subparagraph (B), if receipt of *state summary* criminal history  
31 information is needed in order to assist in employing current or  
32 prospective employees, contract employees, or subcontract  
33 employees who, in the course of their employment, may be seeking  
34 entrance to private residences or adjacent grounds. The information  
35 provided shall be limited to the record of convictions and arrests  
36 for which the person is released on bail or on his or her own  
37 recognizance pending trial.

38 (ii) If the Attorney General supplies the data pursuant to this  
39 paragraph, the Attorney General shall furnish a copy of the data  
40 to the current or prospective employee to whom the data relates.

1 (iii) State summary criminal history information is confidential  
2 and the receiving public utility or cable corporation shall not  
3 disclose its contents, other than for the purpose for which it was  
4 acquired. The state summary criminal history information in the  
5 possession of the public utility or cable corporation and all copies  
6 made from it shall be destroyed not more than 30 days after  
7 employment or promotion or transfer is denied or granted, except  
8 for those cases where a current or prospective employee is out on  
9 bail or on his or her own recognizance pending trial, in which case  
10 the state summary criminal history information and all copies shall  
11 be destroyed not more than 30 days after the case is resolved.

12 (iv) A violation of this paragraph is a misdemeanor, and shall  
13 give the current or prospective employee who is injured by the  
14 violation a cause of action against the public utility or cable  
15 corporation to recover damages proximately caused by the  
16 violations. A public utility's or cable corporation's request for  
17 state summary criminal history information for purposes of  
18 employing current or prospective employees who may be seeking  
19 entrance to private residences or adjacent grounds in the course  
20 of their employment shall be deemed a "compelling need" as  
21 required to be shown in this subdivision.

22 (v) This section shall not be construed as imposing a duty upon  
23 public utilities or cable corporations to request state summary  
24 criminal history information on current or prospective employees.

25 (B) For purposes of this paragraph, "cable corporation" means  
26 a corporation or firm that transmits or provides television,  
27 computer, or telephone services by cable, digital, fiber optic,  
28 satellite, or comparable technology to subscribers for a fee.

29 (C) Requests for federal level criminal history information  
30 received by the Department of Justice from entities authorized  
31 pursuant to subparagraph (A) shall be forwarded to the Federal  
32 Bureau of Investigation by the Department of Justice. Federal level  
33 criminal history information received or compiled by the  
34 Department of Justice may then be disseminated to the entities  
35 referenced in subparagraph (A), as authorized by law.

36 (11) To a campus of the California State University or the  
37 University of California, or a four-year college or university  
38 accredited by a regional accreditation organization approved by  
39 the United States Department of Education, if needed in  
40 conjunction with an application for admission by a convicted felon

1 to a special education program for convicted felons, including, but  
2 not limited to, university alternatives and halfway houses. Only  
3 conviction information shall be furnished. The college or university  
4 may require the convicted felon to be fingerprinted, and any inquiry  
5 to the department under this section shall include the convicted  
6 felon's fingerprints and any other information specified by the  
7 department.

8 (12) To a foreign government, if requested by the individual  
9 who is the subject of the record requested, if needed in conjunction  
10 with the individual's application to adopt a minor child who is a  
11 citizen of that foreign nation. Requests for information pursuant  
12 to this paragraph shall be in accordance with the process described  
13 in Sections 11122 to 11124, inclusive. The response shall be  
14 provided to the foreign government or its designee and to the  
15 individual who requested the information.

16 (d) ~~Whenever~~ *When* an authorized request for state summary  
17 criminal history information pertains to a person whose fingerprints  
18 are on file with the Department of Justice and the department has  
19 no criminal history of that person, and the information is to be  
20 used for employment, licensing, or certification purposes, the  
21 fingerprint card accompanying the request for information, if any,  
22 may be stamped "no criminal record" and returned to the person  
23 or entity making the request.

24 (e) ~~Whenever~~ *When* state summary criminal history information  
25 is furnished as the result of an application and is to be used for  
26 employment, licensing, or certification purposes, the Department  
27 of Justice may charge the person or entity making the request a  
28 fee that it determines to be sufficient to reimburse the department  
29 for the cost of furnishing the information. In addition, the  
30 Department of Justice may add a surcharge to the fee to fund  
31 maintenance and improvements to the systems from which the  
32 information is obtained. Notwithstanding any other law, a person  
33 or entity required to pay a fee to the department for information  
34 received under this section may charge the applicant a fee sufficient  
35 to reimburse the person or entity for this expense. All moneys  
36 received by the department pursuant to this section, Sections  
37 11105.3 and 26190, and former Section 13588 of the Education  
38 Code shall be deposited in a special account in the General Fund  
39 to be available for expenditure by the department to offset costs  
40 incurred pursuant to those sections and for maintenance and

1 improvements to the systems from which the information is  
2 obtained upon appropriation by the Legislature.

3 (f) Whenever there is a conflict, the processing of criminal  
4 fingerprints and fingerprints of applicants for security guard or  
5 alarm agent registrations or firearms qualification permits  
6 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
7 of the Business and Professions Code shall take priority over the  
8 processing of other applicant fingerprints.

9 (g) It is not a violation of this section to disseminate statistical  
10 or research information obtained from a record, provided that the  
11 identity of the subject of the record is not disclosed.

12 (h) It is not a violation of this section to include information  
13 obtained from a record in (1) a transcript or record of a judicial or  
14 administrative proceeding or (2) any other public record if the  
15 inclusion of the information in the public record is authorized by  
16 a court, statute, or decisional law.

17 (i) Notwithstanding any other law, the Department of Justice  
18 or a state or local law enforcement agency may require the  
19 submission of fingerprints for the purpose of conducting state  
20 summary criminal history information checks that are authorized  
21 by law.

22 (j) The state summary criminal history information shall include  
23 any finding of mental incompetence pursuant to Chapter 6  
24 (commencing with Section 1367) of Title 10 of Part 2 arising out  
25 of a complaint charging a felony offense specified in Section 290.

26 (k) (1) This subdivision shall apply whenever state or federal  
27 summary criminal history information is furnished by the  
28 Department of Justice as the result of an application by an  
29 authorized agency or organization and the information is to be  
30 used for peace officer employment or certification purposes. As  
31 used in this subdivision, a peace officer is defined in Chapter 4.5  
32 (commencing with Section 830) of Title 3 of Part 2.

33 (2) Notwithstanding any other law, whenever state summary  
34 criminal history information is initially furnished pursuant to  
35 paragraph (1), the Department of Justice shall disseminate the  
36 following information:

37 (A) Every conviction rendered against the applicant.

38 (B) Every arrest for an offense for which the applicant is  
39 presently awaiting trial, whether the applicant is incarcerated or

1 has been released on bail or on his or her own recognizance  
2 pending trial.

3 (C) Every arrest or detention, except for an arrest or detention  
4 resulting in an exoneration, provided, however, that where the  
5 records of the Department of Justice do not contain a disposition  
6 for the arrest, the Department of Justice first makes a genuine effort  
7 to determine the disposition of the arrest.

8 (D) Every successful diversion.

9 (E) Every date and agency name associated with all retained  
10 peace officer or nonsworn law enforcement agency employee  
11 preemployment criminal offender record information search  
12 requests.

13 (F) Sex offender registration status of the applicant.

14 (G) Sentencing information, if present in the department's  
15 records at the time of the response.

16 (I) (1) This subdivision shall apply whenever state or federal  
17 summary criminal history information is furnished by the  
18 Department of Justice as the result of an application by a criminal  
19 justice agency or organization as defined in Section 13101, and  
20 the information is to be used for criminal justice employment,  
21 licensing, or certification purposes.

22 (2) Notwithstanding any other law, whenever state summary  
23 criminal history information is initially furnished pursuant to  
24 paragraph (1), the Department of Justice shall disseminate the  
25 following information:

26 (A) Every conviction rendered against the applicant.

27 (B) Every arrest for an offense for which the applicant is  
28 presently awaiting trial, whether the applicant is incarcerated or  
29 has been released on bail or on his or her own recognizance  
30 pending trial.

31 (C) Every arrest for an offense for which the records of the  
32 Department of Justice do not contain a disposition or ~~which~~ *that*  
33 did not result in a conviction, provided that the Department of  
34 Justice first makes a genuine effort to determine the disposition  
35 of the arrest. However, information concerning an arrest shall not  
36 be disclosed if the records of the Department of Justice ~~indicate~~  
37 *indicate*, or if the genuine effort ~~reveals~~ *reveals*, that the subject  
38 was exonerated, successfully completed a diversion or deferred  
39 entry of judgment program, or the arrest was deemed a detention,  
40 or the subject was granted relief pursuant to Section 851.91.

1 (D) Every date and agency name associated with all retained  
2 peace officer or nonsworn law enforcement agency employee  
3 preemployment criminal offender record information search  
4 requests.

5 (E) Sex offender registration status of the applicant.

6 (F) Sentencing information, if present in the department's  
7 records at the time of the response.

8 (m) (1) This subdivision shall apply whenever state or federal  
9 summary criminal history information is furnished by the  
10 Department of Justice as the result of an application by an  
11 authorized agency or organization pursuant to Section 1522,  
12 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
13 a statute that incorporates the criteria of any of those sections or  
14 this subdivision by reference, and the information is to be used for  
15 employment, licensing, or certification purposes.

16 (2) Notwithstanding any other law, whenever state summary  
17 criminal history information is initially furnished pursuant to  
18 paragraph (1), the Department of Justice shall disseminate the  
19 following information:

20 (A) Every conviction of an offense rendered against the  
21 applicant, except a conviction for which relief has been granted  
22 pursuant to Section ~~1203.49~~: *1203.4, 1203.4a, 1203.41, 1203.42,*  
23 *1203.45, 1203.49, or 1170.9.*

24 (B) Every arrest for an offense for which the applicant is  
25 presently awaiting trial, whether the applicant is incarcerated or  
26 has been released on bail or on his or her own recognizance  
27 pending trial.

28 (C) Every arrest for an offense for which the Department of  
29 Social Services is required by paragraph (1) of subdivision (a) of  
30 Section 1522 of the Health and Safety Code to determine if an  
31 applicant has been arrested. However, if the records of the  
32 Department of Justice do not contain a disposition for an arrest,  
33 the Department of Justice shall first make a genuine effort to  
34 determine the disposition of the arrest.

35 (D) Sex offender registration status of the applicant.

36 (E) Sentencing information, if present in the department's  
37 records at the time of the response.

38 (3) Notwithstanding the requirements of the sections referenced  
39 in paragraph ~~(1)~~ of this subdivision, (1), the Department of Justice  
40 shall not disseminate information about an arrest subsequently

1 deemed a detention or an arrest that resulted in the successful  
 2 completion of a diversion program, exoneration, or a grant of relief  
 3 pursuant to Section 851.91.

4 (n) (1) This subdivision shall apply whenever state or federal  
 5 summary criminal history information, to be used for employment,  
 6 licensing, or certification purposes, is furnished by the Department  
 7 of Justice as the result of an application by an authorized agency,  
 8 organization, or individual pursuant to any of the following:

9 (A) Paragraph (10) of subdivision (c), when the information is  
 10 to be used by a cable corporation.

11 (B) Section 11105.3 or 11105.4.

12 (C) Section 15660 of the Welfare and Institutions Code.

13 (D) A statute that incorporates the criteria of any of the statutory  
 14 provisions listed in subparagraph (A), (B), or (C), or of this  
 15 subdivision, by reference.

16 (2) With the exception of applications submitted by  
 17 transportation companies authorized pursuant to Section 11105.3,  
 18 and notwithstanding any other law, whenever state summary  
 19 criminal history information is initially furnished pursuant to  
 20 paragraph (1), the Department of Justice shall disseminate the  
 21 following information:

22 (A) Every conviction, except a conviction for which relief has  
 23 been granted pursuant to Section ~~1203.49~~, 1203.4, 1203.4a,  
 24 1203.41, 1203.42, 1203.45, 1203.49, or 1170.9, rendered against  
 25 the applicant for a violation or attempted violation of an offense  
 26 specified in subdivision (a) of Section 15660 of the Welfare and  
 27 Institutions Code. However, with the exception of those offenses  
 28 for which registration is required pursuant to Section 290, the  
 29 Department of Justice shall not disseminate information pursuant  
 30 to this subdivision unless the conviction occurred within ~~10~~ seven  
 31 years of the date of the agency's request for information or the  
 32 conviction is over ~~10~~ seven years old but the subject of the request  
 33 was incarcerated *or on probation or parole* within ~~10~~ seven years  
 34 of the agency's request for information.

35 (B) Every arrest for a violation or attempted violation of an  
 36 offense specified in subdivision (a) of Section 15660 of the Welfare  
 37 and Institutions Code for which the applicant is presently awaiting  
 38 trial, whether the applicant is incarcerated or has been released on  
 39 bail or on his or her own recognizance pending trial.

40 (C) Sex offender registration status of the applicant.

1 (D) Sentencing information, if present in the department's  
2 records at the time of the response.

3 (o) (1) This subdivision shall apply whenever state or federal  
4 summary criminal history information is furnished by the  
5 Department of Justice as the result of an application by an  
6 authorized agency or organization pursuant to Section 379 or 550  
7 of the Financial Code, or a statute that incorporates the criteria of  
8 either of those sections or this subdivision by reference, and the  
9 information is to be used for employment, licensing, or certification  
10 purposes.

11 (2) Notwithstanding any other law, whenever state summary  
12 criminal history information is initially furnished pursuant to  
13 paragraph (1), the Department of Justice shall disseminate the  
14 following information:

15 (A) Every conviction rendered against the applicant for a  
16 violation or attempted violation of an offense specified in Section  
17 550 of the Financial Code, except a conviction for which relief  
18 has been granted pursuant to Section ~~1203.49~~, *1203.4*, *1203.4a*,  
19 *1203.41*, *1203.42*, *1203.45*, *1203.49*, or *1170.9*.

20 (B) Every arrest for a violation or attempted violation of an  
21 offense specified in Section 550 of the Financial Code for which  
22 the applicant is presently awaiting trial, whether the applicant is  
23 incarcerated or has been released on bail or on his or her own  
24 recognizance pending trial.

25 (C) Sentencing information, if present in the department's  
26 records at the time of the response.

27 (p) (1) This subdivision shall apply whenever state or federal  
28 criminal history information is furnished by the Department of  
29 Justice as the result of an application by an agency, organization,  
30 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
31 by a transportation company authorized pursuant to Section  
32 11105.3, or a statute that incorporates the criteria of that section  
33 or this subdivision by reference, and the information is to be used  
34 for employment, licensing, or certification purposes.

35 (2) Notwithstanding any other law, whenever state summary  
36 criminal history information is initially furnished pursuant to  
37 paragraph (1), the Department of Justice shall disseminate the  
38 following information:

39 (A) Every conviction rendered against the applicant, except a  
40 conviction for which relief has been granted pursuant to Section

1 ~~1203.49~~. 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.49,  
2 or 1170.9.

3 (B) Every arrest for an offense for which the applicant is  
4 presently awaiting trial, whether the applicant is incarcerated or  
5 has been released on bail or on his or her own recognizance  
6 pending trial.

7 (C) Sex offender registration status of the applicant.

8 (D) Sentencing information, if present in the department’s  
9 records at the time of the response.

10 (q) All agencies, organizations, or individuals defined in  
11 subdivisions (k), (l), (m), (n), (o), and (p) may contract with the  
12 Department of Justice for subsequent notification pursuant to  
13 Section 11105.2. This subdivision shall not supersede sections that  
14 mandate an agency, organization, or individual to contract with  
15 the Department of Justice for subsequent notification pursuant to  
16 Section 11105.2.

17 (r) This section does not require the Department of Justice to  
18 cease compliance with any other statutory notification  
19 requirements.

20 (s) The provisions of Section 50.12 of Title 28 of the Code of  
21 Federal Regulations are to be followed in processing federal  
22 criminal history information.

23 (t) Whenever state or federal summary criminal history  
24 information is furnished by the Department of Justice as the result  
25 of an application by an authorized agency, organization, or  
26 individual defined in subdivisions (k) to (p), inclusive, and the  
27 information is to be used for employment, licensing, or certification  
28 purposes, ~~the authorized agency, organization, or individual shall~~  
29 ~~expeditiously furnish a copy of the information to the person to~~  
30 ~~whom the information relates if the information is a basis for an~~  
31 ~~adverse employment, licensing, or certification decision. When~~  
32 ~~furnished other than in person, the copy shall be delivered to the~~  
33 ~~last contact information provided by the applicant.~~ *purposes, the*  
34 *department shall first furnish a copy of the Criminal Offender*  
35 *Record Information (CORI) to the subject of the request. After*  
36 *furnishing a copy to the subject, but prior to furnishing a report*  
37 *to a third party, the department shall allow the subject a reasonable*  
38 *opportunity of not less than five days to challenge the accuracy*  
39 *or completeness of any matter contained in the CORI. The*  
40 *department shall make the necessary corrections pursuant to*

1 *Section 11126 prior to furnishing the information to the requesting*  
2 *agency, organization, or individual.*

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, February 16, 2018. (JR11)**

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**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS**

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**Bill Number:** SB 1465 (Hill)  
**Status/Location:** Senate Appropriations: 5/22/18 Hearing Date  
**Sponsor:** Author  
**Subject:** Contractors: Civil Actions: Reporting  
**Code Section:** Add sections 7071.20, 7071.21, and 7071.22 to the Business and Professions Code

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**Summary:**

This bill requires that licensed contractors and insurers report to CSLB any final civil judgments, settlements, or arbitration awards involving damage claims for construction defects in multi-family rental residential structures.

Existing law provides that protection of the public shall be CSLB's highest priority in exercising its licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with other interests, public protection shall be paramount.

Existing law requires that licensees report to CSLB, or face possible disciplinary action, the following:

- 1) A construction-related civil court judgment, including a failure or refusal to pay a contractor, subcontractor, consumer, materials supplier, or employee, within 90 days of the judgment date;
- 2) Any change to information recorded by CSLB, including changes to business address, personnel, business name, and changes in recorded bond information.
- 3) The information of any insurer carrying workers' compensation on the licensee's employees within 90 days after any policy of insurance is issued to the licensee;
- 4) The conviction of the licensee for a felony or any other crime substantially related to the qualifications, functions, and duties of a licensed contractor;
- 5) The employment of or termination by a licensee of a registered home improvement salesperson;
- 6) The disassociation or death of a qualifying individual or member of personnel from a license; and
- 7) The merger, dissolution, or surrender of the right of a licensed entity to do business in California or failure to be registered in good standing with the Secretary of State.

Existing law requires that professional engineers and land surveyors report to the Board of Professional Engineers, Land Surveyors, and Geologists (BPELSG) a civil action,

binding arbitration, or administrative action alleging breach or violation of a contract, negligence, incompetence, or recklessness by the licensee if its results in a settlement that exceeds \$50,000 or a judgment that exceeds \$25,000.

Existing law requires that licensed architects report any civil action judgment, settlement, arbitration award, or administrative action against a licensee alleging fraud, deceit, negligence, incompetence, or recklessness by the licensee if the judgment, settlement, or arbitration award is \$5,000 or greater.

No corresponding law exists for contractors to report civil or administrative actions to CSLB.

This bill would require a licensee to report to CSLB within 90 days a civil action judgment, executed settlement agreement, arbitration award, or administrative action that results in a judgment, settlement, or arbitration award, if it meets certain criteria, including:

- 1) The action is final and no appeal may be made or the time for appeal has elapsed;
- 2) The action is against a licensee, whether a general contractor or subcontractor, who is named as a defending party in the action;
- 3) The value of the action is \$1,000,000, excluding investigative costs;
- 4) The action results from a claim for damages arising out of a failure or condition that meets the CSLB definition of structural defect in Title 16 of the California Code of Regulations, Division 8, Section 861.5;
- 5) The damage claimed in the action was allegedly caused by the licensee acting in the capacity of a contractor;
- 6) If it is a civil action, a court of law must have identified the action as a “construction defect”; and
- 7) The structure involved is a multifamily rental residential structure.

The reporting requirement would only apply to those actions filed after January 1, 2019 and would not apply to civil actions involving residential construction that are subject to the provisions of the SB 800 (2002) Homebuilder “Fix It” Construction Resolution Law in Civil Code sections 895 through 945.5.

The reporting requirement would extend to insurers providing a licensee with commercial general liability insurance, construction defect insurance, or professional liability insurance if they pay out on a civil action as described above.

The bill would provide procedural requirements for how a licensee is to report this information to CSLB; would make every report subject to the CSLB complaint process; and would subject a licensee that fails to comply with this reporting requirement to disciplinary action.

**Background:**

According to the author, the bill is “intended to provide [CSLB] with more information about contractors and subcontractors who settled claims for construction defects on multi-family rental dwellings. This information will enable [CSLB] to better regulate its licensees which may be performing a pattern and practice of defective construction.”

**SB 465 (2016) and SB 721 (2017)**

According to the author, this bill is also a follow up to SB 465 (Hill, 2016), which required that CSLB consult with licensees, consumers, and other interested stakeholders in order to prepare a study of judgments, arbitration awards, and settlements that were the result of claims for construction defects for rental residential units and, by January 1, 2018, report to the Legislature the results of that study to determine if CSLB’s ability to protect the public would be enhanced by regulations requiring licensees to report such judgments, awards, or settlements. SB 465 was a response to the 2015 Berkeley balcony collapse that killed six people and injured seven. In addition to that incident, a stairwell at a Folsom apartment building collapsed in 2015, killing a Cal Poly graduate student.

SB 465 also called for the Building Standards Commission to study recent balcony failures in the state and submit a report to the Legislature of its findings and recommendations. The author states that wood rot, resulting from poor building maintenance, caused both the Berkeley and Folsom collapses. Current law leaves to the discretion of local governments whether or not to inspect apartment and multi-dwelling structures or to require inspections from other licensed entities. In response, SB 721 [year and author?], would require that building owners conduct inspections of exterior elevated elements on their premises. CSLB voted to “support” SB 721 at its April 13, 2018 Board meeting.

CSLB conducted the study mandated by SB 465 study and concluded that the ability of the Board to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards, or settlement payments of construction defect claims for rental residential units. At its December 7, 2017 meeting, the Board recommended that a reporting requirement would be a “good tool” in the CSLB’s consumer protection “tool box.” CSLB staff was directed to finalize its report, submit it to the Legislature, and work with Senator Hill to craft reporting requirement legislation.

**Support:**

California News Publishers Association  
Center for Public Interest Law  
Consul General of Ireland, San Francisco  
Contractors State License Board

**Opposition:**

Southern California Contractors Association  
California Building Industry Association

**Fiscal Impact for CSLB:**

The SB 465 study conducted by CSLB initially determined that 13 additional employees would be necessary to manage the influx of work resulting from a reporting requirement. This estimate was based on the large number of construction defect actions filed in California during 2016 and 2017. In the months since the study was completed, changes to the bill language have narrowed the types of actions that would be reported to CSLB in order to identify egregious or repeat offenders.

**Update Projected Costs:**

CSLB estimates that this increase in responsibility and complex investigation workload will result in approximately 200 more cases annually (or 16 monthly). It would require the staff to do the following: 1) open and process reports to determine if the judgement/settlement meets the criteria for further investigation; 2) conduct extensive investigation to identify egregious or repeat offenders; and 3) take disciplinary action against licensees based on the investigative findings. Two full-time staff would perform this work: one Enforcement Representative II and one Office Technician. Total cost with benefits (assumed at 44 percent) would be \$199,000 (initial) and \$183,000 (ongoing).

**Staff Recommendation and Comments:**

**SUPPORT.** The language of this bill is a result of the Board's recommendation that CSLB staff work with Senator Hill to craft the language. After the language was crafted, with input from various construction industry groups, CSLB submitted to Senator Hill's office a letter of support for SB 1465 in furtherance of the Board's determination that the reporting requirement would be "good tool" in CSLB's consumer protection "toolbox." A copy of the letter follows this analysis.

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Date: May 17, 2018



## CONTRACTORS STATE LICENSE BOARD

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800-321-CSLB (2752)  
[www.cslb.ca.gov](http://www.cslb.ca.gov) • [CheckTheLicenseFirst.com](http://CheckTheLicenseFirst.com)

STATE OF CALIFORNIA

Governor Edmund G. Brown Jr.

May 2, 2018

Honorable Senator Jerry Hill  
State Capitol, Room 5035  
Sacramento, CA 95814

**Subject: Letter of Support – Senate Bill 1465: Contractors – Civil Actions; Reporting**

Dear Senator Hill:

The Contractors State License Board (CSLB) is pleased to inform you of its support for SB 1465. The bill requires licensed contractors to report to CSLB any final civil or administrative judgments or settlements involving damage claims for construction defect in multifamily rental residential structures.

At its December 7, 2017 board meeting, CSLB found that requiring licensees to report judgments, arbitration awards, or settlement payments of construction defect claims is a good idea and would be a good investigative tool in CSLB's "tool box." These findings arose out of a research study conducted by CSLB staff, which determined that the ability to protect the public would be enhanced by regulations requiring licensees to report such actions to CSLB.

The CSLB study found that hundreds of construction defect lawsuits are filed in California each year and an estimated ninety-five percent of such lawsuits are settled before trial. Settlement agreements in California are confidential and cannot be disclosed unless required by law; as such, information about these disputes is not currently reported to CSLB. This is particularly true for complaints filed by owners of large rental developments, which are more likely to be settled by respective parties' attorneys and not reported to CSLB.

The CSLB accomplishes its public protection mission in part by ensuring that construction is performed in a safe, competent, and professional manner and by removing bad actors from the industry when necessary. CSLB effectiveness is enhanced when the public provides notification of potential violations of the Contractors Law, such as those contractors whose acts or omissions depart from industry standards in the rental residential construction industry.

For the foregoing reasons, the CSLB is in support of SB 1465. If there are any questions, please contact CSLB Legislation Chief Michael Jamnetski at 916.255.2798 or [Michael.Jamnetski@cslb.ca.gov](mailto:Michael.Jamnetski@cslb.ca.gov).

Sincerely,

Kevin J. Albanese  
Board Chair  
Contractors State License Board

cc: Dennis Cuevas-Romero, Deputy Director, Division of Legislative & Regulatory Review,  
Department of Consumer Affairs

AMENDED IN SENATE MAY 14, 2018

AMENDED IN SENATE APRIL 17, 2018

**SENATE BILL**

**No. 1465**

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**Introduced by Senator Hill**

February 16, 2018

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An act to add Sections 7071.20, 7071.21, and 7071.22 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1465, as amended, Hill. Contractors: civil actions: reporting.

Existing law, the Contractors' State License Law, provides for the licensure, regulation, and discipline of contractors by the Contractors' State License Board. Existing law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board. Under existing law, protection of the public is required to be the highest priority for the Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions. Existing law requires a licensee to report to the registrar within 90 days of the date that the licensee has knowledge of the conviction of the licensee for any felony or any other crime substantially related to the qualifications, functions, and duties of a licensed contractor.

This bill would require a licensee to report to the registrar within 90 days of the date that the licensee has knowledge of any civil action or administrative action resulting in a final judgment, executed settlement agreement, or final arbitration award against the licensee that meets specified criteria, including that the amount or value of the judgment, settlement, or award is \$1,000,000 or greater and that the action is the result of a claim for damages to a property or person allegedly caused

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by specified construction activities of a licensee on any part of a multifamily rental residential structure, as specified. The bill would further require, within 30 days of payment of all or a portion of the judgment, settlement, or award, an insurer providing a specified type of insurance to that licensee to report listed information relating to the judgment, settlement, or award to the registrar.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7071.20 is added to the Business and
- 2 Professions Code, to read:
- 3 7071.20. (a) A licensee shall report to the registrar in writing
- 4 within 90 days after the licensee has knowledge of any civil action
- 5 final judgment, executed settlement agreement, or final arbitration
- 6 award or administrative action resulting in a final judgment,
- 7 executed settlement agreement, or final arbitration award in which
- 8 the licensee is named in a defending capacity, filed on or after
- 9 January 1, 2019, that meets all of the following criteria:
- 10 (1) The action alleges fraud, deceit, negligence, breach of
- 11 contract or express or implied warranty, misrepresentation,
- 12 incompetence, recklessness, wrongful death, or strict liability by
- 13 the act or omission of a licensee while acting in the capacity of a
- 14 contractor, whether as a general contractor or as a specialty
- 15 contractor.
- 16 (2) The amount or value of the judgment, settlement, or
- 17 arbitration award *against the licensee* is one million dollars
- 18 (\$1,000,000) or greater, not including investigative costs.
- 19 (3) The action is the result of a claim for damages to a property
- 20 or person that allegedly resulted in a failure or condition that would
- 21 pose a substantial risk of a failure in the load bearing portions of
- 22 a multifamily rental residential structure, which portions of the
- 23 structure are not constructed in compliance with the codes in effect
- 24 at the time of construction and that the failure or condition results
- 25 in the inability to reasonably use the affected portion of the
- 26 structure for which it was intended.
- 27 (4) The action is the result of a claim for damages to a property
- 28 or person that was allegedly caused by a licensee’s construction,
- 29 repair, alteration to, subtraction from, improvement of, moving,

1 wrecking, or demolishing of, any part of a multifamily rental  
2 residential structure, either personally or by or through others.

3 (5) The action, if a civil action, has been designated by a court  
4 of competent jurisdiction as a “complex case” pursuant to rules  
5 3.400 to 3.403, inclusive, of the California Rules of Court because  
6 it involves a claim of construction defect or insurance coverage  
7 arising out of a construction defect claim, pursuant to paragraph  
8 (2) or (7) of subdivision (c) of Rule 3.400 of the California Rules  
9 of Court.

10 (b) This section shall not apply to residential construction subject  
11 to any part of Title 7 (commencing with Section 895) of Part 2 of  
12 Division 2 of the Civil Code.

13 (c) The reports required by this section shall be signed by the  
14 licensee and shall set forth the license number of the licensee and  
15 the facts that constitute the reportable event. If the reportable event  
16 involves the action of an administrative agency or court, the report  
17 shall also set forth the following:

- 18 (1) The title of the matter.
- 19 (2) The court or agency name.
- 20 (3) The docket number.
- 21 (4) The claim or file number.
- 22 (5) The date on which the reportable event occurred.

23 (d) The reports required by this section shall be regarded by the  
24 registrar as a complaint that shall be subject to the provisions of  
25 Sections 7090 and 7091. The disclosure of any complaint referred  
26 to investigation pursuant to ~~the~~ *this* section shall comply with the  
27 public disclosure provisions of Section 7124.6.

28 (e) Failure of a licensee to report to the registrar in the time and  
29 manner required by this section shall be grounds for disciplinary  
30 action. Criminal penalties shall not be imposed for a violation of  
31 this section.

32 SEC. 2. Section 7071.21 is added to the Business and  
33 Professions Code, to read:

34 7071.21. (a) An insurer providing a licensee commercial  
35 general liability insurance, construction defect insurance, or  
36 professional liability insurance shall report to the registrar within  
37 30 days of payment of all or a portion of a civil action judgment,  
38 settlement, or arbitration award, that meets all of the requirements  
39 of Section 7071.20, against the licensee all of the following:

- 40 (1) The name and license number of the licensee.

1 (2) The claim or file number.  
2 (3) The amount or value of the judgment, settlement, or  
3 arbitration award.

4 (4) The amount paid by the insurer.

5 (5) The identity of the payee.

6 (b) The reports required by this section shall be regarded by the  
7 registrar as a complaint that shall be subject to the provisions of  
8 Sections 7090 and 7091. The disclosure of any complaint referred  
9 to investigation pursuant to ~~the~~ *this* section shall comply with the  
10 public disclosure provisions of Section 7124.6.

11 SEC. 3. Section 7071.22 is added to the Business and  
12 Professions Code, to read:

13 7071.22. (a) Sections 7071.20 and 7071.21 shall apply if a  
14 party to the civil action, judgment, settlement, or arbitration award  
15 or administrative action is or was a licensee, as defined in Section  
16 7096, or was a member of the personnel of the record, a person,  
17 or a qualifying person, as those terms are defined in Section 7025.

18 (b) Notwithstanding any other law, a licensee or person  
19 providing a report to the registrar pursuant to Section 7071.20 or  
20 7071.21 shall not be considered to have violated a confidential  
21 settlement agreement or other confidential agreement.

22 (c) The board may adopt regulations to further the purposes of  
23 Sections 7071.20 and 7071.21, specifically with regard to the  
24 reporting requirements of those sections.

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**CONTRACTORS STATE LICENSE BOARD  
LEGISLATIVE ANALYSIS**

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<b>Bill Number:</b>	AB 2371 (Carrillo)
<b>Status/Location:</b>	Assembly Appropriations
<b>Sponsor:</b>	Author
<b>Subject:</b>	Water Use Efficiency
<b>Code Sections:</b>	Add Sections 7065.06 and 7195.5 to the Business and Professions Code, amend sections 53391, 53481, 53482, and 53483 of the Food and Agricultural Code, and add Part 2.13 (commencing with Section 10960) to Division 6 of the Water Code

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**Summary:**

According to the author, this bill is intended to make landscape water use in California more efficient and sustainable, in part, by requiring updates to CSLB’s “A” (General Engineering), “B” (General Building), and C-27 (Landscape) contractor license trade exams to reflect changing landscape irrigation efficiency practices and requiring updates to the building codes. The bill would also require, beginning on January 1, 2020, a home inspection report for dwelling units that contain in-ground landscaping irrigation systems.

Existing law requires that every three years the Department of Water Resources (DWR) adopt and update a Model Water Efficient Landscaping Ordinance (MWELO). Existing law also requires local agencies to either apply MWELO or adopt an equally efficient plan. Existing law requires DWR to convene an independent technical panel (ITP) to recommend to DWR and the Legislature new strategies for water conservation.

Existing law requires MWELO to reduce water use with restrictions involving water conservation, plant use, landscape water budget, storm water capture, irrigation systems, soil management, use of recycled water, water education, economic incentives, maintenance practices, and overspray and runoff minimization.

Existing law defines certain terms related to “home inspection” with regard to the transfer of property, and provides that a home inspection performed on a property with a swimming pool or spa include an evaluation of drowning prevention.

Existing law also provides that occupational analyses and licensing examination validation studies are fundamental components of licensure programs and provides that the Department of Consumer Affairs develop, in consultation with its boards, commissions and bureaus, a policy regarding examination development, validation, and occupational analysis.

Lastly, existing law provides that the CSLB registrar investigate, classify, and qualify applicants for a contractor licenses by written exam, which includes questions designed to show that the applicant has the necessary knowledge to engage in construction operations and pertinent questions about California laws and the contracting business and trade.

This bill requires CSLB to confer with DWR and the California Landscape Contractors Association (CLCA) to determine if, before it revises any of its examinations, any updates or revisions to the licensing exams are needed to reflect new and emerging landscape irrigation efficiency practices. The bill would extend this requirement to the C-27 (Landscape) “B” (General Building), and “A” (General Engineering) contractor licensing exams.

The bill requires that CSLB ensure the exams include questions specific to “water use efficiency and sustainable practices” to help ensure sufficient support for the state’s water efficiency needs identified in the Water Code.

The bill further requires that CSLB ensure that the reference study material for the exams continue to include the most current version of the MWEL0 and “add other collateral material specific to water use efficiency and sustainability.”

The bill also requires, beginning January 1, 2020, to improve landscape water use and irrigation efficiency, preparation of a home inspection report for dwelling units on parcels that contain an in-ground landscaping irrigation system that includes a number of requirements intended to inform homeowners and homebuyers about significant deficiencies in landscape irrigation systems.

**Background:**

According to the author, “Improving urban landscape water use efficiency and reducing waste can save energy, lower water and wastewater treatment costs, eliminate the need for costly new infrastructure, and help California meet its short- and long-term water challenges. Importantly, lower water and wastewater treatment costs help to ensure the affordability of services that are essential to all of California’s communities.”

The author states that this bill advances five recommendations for policies and practices that will make landscape water use more sustainable in California from an ITP report submitted to the Legislature.

CSLB contacted the bill’s author and explained that irrigation constitutes 9 percent of the C-27 trade exam and that CSLB should be able to meet the requirement in the bill that CSLB confer with DWR and CLCA to conform with water conservation requirements.

CSLB also informed the author that “A” (General Engineering) and “B” (General Building) applicants are not tested on irrigation; that the “A” (General Engineering) exam does not cover landscaping; that only 2 percent of the “B” (General Building) exam tests

on landscaping; and, further, that while the “A” and “B” exams include general water efficiency questions, these are not specific to MWELo.

CSLB explained that it is mandated to follow the requirement in Business and Professions Code section 139 in drafting the applicable content for its 43 licensing examinations. The experts consulted during this process engage in the occupational analysis every five-to-seven years to determine the content and scope of the exam questions appropriate for each classification. As such, CSLB staff does not determine examination content, the industry does. According to its occupational analyses, irrigation activity has not proven sufficiently prevalent to in the “A” and “B” general industries to justify drafting testing material on irrigation for those classifications, to the exclusion of the other content tested on for each trade.

As a result of the forgoing, it is unclear how the CSLB would comply with the requirements of this bill.

**Support:**

California Coastal Protection Network  
California Coastkeeper Alliance  
California League of Conservation Voters  
California Municipal Utilities Association  
Natural Resources Defense Council  
San Diego County Water Authority  
Sierra Club of California  
Wholly H2O

**Opposition:**

California Association of Nurseries and Garden Centers

**Fiscal Impact for CSLB:**

Pending

**Staff Recommendation and Comments:**

**WATCH.** While CSLB can easily comply with the bill’s requirement to update the C-27 exam, staff questions the need and CSLB’s ability to do so for the “A” and “B” exams, and will continue to work with the author in this regard.

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Date: May 17, 2018

AMENDED IN ASSEMBLY APRIL 23, 2018

AMENDED IN ASSEMBLY APRIL 11, 2018

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2371**

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**Introduced by Assembly Member Carrillo**

February 14, 2018

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An act to add Sections 7065.06 and 7195.5 to the Business and Professions Code, to amend Sections 53391, 53481, 53482, and 53483 of the Food and Agricultural Code, ~~to amend Section 11011.29 of, and to add Sections 11011.30, 11011.31, and 11011.32 to, the Government Code,~~ and to add Part 2.13 (commencing with Section 10960) to Division 6 of the Water Code, relating to water use efficiency.

LEGISLATIVE COUNSEL'S DIGEST

AB 2371, as amended, Carrillo. Water use efficiency.

(1) Existing law regulates the labeling of nursery stock and requires that when nursery stock is sold or shipped, delivered, or transported to any purchaser, it be labeled as to the correct name, as specified, including that the correct name for ornamentals is the botanical name. Existing law allows nursery stock on display for sale at retail to be labeled by a sign on any block of stock of the same kind and species and requires turf to be labeled by a sign showing the required correct name of the stock on display. Existing law vests with the Secretary of Food and Agriculture and the county agricultural commissions of each county the responsibility of enforcing these provisions and makes a violation of these provisions a crime.

This bill would also require nursery stock, for any taxa listed in the Water Use Classification of Landscape Species, published by the University of California Division of Agriculture and Natural Resources, to be labeled with the correct water use classification, as identified by that publication. The bill would specify, with regard to the correct name of ornamentals being the botanical name, that the botanical name includes any subspecies, hybrid, cultivar, or variety. The bill would require nursery stock on display for sale at retail to be individually labeled, except as specified. The bill would require turf to be labeled by a sign also showing the water use classification. By adding to the responsibilities of local officials, this bill would impose a state-mandated local program. By generally creating new crimes, this bill would impose a state-mandated local program. The bill would require the Secretary of Food and Agriculture to adopt regulations to implement these provisions no later than June 30, 2019.

This bill would require the Department of Water Resources, on or before June 30, 2019, and at least every 3 years thereafter, to collaborate with the University of California Division of Agriculture and Natural Resources to review and revise the Water Use Classification of Landscape Species publication, and its associated database, relating to plant taxa. The bill would encourage the University of California Division of Agriculture and Natural Resources to provide additional specified information for each listed plant taxa in the database.

~~(2) Existing law requires the Department of General Services to provide planning, acquisition, construction, and maintenance of state buildings and property, and maintain a statewide property inventory of all real property held by the state. Existing law, when a state agency builds upon state-owned real property, purchases real property, or replaces landscaping or irrigation, except as specified, requires the state agency to reduce water consumption and increase water efficiencies for that property where feasible, as defined, through specified water efficiency measures.~~

~~This bill would also exclude from application of the water efficiency measures state-owned real property that is a registered historical site and would additionally include, as one of the specified water efficiency measures, implementation of stormwater capture. The bill would impose additional requirements on the landscaping of state-owned facilities relating to water use efficiency. For state-owned real property that is not covered by these provisions, except state-owned real property that is leased to a private party for agricultural purposes or a registered~~

historical site, the bill would require the Department of General Services to comply with other landscaping water efficiency provisions:

~~This bill, on or before January 1, 2020, would require the Department of General Services, in consultation with the Department of Water Resources, to establish a protocol for landscape and irrigation systems of state-owned facilities, as specified, and would require the Green Action Team, to update the Green Building Action Plan, State Administrative Manual, and management memorandums, as necessary, to minimize or eliminate supplemental irrigation.~~

~~(3)~~

(2) Existing law, the Contractors' State License Law, provides for the licensing by written examination and regulation of contractors by the Contractors' State License Board in the Department of Consumer Affairs. Existing law requires the Contractors' State License Board to periodically review and, if needed, revise the contents of qualifying examinations to insure that the examination questions are timely and relevant to the business of contracting.

This bill, before revision of specified contractor examinations, would require the Contractors' State License Board to confer with specified entities to determine whether any updates or revisions to the examination are needed to reflect new and emerging landscape irrigation efficiency practices, as specified.

~~(4)~~

(3) Existing law regulates a person who performs certain home inspections for a fee. Under existing law, a home inspection report is a written report prepared for a fee and issued after a home inspection, and clearly describes and identifies the inspected systems, structures, or components of the dwelling, any material defects identified, and any recommendations, as specified.

This bill would require, commencing January 1, 2020, each home inspection report on a dwelling unit on a parcel containing an in-ground landscape irrigation system, except as specified, to include certain information regarding the operation and observation of the irrigation system.

~~(5)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7065.06 is added to the Business and  
2 Professions Code, to read:

3 7065.06. (a) Before the board revises the examinations for a  
4 general engineering contractor described in Section 7056, a general  
5 building contractor described in Section 7057, or a landscaping  
6 contractor (C-27), the board shall confer with the Department of  
7 Water Resources and the California Landscape Contractors  
8 Association to determine whether any updates or revisions to the  
9 examination are needed to reflect new and emerging landscape  
10 irrigation efficiency practices.

11 (b) The board shall ensure that the examination includes  
12 questions that are specific to water use efficiency and sustainable  
13 practices to help ensure that the state’s water efficiency needs  
14 identified in the California Water Plan, described in Section 10004  
15 of the Water Code, are sufficiently supported.

16 (c) The board shall ensure that the reference study material for  
17 the examination continues to include the most current version of  
18 the Model Water Efficient Landscape Ordinance (23 Cal. Code  
19 Regs. 490, et seq.) and shall add other collateral material specific  
20 to water use efficiency and sustainability.

21 SEC. 2. Section 7195.5 is added to the Business and Professions  
22 Code, to read:

23 7195.5. (a) For purposes of improving landscape water use  
24 and irrigation efficiency, commencing January 1, 2020, a home  
25 inspection report on a dwelling unit prepared pursuant to this  
26 chapter on a parcel containing an in-ground landscaping irrigation  
27 system, the operation of which is under the exclusive control of  
28 the owner or occupant of the dwelling, shall include all of the  
29 following:

30 (1) Examination of the irrigation system controller, if present,  
31 noting material defects in installation or operation, or both.

- 1 (2) Activation of each zone or circuit providing irrigation water  
2 to turf grass, noting material defects observed in the operation of  
3 each of the following:
- 4 (A) The irrigation valve.
  - 5 (B) Visible irrigation supply piping.
  - 6 (C) Sprinkler heads and stems.
- 7 (3) During activation of the system pursuant to paragraph (2),  
8 observation of any of the following:
- 9 (A) Irrigation spray being directed to hardscape.
  - 10 (B) Irrigation water leaving the irrigated area as surface runoff.
  - 11 (C) Ponding of irrigation water on the surface of the irrigated  
12 area.
- 13 (4) Notation whether inspection is limited due to snow, ice, or  
14 other site conditions that impede an inspection.
- 15 (b) This section does not apply to any of the following:
- 16 (1) An inspection performed by a city, county, city and county,  
17 or public water supplier.
  - 18 (2) An inspection performed at the direction of any court.
  - 19 (3) An appraisal for the purpose of preparing a report containing  
20 an estimated market value of a dwelling.
- 21 SEC. 3. Section 53391 of the Food and Agricultural Code is  
22 amended to read:
- 23 53391. (a) The secretary may adopt regulations that may be  
24 necessary to carry into effect the purposes of this chapter and each  
25 section of it, and may issue in relation to this chapter explanatory  
26 data and charts.
- 27 (b) On or before June 30, 2019, the secretary shall adopt  
28 regulations to implement Sections 53481, 53482, and 53483.
- 29 SEC. 4. Section 53481 of the Food and Agricultural Code is  
30 amended to read:
- 31 53481. When nursery stock is sold, it shall be labeled plainly  
32 and legibly as to the grade size, if so required by regulations, and  
33 as to the correct name and water use classification as follows:
- 34 (a) The correct name for ornamentals, except roses, fruit trees,  
35 and annual or herbaceous perennial ornamental plants, shall be the  
36 botanical name. For purposes of this section, ornamentals include  
37 any subspecies, hybrid, cultivar, or variety, if any, of the  
38 ornamental.
  - 39 (b) The correct name for fruit trees shall be the recognized  
40 common name and cultivar.

1 (c) The correct name for turf shall be the kind and cultivar.

2 (d) The correct name for roses, annual or herbaceous perennial  
3 ornamental plants, dormant bulbs, tubers, roots, corms, rhizomes,  
4 pips, and other kinds of nursery stock shall be the cultivar name  
5 and botanical name, if available, except that the recognized  
6 common name, if any, shall be required whenever no cultivar name  
7 has been given or can be determined.

8 (e) The correct water use classification, as identified by most  
9 current version of the Water Use Classification of Landscape  
10 Species, for any taxa listed in that publication. For purposes of  
11 this subdivision, the Water Use Classification of Landscape Species  
12 is the publication by that same name as published by the University  
13 of California Division of Agriculture and Natural Resources.

14 SEC. 5. Section 53482 of the Food and Agricultural Code is  
15 amended to read:

16 53482. In order to identify nursery stock properly, whenever  
17 it is shipped, delivered, or transported to any purchaser, each plant  
18 shall be individually labeled as to the correct name and water use  
19 classification. The director may create exceptions to this section  
20 by regulation, which shall be consistent with the need to correctly  
21 identify plants that are subject to inspection after installation of a  
22 landscape subject to the Model Water Efficient Landscape  
23 Ordinance (23 Cal. Code Regs. 490, et seq.) or any local landscape  
24 ordinance.

25 SEC. 6. Section 53483 of the Food and Agricultural Code is  
26 amended to read:

27 53483. Nursery stock on display for sale at retail shall be  
28 individually labeled, except that plants of the same taxa that are  
29 packaged inseparably together may be identified by a single label  
30 on each package. Turf shall be labeled by a sign showing the  
31 required correct name and water use classification of the stock on  
32 display.

33 ~~SEC. 7. Section 11011.29 of the Government Code is amended~~  
34 ~~to read:~~

35 ~~11011.29. (a) When a state agency builds upon state-owned~~  
36 ~~real property, purchases real property, or replaces landscaping or~~  
37 ~~irrigation, the state agency shall reduce water consumption and~~  
38 ~~increase water efficiencies for that property, where feasible,~~  
39 ~~through any or all of the following measures:~~

- 1 ~~(1) Replacement of landscaping with drought-tolerant plants~~
- 2 ~~with an emphasis on native plant species.~~
- 3 ~~(2) Replacement of irrigation timers to permit efficient watering~~
- 4 ~~schedules.~~
- 5 ~~(3) Replacement of existing irrigation with drip irrigation,~~
- 6 ~~bubblers, or low precipitation spray nozzles, or a combination of~~
- 7 ~~these irrigation methods.~~
- 8 ~~(4) Implementation of recycled water irrigation or rainwater~~
- 9 ~~capture irrigation or both.~~
- 10 ~~(5) Installation of irrigation submeters.~~
- 11 ~~(6) Use of on-site water recycling.~~
- 12 ~~(7) Implementation of stormwater capture.~~
- 13 ~~(b) (1) A state agency landscape design project that commences~~
- 14 ~~on and after January 1, 2025, shall, to the maximum extent~~
- 15 ~~practicable, implement the watershed approach through eliminating~~
- 16 ~~supplemental potable irrigation onsite and maximizing nonpotable~~
- 17 ~~water sources where cost effective, rainwater infiltration, and onsite~~
- 18 ~~reuse.~~
- 19 ~~(2) The Department of General Services shall establish an~~
- 20 ~~interim target that 50 percent of new facilities designed on and~~
- 21 ~~after January 1, 2020, be targeted to achieve a goal to only use~~
- 22 ~~reclaimed water for supplemental irrigation or a goal consistent~~
- 23 ~~with the LEED v4 Outdoor Water Use Reduction, Option 1, which~~
- 24 ~~requires a demonstration that the landscape does not require a~~
- 25 ~~permanent irrigation system beyond the maximum two-year~~
- 26 ~~establishment period.~~
- 27 ~~(3) Where practicable and feasible, a project described in~~
- 28 ~~paragraph (1) shall include demonstration gardens, including~~
- 29 ~~appropriate educational signage.~~
- 30 ~~(e) This section shall not apply to state-owned real property that~~
- 31 ~~is leased to a private party for agricultural purposes or to a~~
- 32 ~~registered historical site.~~
- 33 ~~(d) For purposes of this section, “feasible” means that the water~~
- 34 ~~efficiency measures may be accomplished in a cost-effective~~
- 35 ~~manner within a reasonable period of time, taking into account~~
- 36 ~~life-cycle cost analyses and technological factors, as determined~~
- 37 ~~by the state agency.~~
- 38 ~~SEC. 8. Section 11011.30 is added to the Government Code,~~
- 39 ~~to read:~~

1 11011.30. ~~(a) For state-owned real property that is not covered~~  
2 ~~by Section 11011.29, the Department of General Services shall do~~  
3 ~~all of the following:~~

4 ~~(1) On or before June 30, 2023, comply with the Model Water~~  
5 ~~Efficient Landscape Ordinance (23 Cal. Code Regs. 490, et seq.);~~  
6 ~~including the maximum applied water allowance for existing~~  
7 ~~landscapes pursuant to Section 493.1 of Title 23 of the California~~  
8 ~~Code of Regulations. This shall include rainwater, or stormwater,~~  
9 ~~capture where site conditions permit.~~

10 ~~(2) Begin transition of all buildings owned, leased, or operated~~  
11 ~~by the Department of General Services from traditional ornamental~~  
12 ~~turf to sustainable landscaping at a rate of 10 percent of the total~~  
13 ~~number of buildings per year, with a goal of complete transition~~  
14 ~~before January 1, 2029. The Department of General Services shall~~  
15 ~~give priority to customer service buildings.~~

16 ~~(3) Install demonstration or educational signage at a customer~~  
17 ~~service building that is owned, leased, or operated by the~~  
18 ~~Department of General Services to identify sustainable landscaping~~  
19 ~~at the building and the resulting water savings.~~

20 ~~(b) This section shall not apply to state-owned real property that~~  
21 ~~is leased to a private party for agricultural purposes or to a~~  
22 ~~registered historical site.~~

23 ~~(c) For purposes of this section, “customer service building”~~  
24 ~~means a building operated by the state agency that is open to the~~  
25 ~~public and that customers of the agency commonly visit.~~

26 ~~SEC. 9. Section 11011.31 is added to the Government Code,~~  
27 ~~to read:~~

28 11011.31. A state agency shall do all of the following:

29 ~~(a) Employ or contract with, or both, sufficiently trained~~  
30 ~~landscape design professionals and managers to help ensure that~~  
31 ~~an investment in landscape upgrades or new landscaping is~~  
32 ~~sufficiently designed and maintained to protect the aesthetic~~  
33 ~~benefits of sustainable landscaping.~~

34 ~~(b) Implement mandatory educational training for job~~  
35 ~~classifications that serve in the capacity of state-employed~~  
36 ~~landscape managers.~~

37 ~~(c) For all new facilities that are owned, leased, or operated by~~  
38 ~~the state, use landscape design templates that are accessible to new~~  
39 ~~building developers.~~

1 ~~SEC. 10.~~ Section 11011.32 is added to the Government Code,  
2 to read:

3 ~~11011.32. (a) On or before January 1, 2020, the Department~~  
4 ~~of General Services, in consultation with the Department of Water~~  
5 ~~Resources, shall establish a landscape and irrigation system water~~  
6 ~~efficiency building protocol for landscape and irrigation systems~~  
7 ~~of state-owned facilities. The protocol shall include procedures to~~  
8 ~~ensure the proper installation of landscape and irrigation systems~~  
9 ~~and the education of landscape maintenance staff of those~~  
10 ~~procedures.~~

11 ~~(b) (1) On or before January 1, 2020, the Green Action Team,~~  
12 ~~shall update the Green Building Action Plan, State Administrative~~  
13 ~~Manual, and management memorandums, as necessary, to~~  
14 ~~minimize or eliminate supplemental irrigation in new state-owned~~  
15 ~~buildings and major renovations of state-owned buildings where~~  
16 ~~water use efficiency standards are applicable.~~

17 ~~(2) The Governor is encouraged to update Executive Order No.~~  
18 ~~B-18-12 to be consistent with paragraph (1).~~

19 ~~SEC. 11.~~

20 ~~SEC. 7.~~ Part 2.13 (commencing with Section 10960) is added  
21 to Division 6 of the Water Code, to read:

22  
23 PART 2.13. LANDSCAPE WATER USE  
24

25 10960. (a) On or before June 30, 2019, and at least every three  
26 years thereafter, the department shall collaborate with the  
27 University of California Division of Agriculture and Natural  
28 Resources for the review and revision of the publication “Water  
29 Use Classification of Landscape Species” and its associated  
30 database to consider the addition of unlisted plant taxa and to  
31 correct errors in existing listings.

32 (b) (1) The University of California Division of Agriculture  
33 and Natural Resources, commencing July 1, 2019, is encouraged  
34 to include the following additional information for each listed plant  
35 taxa in the Water Use Classification of Landscape Species database:

- 36 (A) A photograph of the plant.
- 37 (B) A narrative description of the plant.
- 38 (C) Key cultural information about the plant.

39 (2) The University of California Division of Agriculture and  
40 Natural Resources is encouraged to add the additional information

1 specified by this subdivision, for plant taxa listed in the database  
 2 before July 1, 2019, to the publication before July 1, 2024, at a  
 3 rate of not less than 20 percent of total entries per year. The  
 4 University of California Division of Agriculture and Natural  
 5 Resources is encouraged to prioritize including the additional  
 6 information for the most commonly used landscape plants, as  
 7 identified in its existing contract with the department.

8 ~~SEC. 12.~~

9 *SEC. 8.* No reimbursement is required by this act pursuant to  
 10 Section 6 of Article XIII B of the California Constitution for certain  
 11 costs that may be incurred by a local agency or school district  
 12 because, in that regard, this act creates a new crime or infraction,  
 13 eliminates a crime or infraction, or changes the penalty for a crime  
 14 or infraction, within the meaning of Section 17556 of the  
 15 Government Code, or changes the definition of a crime within the  
 16 meaning of Section 6 of Article XIII B of the California  
 17 Constitution.

18 However, if the Commission on State Mandates determines that  
 19 this act contains other costs mandated by the state, reimbursement  
 20 to local agencies and school districts for those costs shall be made  
 21 pursuant to Part 7 (commencing with Section 17500) of Division  
 22 4 of Title 2 of the Government Code.

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## CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

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**Bill Number:** AB 3126 (Brough)  
**Status/Location:** Assembly Consent Calendar  
**Sponsor:** Contractors State License Board  
**Subject:** Contractors' State License Law: Cash Deposit in Lieu of a Bond  
**Code Sections:** Amend Sections 7071.17, 7074, and 7091 of, add Section 7071.4 to, and Repeal Section 7071.12 of the Business and Professions Code

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### **Summary:**

This CSLB-sponsored bill would eliminate the cash deposit in lieu of a contractor license bond, bond of qualifying individual, or disciplinary bond. The Board authorized staff to pursue a legislative proposal at its December 2017 meeting. The previous version of this bill was amended and formally introduced in its current form on April 19, 2018. The Board has not voted on this bill.

Existing law allows a contractor to submit a deposit in lieu of the various bonds required by contractors' state license law as a condition of licensure.

Existing law also provides that alternatives to bonds, such as a cash deposit, may be deposited with an agency or officer unless a statute that provides for a bond precludes or limits such alternatives; however, no such limitations currently exist in the law.

This bill would require that each person licensed under contractors' state license law and subject to any of its bonding provisions maintain the required bond with an "admitted surety insurer." The bill provides that no other method of deposit, including a certificate of deposit or other undertaking, shall satisfy this requirement.

The bill specifies that this new requirement does not apply to blanket performance and payment bonds or bond equivalents authorized for projects in home improvement contract laws.

The bill provides that after January 2019, CSLB no longer accept alternatives to bonds and that by January 2020, all existing alternatives be replaced by a surety bond.

This bill also provides that if a claim is made against a contractor's cash deposit that is currently on file with CSLB, based on activity that arose while that cash deposit was still in effect, the claim will be processed according with the law that existed at time and not be subject to the new bill.

**Background:**

Contractors are required to maintain various bonds for the benefit of consumers who may be damaged as a result of defective construction or other license law violations, and for the benefit of employees who have not been paid due wages. Instead of obtaining a surety bond, the law currently allows a contractor to maintain various alternatives to bonds.

One of these alternatives is a certificate of deposit issued by a bank or savings association payable to the registrar. CSLB has no jurisdiction or control over how certificates of deposit are issued by financial institutions. As a result, as long as a certificate of deposit meets basic requirements, CSLB accepts the deposit in lieu of the relevant bond.

To make a claim against a contractor's deposit, the law requires that homeowners name the contractor and the registrar in the action. Additionally, CSLB cannot ensure the cash deposit funds are pledged to CSLB, therefore a contractor can remove the money from the bank at any time. This bill would prevent homeowners from having to file a civil lawsuit to claim monies from the deposit and allow them to receive a good faith payment from a surety company and help ensure that the necessary funds are available for consumers.

**Support:**

San Diego, Southern California, and Central California Chapters of Associated Builders

**Opposition:**

None on file

**Fiscal Impact for CSLB:**

Minor and absorbable

**Staff Recommendation and Comments:**

**SUPPORT.** This is a CSLB-sponsored bill. The Board has not voted on this bill.

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Date: May 18, 2018

AMENDED IN ASSEMBLY APRIL 19, 2018

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3126**

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**Introduced by Assembly Member Brough**

February 16, 2018

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An act to amend Sections 7071.17, 7074, and 7091 of, to add Section 7071.4 to, and to repeal Section 7071.12 of, the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 3126, as amended, Brough. Contractors' State License Law: cash deposit in lieu of a bond.

Existing law, the Contractors' State License Law, provides for licensing and regulation of contractors by the Contractors' State License Board, which is within the Department of Consumer Affairs. Existing law requires an applicant for licensure or a licensee to file or have on file certain bonds, including a contractor's bond in the sum of \$15,000. Existing law authorizes an applicant or licensee to instead post a cash deposit in lieu of a required bond.

This bill would delete the authorization to post a cash deposit in lieu of a bond, would prohibit the board from accepting an alternative in lieu of the ~~bond~~, *bond on and after January 1, 2019*, and would require each person licensed under that law and subject to any bond requirement to maintain the required bond as executed by an admitted surety insurer in the appropriate amount, except as specified. The bill would ~~prohibit the board from accepting an alternative in lieu of a bond on and after January 1, 2019, and would~~ require all existing alternatives in lieu of a

bond currently filed with the board to be replaced for a surety bond by January 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7071.4 is added to the Business and  
2 Professions Code, to read:

3 7071.4. (a) Notwithstanding Article 7 (commencing with  
4 Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of  
5 Civil Procedure, each person licensed under the provisions of this  
6 chapter and subject to any of the bonding provisions of this article  
7 shall maintain the requisite bond as executed by an admitted surety  
8 insurer in the appropriate amount. Another method of deposit,  
9 including, but not limited to, a certificate of deposit or other  
10 undertaking, shall not satisfy a bond requirement under this article.

11 (b) All existing alternatives in lieu of a bond currently filed with  
12 the board shall be replaced for a surety bond by January 1, 2020.

13 (c) Notwithstanding subdivision (a), this section shall not apply  
14 to the bond equivalents described in Section 7159.5 of this chapter.

15 (d) This section shall be operative on and after January 1, 2019,  
16 upon which date the board shall thereafter no longer accept  
17 alternatives in lieu of a bond.

18 (e) *All alternatives in lieu of a bond filed with the board before*  
19 *January 1, 2019, shall be subject to the following limitations*  
20 *periods:*

21 (1) *Any action, other than an action to recover wages or fringe*  
22 *benefits, against a deposit given in lieu of a contractor’s bond or*  
23 *bond of a qualifying individual filed by an active licensee shall be*  
24 *brought within three years after the expiration of the license period*  
25 *during which the act or omission occurred, or within three years*  
26 *of the date the license of the active licensee was inactivated,*  
27 *canceled, or revoked by the board, whichever occurs first.*

28 (2) *Any action, other than an action to recover wages or fringe*  
29 *benefits, against a deposit given in lieu of a disciplinary bond filed*  
30 *by an active licensee pursuant to Section 7071.8 shall be brought*  
31 *within three years after the expiration of the license period during*  
32 *which the act or omission occurred, or within three years of the*  
33 *date the license of the active licensee was inactivated, canceled,*

1 or revoked by the board, or within three years after the last date  
2 for which a deposit given in lieu of a disciplinary bond filed  
3 pursuant to Section 7071.8 was required, whichever date is first.

4 (3) A claim to recover wages or fringe benefits shall be brought  
5 within six months from the date that the wage or fringe benefit  
6 delinquencies were discovered, but in no event shall a civil action  
7 thereon be brought later than two years from the date the wage  
8 or fringe benefit contributions were due.

9 (f) In any case in which a claim is filed against an alternative  
10 given in lieu of a bond filed with the board before January 1, 2019,  
11 by any employee or by an employee organization on behalf of an  
12 employee, concerning wages or fringe benefits based upon the  
13 employee's employment, claims for the nonpayment shall be filed  
14 with the Labor Commissioner. The Labor Commissioner shall,  
15 pursuant to the authority vested by Section 96.5 of the Labor Code,  
16 conduct hearings to determine whether or not the wages or fringe  
17 benefits should be paid to the complainant. Upon a finding by the  
18 commissioner that the wages or fringe benefits should be paid to  
19 the complainant, the commissioner shall notify the registrar of the  
20 findings. The registrar shall not make payment from the deposit  
21 on the basis of findings by the commissioner for a period of 10  
22 days following determination of the findings. If, within the period,  
23 the complainant or the contractor files written notice with the  
24 registrar and the commissioner of an intention to seek judicial  
25 review of the findings pursuant to Section 11523 of the Government  
26 Code, the registrar shall not make payment if an action is actually  
27 filed, except as determined by the court. If, thereafter, no action  
28 is filed within 60 days following determination of findings by the  
29 commissioner, the registrar shall make payment from the deposit  
30 to the complainant.

31 (g) Legal fees may not be charged by the board against any  
32 alternative given in lieu of a bond filed with the board before  
33 January 1, 2019.

34 SEC. 2. Section 7071.12 of the Business and Professions Code  
35 is repealed.

36 SEC. 3. Section 7071.17 of the Business and Professions Code  
37 is amended to read:

38 7071.17. (a) Notwithstanding any other provision of law, the  
39 board shall require, as a condition precedent to accepting an  
40 application for licensure, renewal, reinstatement, or to change

1 officers or other personnel of record, that an applicant, previously  
2 found to have failed or refused to pay a contractor, subcontractor,  
3 consumer, materials supplier, or employee based on an unsatisfied  
4 final judgment, file or have on file with the board a bond sufficient  
5 to guarantee payment of an amount equal to the unsatisfied final  
6 judgment or judgments. The applicant shall have 90 days from the  
7 date of notification by the board to file the bond or the application  
8 shall become void and the applicant shall reapply for issuance,  
9 reinstatement, or reactivation of a license. The board may not issue,  
10 reinstate, or reactivate a license until the bond is filed with the  
11 board. The bond required by this section is in addition to the  
12 contractor's bond. The bond shall be on file for a minimum of one  
13 year, after which the bond may be removed by submitting proof  
14 of satisfaction of all debts. The applicant may provide the board  
15 with a notarized copy of any accord, reached with any individual  
16 holding an unsatisfied final judgment, to satisfy a debt in lieu of  
17 filing the bond. The board shall include on the license application  
18 for issuance, reinstatement, or reactivation, a statement, to be made  
19 under penalty of perjury, as to whether there are any unsatisfied  
20 judgments against the applicant on behalf of contractors,  
21 subcontractors, consumers, materials suppliers, or the applicant's  
22 employees. Notwithstanding any other provision of law, if it is  
23 found that the applicant falsified the statement then the license  
24 will be retroactively suspended to the date of issuance and the  
25 license will stay suspended until the bond, satisfaction of judgment,  
26 or notarized copy of any accord applicable under this section is  
27 filed.

28 (b) (1) Notwithstanding any other provision of law, all licensees  
29 shall notify the registrar in writing of any unsatisfied final judgment  
30 imposed on the licensee. If the licensee fails to notify the registrar  
31 in writing within 90 days, the license shall be automatically  
32 suspended on the date that the registrar is informed, or is made  
33 aware of the unsatisfied final judgment.

34 (2) The suspension shall not be removed until proof of  
35 satisfaction of the judgment, or in lieu thereof, a notarized copy  
36 of an accord is submitted to the registrar.

37 (3) If the licensee notifies the registrar in writing within 90 days  
38 of the imposition of any unsatisfied final judgment, the licensee  
39 shall, as a condition to the continual maintenance of the license,  
40 file or have on file with the board a bond sufficient to guarantee

1 payment of an amount equal to all unsatisfied judgments applicable  
2 under this section.

3 (4) The licensee has 90 days from date of notification by the  
4 board to file the bond or at the end of the 90 days the license shall  
5 be automatically suspended. In lieu of filing the bond required by  
6 this section, the licensee may provide the board with a notarized  
7 copy of any accord reached with any individual holding an  
8 unsatisfied final judgment.

9 (c) By operation of law, failure to maintain the bond or failure  
10 to abide by the accord shall result in the automatic suspension of  
11 any license to which this section applies.

12 (d) A license that is suspended for failure to comply with the  
13 provisions of this section can only be reinstated when proof of  
14 satisfaction of all debts is made, or when a notarized copy of an  
15 accord has been filed as set forth under this section.

16 (e) This section applies only with respect to an unsatisfied final  
17 judgment that is substantially related to the construction activities  
18 of a licensee licensed under this chapter, or to the qualifications,  
19 functions, or duties of the license.

20 (f) Except as otherwise provided, this section shall not apply to  
21 an applicant or licensee when the financial obligation covered by  
22 this section has been discharged in a bankruptcy proceeding.

23 (g) Except as otherwise provided, the bond shall remain in full  
24 force in the amount posted until the entire debt is satisfied. If, at  
25 the time of renewal, the licensee submits proof of partial  
26 satisfaction of the financial obligations covered by this section,  
27 the board may authorize the bond to be reduced to the amount of  
28 the unsatisfied portion of the outstanding judgment. When the  
29 licensee submits proof of satisfaction of all debts, the bond  
30 requirement may be removed.

31 (h) The board shall take the actions required by this section  
32 upon notification by any party having knowledge of the outstanding  
33 judgment upon a showing of proof of the judgment.

34 (i) For the purposes of this section, the term “judgment” also  
35 includes any final arbitration award where the time to file a petition  
36 for a trial de novo or a petition to vacate or correct the arbitration  
37 award has expired, and no petition is pending.

38 (j) (1) If a judgment is entered against a licensee, then a  
39 qualifying person or personnel of record of the licensee at the time  
40 of the activities on which the judgment is based shall be

1 automatically prohibited from serving as a qualifying individual  
2 or other personnel of record on another license until the judgment  
3 is satisfied.

4 (2) The prohibition described in paragraph (1) shall cause the  
5 license of any other existing renewable licensed entity with any  
6 of the same personnel of record as the judgment debtor licensee  
7 to be suspended until the license of the judgment debtor is  
8 reinstated or until those same personnel of record disassociate  
9 themselves from the renewable licensed entity.

10 (k) Notwithstanding subdivision (f), the failure of a licensee to  
11 notify the registrar of an unsatisfied final judgment in accordance  
12 with this section is cause for disciplinary action.

13 SEC. 4. Section 7074 of the Business and Professions Code is  
14 amended to read:

15 7074. (a) Except as otherwise provided by this section, an  
16 application for an original license, for an additional classification,  
17 or for a change of qualifier shall become void when:

18 (1) The applicant or the examinee for the applicant has failed  
19 to achieve a passing grade in the qualifying examination within  
20 18 months after the application has been deemed acceptable by  
21 the board.

22 (2) The applicant for an original license, after having been  
23 notified to do so, fails to pay the initial license fee within 90 days  
24 from the date of the notice.

25 (3) The applicant, after having been notified to do so, fails to  
26 file within 90 days from the date of the notice any bond or other  
27 documents that may be required for issuance or granting pursuant  
28 to this chapter.

29 (4) After filing, the applicant withdraws the application.

30 (5) The applicant fails to return the application rejected by the  
31 board for insufficiency or incompleteness within 90 days from the  
32 date of original notice or rejection.

33 (6) The application is denied after disciplinary proceedings  
34 conducted in accordance with the provisions of this code.

35 (b) The void date on an application may be extended up to 90  
36 days or one examination may be rescheduled without a fee upon  
37 documented evidence by the applicant that the failure to complete  
38 the application process or to appear for an examination was due  
39 to a medical emergency or other circumstance beyond the control  
40 of the applicant.

1 (c) An application voided pursuant to this section shall remain  
2 in the possession of the registrar for the period as he or she deems  
3 necessary and shall not be returned to the applicant. Any  
4 reapplication for a license shall be accompanied by the fee fixed  
5 by this chapter.

6 SEC. 5. Section 7091 of the Business and Professions Code is  
7 amended to read:

8 7091. (a) (1) A complaint against a licensee alleging  
9 commission of any patent acts or omissions that may be grounds  
10 for legal action shall be filed in writing with the registrar within  
11 four years after the act or omission alleged as the ground for the  
12 disciplinary action.

13 (2) A disciplinary action against a licensee relevant to this  
14 subdivision shall be filed or a referral to the arbitration program  
15 outlined in Section 7085 shall be referred within four years after  
16 the patent act or omission alleged as the ground for disciplinary  
17 action or arbitration or within 18 months from the date of the filing  
18 of the complaint with the registrar, whichever is later.

19 (b) (1) A complaint against a licensee alleging commission of  
20 any latent acts or omissions that may be grounds for legal action  
21 pursuant to subdivision (a) of Section 7109 regarding structural  
22 defects, as defined by regulation, shall be filed in writing with the  
23 registrar within 10 years after the act or omission alleged as the  
24 ground for the disciplinary action.

25 (2) A disciplinary action against a licensee relevant to this  
26 subdivision shall be filed within 10 years after the latent act or  
27 omission alleged as the ground for disciplinary action or within  
28 18 months from the date of the filing of the complaint with the  
29 registrar, whichever is later. As used in this subdivision “latent act  
30 or omission” means an act or omission that is not apparent by  
31 reasonable inspection.

32 (c) A disciplinary action alleging a violation of Section 7112  
33 shall be filed within two years after the discovery by the registrar  
34 or by the board of the alleged facts constituting the fraud or  
35 misrepresentation prohibited by the section.

36 (d) With respect to a licensee who has been convicted of a crime  
37 and, as a result of that conviction is subject to discipline under  
38 Section 7123, the disciplinary action shall be filed within two years  
39 after the discovery of the conviction by the registrar or by the  
40 board.

1 (e) A disciplinary action regarding an alleged breach of an  
2 express, written warranty issued by the contractor shall be filed  
3 not later than 18 months from the expiration of the warranty.

4 (f) The proceedings under this article shall be conducted in  
5 accordance with the provisions of Chapter 5 (commencing with  
6 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
7 Code, and the registrar shall have all the powers granted therein.

8 (g) Nothing in this section shall be construed to affect the  
9 liability of a surety or the period of limitations prescribed by law  
10 for the commencement of actions against a surety.

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## AGENDA ITEM D-3

Review, Discussion, and Possible Action on the Draft Residential Solar Energy System Disclosure Document (Business and Professions Code Section 7169) and Stakeholder Workshops







# CONTRACTORS STATE LICENSE BOARD

## RESIDENTIAL SOLAR ENERGY SYSTEM DISCLOSURE DOCUMENT

Assembly Bill 1070 was approved by the Governor on October 11, 2017, and its provisions to add Business and Professions Code (BPC) sections 7169 and 7170 became effective on January 1, 2018.

The bill requires the Contractors State License Board (CSLB), in collaboration with the Public Utilities Commission (PUC), on or before July 1, 2018, to develop and make available on its website a disclosure document that provides a consumer with accurate, clear, and concise information regarding the installation of a solar energy system. The bill requires this disclosure document to be provided by the solar energy system company to the consumer prior to completion of a sale, financing, or lease of a solar energy system, and provides that the document be printed on the front page or cover page of every contract for a solar energy system to be installed on a residential building. The bill requires the contract be written in the same language as was principally used in the sales presentation and marketing material.

There are currently nearly 1,200 actively licensed C-46 Solar contractors, more than 25,100 actively licensed C-10 Electrical contractors, and more than 102,700 actively licensed “B” General Building contractors in California, all of whom can contract for the installation of a solar energy system on a residential building.

BPC section 7169 contains two provisions regarding the specific content of the disclosure document. The first provision is a mandate identified under subsection (b) of BPC section 7169 as shown below. Subsection (a) is also being shown for reference.

### **7169**

(a) The board, in collaboration with the Public Utilities Commission, shall develop and make available a “solar energy system disclosure document” or documents that provide a consumer, at a minimum, accurate, clear, and concise information regarding the installation of a solar energy system, total costs of installation, anticipated savings, the assumptions and inputs used to estimate the savings, and the implications of various financing options.

(b) On or before July 1, 2018, the board, in collaboration with the Public Utilities Commission, shall develop, and make available on its Internet Web site, the disclosure document described in subdivision (a) that a solar energy system company shall provide to a consumer prior to completion of a sale, financing, or lease of a solar energy system. The “solar energy system disclosure document” shall be printed on the front page or cover page of every solar energy contract. The “solar energy system disclosure document” shall be printed in boldface 16-point type and include the following types of primary information:



- (1) The total cost and payments for the system, including financing costs.
- (2) Information on how and to whom customers may provide complaints.
- (3) The consumer's right to a cooling off period of three days pursuant to Section 7159 of the Business and Professions Code.

The second provision is discretionary and is identified under subsection (c) of BPC section 7169 as follows:

(c) At the board's discretion, other types of supporting information the board and the commission deem appropriate or useful in furthering the directive described in subdivision (a) may be included in the solar energy disclosure document following the front page or cover page, including, but not limited to:

- (1) The amounts and sources of financing obtained.
- (2) The calculations used by the home improvement salesperson to determine how many panels the homeowner needs to install.
- (3) The calculations used by the home improvement salesperson to determine how much energy the panels will generate.
- (4) Any additional monthly fees the homeowner's electric company may bill, any turn-on charges, and any fees added for the use of an Internet monitoring system of the panels or inverters.
- (5) The terms and conditions of any guaranteed rebate.
- (6) The final contract price, without the inclusion of possible rebates.
- (7) The solar energy system company's contractor's license number.
- (8) The impacts of solar energy system installations not performed to code.
- (9) Types of solar energy system malfunctions.
- (10) Information about the difference between a solar energy system lease and a solar energy system purchase.
- (11) The impacts that the financing options, lease agreement terms, or contract terms will have on the sale of the consumer's home, including any balloon payments or solar energy system relocation that may be required if the contract is not assigned to the new owner of the home.
- (12) A calculator that calculates performance of solar projects to provide



solar customers the solar power system's projected output, which may include an expected performance-based buydown calculator.

CSLB staff have worked with PUC staff to draft the disclosure document. Since subsection (b) of BPC section 7169 contains a deadline for implementation of mandatory language for the disclosure document and subsection (c) contains supporting information that may be added at CSLB's discretion, CSLB staff proposes to the Board that the disclosure document be implemented in two phases, as follows:

**PHASE ONE – MANDATORY LANGUAGE:** The front page of the attached disclosure document draft meets the requirements set forth in subsection (b) of BPC section 7169 and could be implemented on July 1, 2018, upon approval by the Board, based on that statutory authority. This page contains only the basic information that is required under the law that must be implemented and posted to CSLB's website on or before July 1, 2018.

**PHASE TWO – DISCRETIONARY LANGUAGE:** The remainder of the draft disclosure document addresses the supporting information that may be included in the disclosure document based on the statutory authority contained in subsection (c) of BPC section 7169. This portion of the draft document is broken into three sections as follows:

1. Basic Information
2. Financing
3. Transferability
4. Installation
5. Costs & Savings

Regulatory action will be required to implement the second portion of the disclosure document, which can take up to two years or longer to complete before implementation can take place.

To undergo the rulemaking process, CSLB must follow the Administrative Procedure Act to notice the proposed change(s) and hold a public hearing, while also undergoing and obtaining review and approval by the Board; Department of Consumer Affairs; Business, Consumer Services, and Housing Agency; and Office of Administrative Law (OAL).

**At this time, the Board is being asked to:**

- Review, discuss, and possibly take action to direct staff to post the Solar Energy System Disclosure Document (AB 1070 – Gonzalez Fletcher, 2017), including making the front page of the document available on CSLB's website on or before July 1, 2018 as required by law.
- Authorize the Registrar to conduct stakeholder meetings, as necessary, for the review and to seek expert input on the second portion of the disclosure document.



The draft of the disclosure document follows this update. Please note that this draft is primarily for the review of the proposed content of the document. The format of the document will be fine-tuned and made more user-friendly by CSLB staff after the content has been finalized.

## SOLAR ENERGY SYSTEM DISCLOSURE DOCUMENT

This disclosure shall be printed on the front page or cover page of every solar energy contract for the installation of a solar energy system on a residential building.

The TOTAL COST for the solar energy system (including financing and energy / power cost if applicable) is: \$ \_\_\_\_\_.

To make a complaint against a contractor who installs this system and/or the home improvement salesperson who sold this system, contact the Contractors State License Board (CSLB) through their website at [www.cslb.ca.gov](http://www.cslb.ca.gov) (search: "complaint form"), by telephone at 800-321-CSLB (2752), or by writing to P.O. Box 26000, Sacramento, CA 95826.

If the attached contract was not negotiated at the contractor's place of business, you have a Three-Day Right to Cancel the contract, pursuant to *Business and Professions Code* (BPC) section 7159, as noted below. For further details on canceling the contract, see the Notice of Cancellation, which must be included in your contract.

### Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

*This document was developed through coordination of the California Contractors State License Board and the California Public Utilities Commission pursuant to Business and Professions Code section 7169.*

# SOLAR ENERGY SYSTEM DISCLOSURE DOCUMENT SUPPORTING INFORMATION

*Please note the following information:*

A contract for sale, financing, or lease of a solar energy system and this solar energy system disclosure document shall be written in the same language as was principally used in the oral sales presentation made to the consumer or the print or digital marketing material given to the consumer. (*BPC section 7169 Subdivision (d)*).

For solar energy systems utilizing Property Assessed Clean Energy (PACE) financing, the Financing Estimate and Disclosure form required by subdivision (b) of Section 5898.17 of the Streets and Highways Code shall satisfy the requirements of this section with respect to the financing contract only, but not, however, with respect to the underlying contract for installation of the solar energy system. The PACE disclosure form is available at [www.cslb.ca.gov](http://www.cslb.ca.gov). (*BPC section 7169 subdivisions (e) and (f)*).

As used in this document, “solar energy system” means a solar energy device to be installed on a residential building that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity, that produces at least one kW, and not more than five MW, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782 of the Public Resources Code. (*BPC section 7169 subdivision (g)*).

This solar energy system disclosure document is not intended to be used for a solar energy system that is installed as a standard feature on new construction. (*BPC section 7169 subdivision (h)*).

The purpose of this solar energy system disclosure document is to provide a consumer accurate, clear, and concise information regarding the installation of a solar energy system, total costs of installation, anticipated savings, the assumptions and inputs used to estimate the savings, and the implications of various financing options. (*BPC section 7169 subdivision (a)*). To further that purpose, this document is divided into five sections for parties to review and complete. The sections are:

- |                               |                 |
|-------------------------------|-----------------|
| <b>1. BASIC INFORMATION</b>   | <b>(Page 3)</b> |
| <b>2. FINANCING</b>           | <b>(Page 3)</b> |
| <b>3. TRANSFERABILITY</b>     | <b>(Page 5)</b> |
| <b>4. INSTALLATION</b>        | <b>(Page 6)</b> |
| <b>5. COSTS &amp; SAVINGS</b> | <b>(Page 7)</b> |

## SECTION 1: BASIC INFORMATION

The Contractor or their home improvement salesperson (HIS) shall complete this disclosure document and provide it to the customer prior to completion of a sale, financing or lease of a solar energy system.

If you buy or purchase a solar energy system, you own the system (panels and equipment) either outright (if purchasing with cash) or after paying off your solar energy loan or other financing. If you lease the system or sign a power purchase agreement (PPA), a third party owns the solar panel system that is installed on your property.

What is the solar energy system company's contractor's license number? \_\_\_\_\_  
(BPC section 7169 subdivision (c) subparagraph (7))

The customer(s) \_\_\_\_\_ (insert name(s)) will be:

**(CHECK ONE)**

PURCHASING this solar energy system from \_\_\_\_\_  
(Insert Name of Solar Energy System Company). The customer would own the system.

LEASING this solar energy system from \_\_\_\_\_  
(Insert Name of Solar Energy System Company). A third party would own the system.

PURCHASING solar power generated by the system under a POWER PURCHASE AGREEMENT (PPA). The PPA is an agreement to purchase the power the solar energy system will generate from \_\_\_\_\_  
(Insert Name of Solar Energy System Company). A third party would own the system.  
(BPC section 7169 subdivision (c) subparagraph (10))

## SECTION 2: FINANCING

(BPC section 7169 subdivision (c) subparagraphs (1) and (11))

(If applicable) I have checked the box (above) on PAGE 3 of this document to indicate that the customer is PURCHASING this solar energy system. The customer is FINANCING  ALL or  PART or  NONE (check one) of the purchase of this system. If "NONE" is checked above, skip this section and move on to SECTION 3.

Is the Contractor providing the financing? Yes  or NO . If "NO" is checked, skip this section and move on to SECTION 3.

If ALL or PART of the system will be financed through the contractor, please complete the following:

- What is total amount being financed? \_\_\_\_\_
- What is the annual percentage rate? \_\_\_\_\_
- Is there a financing application fee? \_\_\_\_\_
- Is there a down payment amount? What is it? When is it due?  
\_\_\_\_\_
- Is there a monthly payment amount? What is it? When is it due?  
\_\_\_\_\_
- Is there a payment late fee? What is it? When will it apply?  
\_\_\_\_\_
- Is there a fee for failing to use automatic bank withdrawals for monthly payments?  
\_\_\_\_\_
- Is there a prepayment fee? What is it? \_\_\_\_\_
- What are the total number of payments? \_\_\_\_\_
- What is the final payment amount, including any balloon payments, and due date?  
\_\_\_\_\_
- What is the final total amount to be paid over the life of the agreement, including all financing costs? (insert this total into the field on page one of this document)  
\_\_\_\_\_
- What property tax assessments, liens, and/or other obligations will be entered against the customer's property as a result of the financing agreement?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- If there are property tax assessments, liens, and/or other obligations entered against the property, will it impact the customer's existing mortgage and/or tax payments and/or affect my future ability to sell my property? If yes, explain.

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BPC section 7169 subdivision (c) subparagraph (11)

### SECTION 3: TRANSFERABILITY

If this is a LEASE or a POWER PURCHASE AGREEMENT for this solar energy system, do the terms of this agreement allow the customer to transfer the LEASE or POWER PURCHASE AGREEMENT to the buyer of the home? (Check one):

- YES    NO    Not Applicable

If YES, check the boxes for which of the following conditions the transfer will be subject to:

- Review and approval by a third party
- Credit check on the new buyer(s)
- Minimum FICO score requirement
- Assumption of the lease or PPA by the new buyer(s)
- Transfer fee of \$ \_\_\_\_\_
- Other \_\_\_\_\_

If the customer sells his/her home, are they allowed to move the system to their new home? (Check one):

- YES    NO

(If applicable) If this agreement is a POWER PURCHASE AGREEMENT, does the customer have the option to purchase the system or prepay some or all of the balance on the POWER PURCHASE AGREEMENT as part of prior to a transfer?

- YES    NO

If the customer sells his/her home, can the warranty or maintenance agreement be transferred to the buyer(s) of the home?

- YES    NO

Identify the page(s) and paragraph(s) of the contract provisions that address transferability information \_\_\_\_\_

**SECTION 4: INSTALLATION**

**What calculations were used by the home improvement salesperson or solar energy system company to determine how many panels will be installed?**

*BPC section 7169 subdivision (c) subparagraph (2)*

**1. Make and model of solar panel(s) and inverter(s):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. Number of**

**a. Panel(s)** \_\_\_\_\_

**b. Inverter(s)** \_\_\_\_\_

**3. Calculation(s) used to determine the above numbers:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**What calculations were used by the home improvement salesperson or solar energy system company to determine how much energy the panels will generate?**

*BPC section 7169 subdivision (c) subparagraph (3)*

**1. Size of system in kilowatts**

**a. kWdc (actual amount)** \_\_\_\_\_

**b. kWac (estimated amount)** \_\_\_\_\_

**2. Calculation(s) used to determine the above numbers:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Remember, all solar energy system installations and any modifications must be performed according to all applicable local and state building codes. Failure to do so could result in system malfunction, including, electrical system failures, loose or damaged roof tiles, or incorrect metering or panel problems.

*BPC section 7169 subdivision (c) subparagraphs (8) and (9)*

Prior to starting any installation or modification of the solar energy system, the contractor or home improvement salesperson should provide you with proof that all required building permits for the installation or any modification of the system were obtained prior to installation, and the system you ultimately received was approved by an authorized inspector (copies of the approved plans must be included)

*BPC section 7169 subdivision (c) subparagraphs (8) and (9)*

The following will help you calculate the performance of your solar energy system to provide you with the system's projected output and includes an "expected performance-based buydown" calculator:

**[PLACEHOLDER-** will include the "Go Solar California" calculator as a fillable section of this document, which accounts for specific orientation of the system and its components based on different solar panel models. Visit [www.csi-epbb.com/default.aspx](http://www.csi-epbb.com/default.aspx) for more information]

*BPC section 7169 subdivision (c) subparagraph (12)*

## SECTION 5: COSTS & SAVINGS

*BPC section 7169 subdivision (c) subparagraphs (4), (5), (6)*

### SYSTEM PURCHASE:

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*(If applicable)* If you have checked the box on PAGE 3 of this document to indicate that the customer is PURCHASING this solar energy system, complete the following.

- Final contract price (including labor and installation, without the inclusion of any credits, incentives, or rebates) is: \$ \_\_\_\_\_
- List any credits, incentives, or rebates the customer was offered:

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- **NOTE TO CONSUMER:** You may not be eligible for all incentives or rebates available in your area. Consult a tax professional or attorney for further information prior to signing any agreement.

**SYSTEM LEASE:**

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**(If applicable)** If you have checked the box on PAGE 3 of this document to indicate that the customer is LEASING this solar energy system, complete the following.

- Monthly payment during the first year of the lease: \$ \_\_\_\_\_
- Initial term of the lease is: \_\_\_\_\_ Years or \_\_\_\_\_ Months
- Total of all monthly payments and estimated taxes over the course of the lease: \$ \_\_\_\_\_
- Estimated total lease payments over the initial term of the lease excluding taxes are: \$ \_\_\_\_\_
- Estimated total tax payments over the initial term of the lease are \$ \_\_\_\_\_ based on an average monthly tax payment of: \$ \_\_\_\_\_
- Other amount(s) owed and timeline(s) if applicable:  
\_\_\_\_\_  
\_\_\_\_\_
  
- Incentives included in my estimated lease payments (*description and dollar amount*):  
 NONE  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- Check this box if the contract is subject to a “lease escalator.” If so, explain how it will affect the amount of the customer’s future monthly payments.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**POWER PURCHASE AGREEMENT (PPA):**

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**(If applicable)** If you checked the box on PAGE 3 of this document to indicate that the customer has a POWER PURCHASE AGREEMENT to purchase the power generated by your company’s solar energy system, complete the following:

**(CHECK ONE)**

- The initial rate per kilowatt-hour (kWh) for the electricity produced by the system is: \$ \_\_\_\_\_.  
The monthly payments will be the amount of energy the system produces multiplied by the above rate.



**REQUIRED SIGNATURES**

I received this completed Solar Energy System Disclosure Document on the date below.

Customer's printed name:

\_\_\_\_\_.

Customer's signature:

\_\_\_\_\_.

Date:\_\_\_\_\_.

I am authorized to complete and did complete this Solar Energy System Disclosure Document and have provided it to the Customer prior to completion of a sale, financing, or lease of a solar energy system on the date below.

Contractor's name:

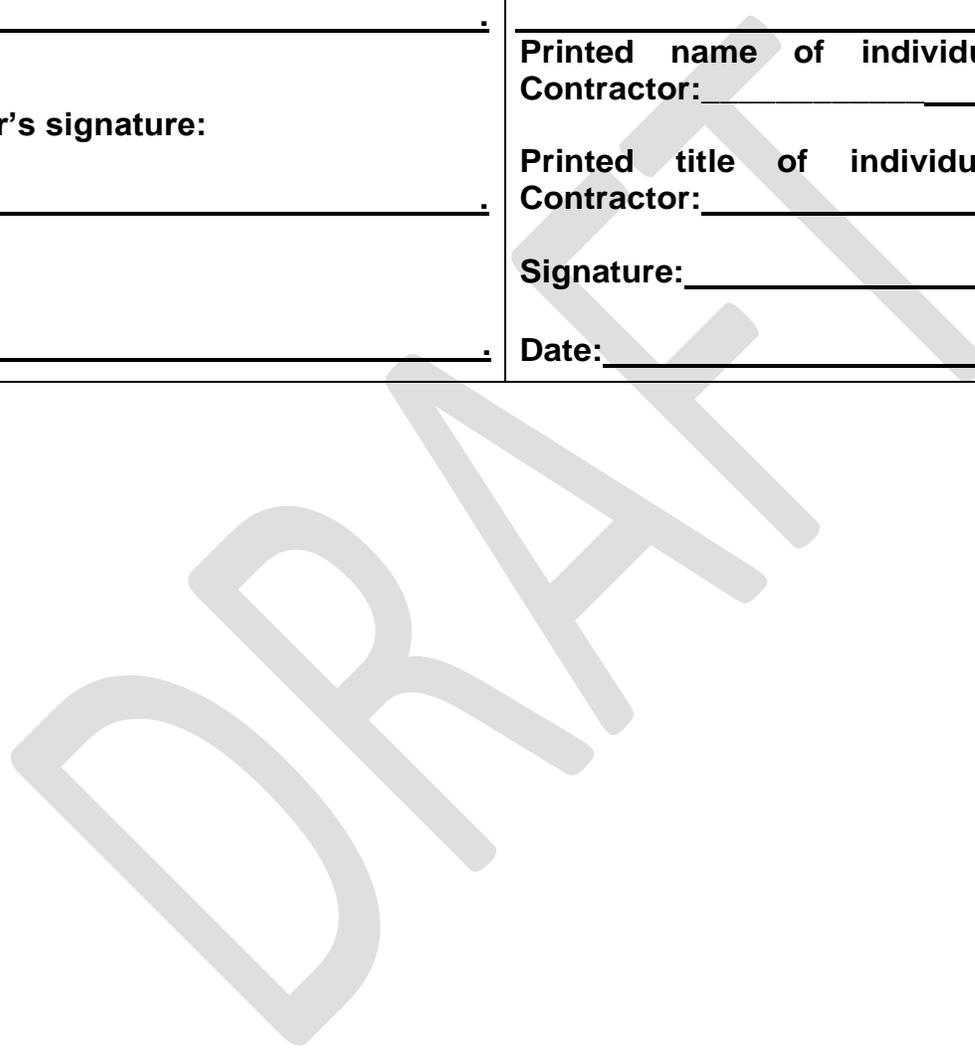
\_\_\_\_\_.

Printed name of individual signing for Contractor:\_\_\_\_\_.

Printed title of individual signing for Contractor:\_\_\_\_\_.

Signature:\_\_\_\_\_.

Date:\_\_\_\_\_.



# AGENDA ITEM E

## Licensing





## AGENDA ITEM E-1

# Licensing Program Update

- a. Application Processing Statistics
- b. Workers' Compensation Recertification Statistics
- c. Fingerprinting/Criminal Background Unit Statistics
- d. Experience Verification Statistics
- e. Licensing Information Center Statistics
- f. Judgment Unit Statistics







# CONTRACTORS STATE LICENSE BOARD

## LICENSING PROGRAM UPDATE

### APPLICATION PROCESSING STATISTICS

The charts below provide the total number of incoming applications received by the Application units each month, quarter, and calendar year.

#### Total Number of Applications Received Per Month

	2017						2018			
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
Original Exam	759	676	1,028	871	936	1,043	1,254	1,063	1,166	954
Original Waiver	438	465	596	558	370	479	736	703	719	447
Add Class	236	245	246	205	262	247	301	285	374	260
Qualifier Replacer	148	191	196	145	149	180	185	177	249	198
Home Improvement	610	865	784	942	604	618	729	725	954	878
<b>Received Per Month</b>	<b>2,191</b>	<b>2,442</b>	<b>2,847</b>	<b>2,721</b>	<b>2,321</b>	<b>2,567</b>	<b>3,205</b>	<b>2,953</b>	<b>3,462</b>	<b>2,737</b>

#### 3-Month Totals

Jul – Sep: 7,480

Oct – Dec: 7,609

Jan – Apr: 12,357

#### Total Applications Received – Prior Calendar Years

	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017
Original Exam	10,185	10,315	11,749	13,471	11,999
Original Waiver	7,364	7,918	8,109	8,603	6,497
Add Class	4,001	3,772	4,176	4,070	3,666
Qualifier Replacer	2,262	2,278	2,462	2,376	2,305
Home Improvement	7,911	10,932	13,945	10,373	9,496
<b>Total Received</b>	<b>31,773</b>	<b>35,215</b>	<b>40,441</b>	<b>38,893</b>	<b>33,963</b>



The charts below provide the total number of applications processed by the Application units each month and calendar year.

**Total Number of Applications Processed Per Month**

	2017						2018			
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
Original Exam	1,939	2,049	1,580	1,787	1,363	1,020	2,724	2,920	2,519	2,382
Original Waiver	1,137	1,289	931	1,173	883	942	1,179	933	1,353	1,245
Add Class	399	385	358	379	364	388	479	418	615	596
Qualifier Replacer	222	234	240	251	248	276	288	223	285	345
Home Improvement	690	666	868	1,044	840	705	666	723	980	887
<b>Total Per Month</b>	<b>4,387</b>	<b>4,623</b>	<b>3,977</b>	<b>4,634</b>	<b>3,698</b>	<b>3,331</b>	<b>5,336</b>	<b>5,217</b>	<b>5,752</b>	<b>5,445</b>

**Total Applications Processed – Prior Calendar Years**

	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017
Original Exam	15,061	18,673	17,223	22,035	20,796
Original Waiver	10,888	12,277	12,378	14,190	13,533
Add Class	5,577	5,202	5,314	5,925	5,133
Qualifier Replacer	2,910	2,886	2,945	3,157	3,035
Home Improvement	9,289	12,636	15,240	11,077	10,365
<b>Total Processed</b>	<b>43,785</b>	<b>52,168</b>	<b>53,100</b>	<b>56,384</b>	<b>52,862</b>

Applications are “processed” whenever any of the following actions occur:

- Application review is completed; application is returned for correction.
- Application review is completed; application is accepted or “posted” and exam(s) are scheduled.
- Application review is completed; bond and fee notification letter requesting issuance requirement(s) sent.
- Application review is completed; all issuance requirements met and license issued.
- Enforcement division flags a member of the application personnel; application is referred to Case Management.
- Application is referred to Judgment unit; application personnel are matched with an outstanding liability, judgment, or payment of claim on an existing license.
- Application is referred to Family Support unit; member of application personnel is out of compliance with child or family support judgment or order.



CSLB management closely monitors processing times for the various licensing units on a weekly and monthly basis.

The chart below provides the “weeks-to-process” for applications, license transactions, and public information unit documents received each month. “Weeks to process” refers to the average number of weeks before an application or document is initially pulled for processing by a technician after it arrives at CSLB.

	2017						2018			
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
Original Exam	5.0	5.0	5.5	5.9	6.8	8.4	9.3	2.7	2.9	2.7
Original Waiver	2.9	2.2	3.1	2.3	2.0	2.6	2.3	2.5	3.0	3.1
Add Class	2.0	2.5	2.0	2.5	3.3	3.4	3.0	3.0	2.9	2.1
Qualifier Replacer (Exams & Waiver)	2.0	2.5	2.5	4.0	2.9	1.9	1.5	1.8	2.2	2.2
Home Improvement	2.0	2.5	2.5	2.0	1.8	1.8	1.4	1.3	2.0	1.8
Renewal	2.0	3.0	2.0	2.5	4.2	3.5	4.0	3.1	2.9	3.2
Add New Officer	3.0	2.5	2.3	4.0	3.0	4.1	3.3	2.4	2.3	1.3
Address/ Name Change	2.0	1.5	2.0	3.0	2.3	4.1	2.3	1.8	1.9	1.4
Bond / Bond Exemption	0.7	0.8	0.7	0.8	1.1	1.1	1.0	0.9	0.7	1.0
Workers' Comp / Exempt	2.1	0.8	0.6	1.6	1.5	1.0	1.6	1.8	2.0	2.6
Certified License History	1.0	1.2	1.8	1.3	1.1	1.3	0.2	0.0	0.3	0.2
Copies of Documents	0.2	0.6	0.0	0.0	0.3	0.1	0.0	0.0	0.2	0.1
CORI Review*	3.6	2.3	1.9	2.0	1.6	1.3	1.2	0.9	1.1	1.2

\*Outside CSLB Control—DOJ /FBI timeframe

The time-to-process for applications and renewals includes an approximate two-day processing timeframe that accounts for the required cashiering and image-scanning tasks that CSLB staff must complete before an application or document can be processed.



The chart below shows the average total application processing time from receipt to license issuance. Processing times are most affected by applications that staff returns for correction, which can occur multiple times, as well as the criminal background check. These delays are outside of CSLB’s control. The chart does not include the average processing time of voided applications.

Average processing time is monitored whenever any of the following actions occur:

- Received Date to First Returned for Correction – Application review is completed; application is not acceptable and returned for correction.
- Received Date to First Exam – Application review is completed; application is accepted and exams scheduled.
- Last Exam to Issuance – Exam requirement is met; applicants are sent a bond and fee notice requesting submission of issuance requirement(s).
- Received Date to Issuance – All issuance requirements are met and license issued.

### Average Weeks for Total Processing By Month

		2017						2018			
		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
<b>ORIGINAL EXAM</b>	Received Date to First Returned for Correction	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	6.0	6.0
	Received Date to First Exam	13.0	13.0	14.0	14.0	14.0	14.0	15.0	15.0	14.0	14.0
	Last Exam to Issuance	6.0	6.0	7.0	7.0	7.0	7.0	7.0	7.0	5.0	5.0
	Received Date to Issuance	26.0	26.0	27.0	28.0	28.0	29.0	29.0	30.0	25.0	26.0
<b>QUALIFIER REPLACER EXAM</b>	Received Date to First Returned for Correction	1.0	1.0	1.0	1.0	2.0	2.0	2.0	2.0	1.0	1.0
	Received Date to First Exam	7.0	8.0	10.0	8.0	8.0	10.0	9.0	9.0	9.0	11.0
	Last Exam to Issuance	3.0	1.0	2.0	3.0	2.0	3.0	2.0	3.0	3.0	3.0
	Received Date to Issuance	17.0	15.0	16.0	14.0	13.0	14.0	16.0	14.0	14.0	16.0
<b>ORIGINAL WAIVER</b>	Received Date to First Returned for Correction	3.0	3.0	3.0	3.0	2.0	3.0	2.0	2.0	2.0	2.0
	Received Date to Issuance	11.0	12.0	12.0	12.0	12.0	12.0	11.0	10.0	10.0	10.0
<b>QUALIFIER REPLACER WAIVER</b>	Received Date to First Returned for Correction	1.0	1.0	1.0	2.0	2.0	2.0	1.0	1.0	2.0	2.0
	Received Date to Issuance	4.0	4.0	4.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
<b>HOME IMPROVEMENT</b>	Received Date to First Returned for Correction	2.0	2.0	1.0	2.0	1.0	2.0	1.0	1.0	1.0	1.0
	Received Date to Issuance	9.0	8.0	8.0	6.0	7.0	8.0	8.0	7.0	7.0	5.0

\*Approximately 5 percent of the total number of applications processed are pulled for judgment or case management review or have a dishonored check, which affects the overall weeks to process. These applications remain pending without further processing until the judgment, enforcement, or cashing issue is cleared.



### Disposition of Applications by Fiscal Year

Fiscal Year	Number of Apps Received	Processed & Issued	Voided	Pending**
2016-2017	38,737	24,598	10,748	3,391
2017-2018*	32,078	14,228	4,410	13,440

\*As of April 30, 2018

The chart above illustrates the number of applications received in the last fiscal years and the final disposition of these applications, regardless of the year they were processed. This is the combined total for all exam, waiver, add class, qualifier replacer, and home improvement salesperson applications. This report allows staff to monitor the disposition of applications and to identify any applications that require special attention.

\*\*The reasons an application may be classified as pending include:

- The applicant does not pass the exam, but is still within the 18-month window during which he or she must pass the examination.
- The application is in the experience verification process.
- The application is not yet cleared by CSLB's Criminal Background unit.
- The applicant has not submitted final issuance requirements (proof of bond, workers' compensation insurance, asbestos open book examination results, or fees).

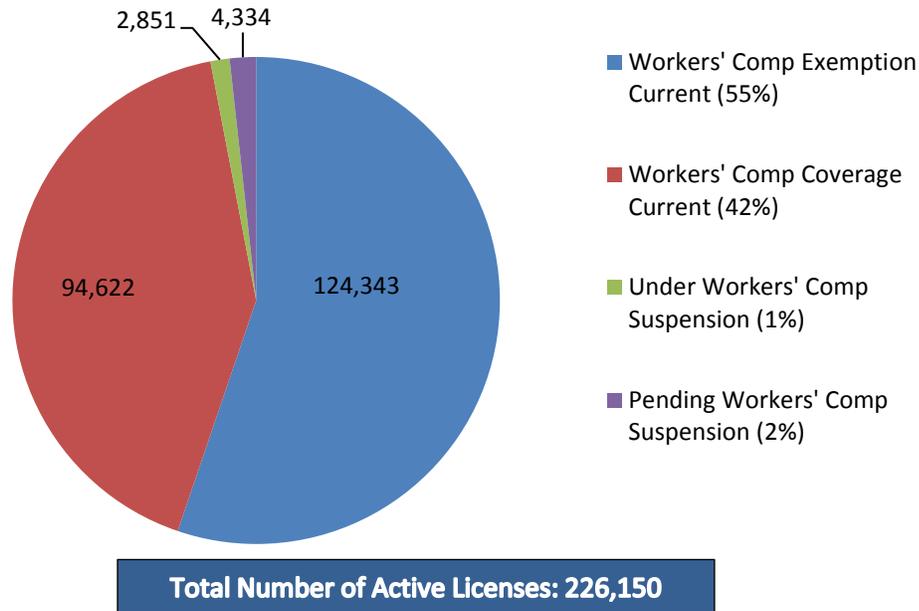


### WORKERS' COMPENSATION RECERTIFICATION

The law requires that, at the time of renewal, an active contractor with an exemption for workers' compensation insurance on file with CSLB either recertify that exemption or provide a current and valid Certificate of Workers' Compensation Insurance or Certificate of Self-Insurance. If, at the time of renewal, the licensee fails to recertify his or her exempt status or to provide a workers' compensation policy, the law allows for the retroactive renewal of the license if the licensee submits the required documentation within 30 days after notification by CSLB of the renewal rejection.

This chart provides a snapshot of workers' compensation coverage for active licenses.

### Workers' Comp Coverage for Active Licenses - April 30, 2018



The chart on the following page provides the current workers' compensation coverage (policies and exemptions) on file for active licenses by classification and the percentage of exemptions per classification.

**Active License Classifications Workers' Comp Status – As of Apr 30, 2018**

Classification	Exemptions on File	WC Policies on File	Total Policies & Exemptions	% of Total with Exemptions
A General Engineering	5,495	8,894	14,389	38%
B General Building	62,703	37,990	100,693	62%
C-2 Insulation and Acoustical	295	859	1,154	26%
C-4 Boiler Hot Water	214	597	811	26%
C-5 Framing / Rough Carp	472	328	800	59%
C-6 Cabinet-Millwork	2,752	1,862	4,614	60%
C-7 Low Voltage Systems	2,032	2,681	4,713	43%
C-8 Concrete	2,492	3,415	5,907	42%
C-9 Drywall	1,212	1,703	2,915	42%
C10 Electrical	13,816	10,802	24,618	56%
C11 Elevator	41	157	198	21%
C12 Earthwork & Paving	1,002	1,326	2,328	43%
C13 Fencing	668	838	1,506	44%
C15 Flooring	3,670	3,293	6,963	53%
C16 Fire Protection	753	1,362	2,115	36%
C17 Glazing	1,072	1,717	2,789	38%
C20 HVAC	6,340	5,202	11,542	55%
C21 Building Moving Demo	504	1,082	1,586	32%
C22 Asbestos Abatement	3	259	262	1%
C23 Ornamental Metal	436	572	1,008	43%
C27 Landscaping	4,693	6,330	11,023	43%
C28 Lock & Security Equipment	159	211	370	43%
C29 Masonry	1,070	1,335	2,405	44%
C31 Construction Zone	52	211	263	20%
C32 Parking Highway	191	295	486	39%
C33 Painting	8,660	6,552	15,182	57%
C34 Pipeline	170	323	493	34%
C35 Lath & Plaster	636	1,114	1,750	36%
C36 Plumbing	8,742	6,405	15,147	58%
C38 Refrigeration	940	939	1,879	50%
C39 Roofing	0	4,172	4,172	0
C42 Sanitation	375	569	944	40%
C43 Sheet Metal	429	1,042	1,471	29%
C45 Signs	391	454	845	46%
C46 Solar	468	691	1,159	40%
C47 Gen Manufactured House	222	195	417	53%
C50 Reinforcing Steel	62	173	235	26%
C51 Structural Steel	440	995	1,435	31%
C53 Swimming Pool	1,074	1,279	2,353	46%
C54 Tile	3,581	2,656	6,237	57%
C55 Water Conditioning	133	168	301	44%
C57 Well Drilling	335	500	835	40%
C60 Welding	541	446	987	55%
C61 Limited Specialty	7,556	9,430	16,986	44%
ASB Asbestos Cert	308	704	1,012	30%
HAZ Hazardous Cert	553	1,309	1,862	30%



**FINGERPRINTING/CRIMINAL BACKGROUND UNIT**

As mandated in January 2005, CSLB continues to fingerprint all applicants for licensure. The California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) conduct criminal background checks and provide Criminal Offender Record Information (CORI) to CSLB for in-state convictions and for out-of-state and federal convictions, respectively.

DOJ and FBI typically provide responses to CSLB within a day or two of an applicant being fingerprinted, but occasionally the results are delayed. This does not necessarily indicate a conviction, as sometimes the results reveal a clear record. Most delays are resolved within 30 days; however, some continue for 60 or 90 days, or more. Since DOJ and FBI are independent agencies, CSLB has no control over these delays and must wait for the fingerprint results before issuing a license.

Below is a breakdown of CBU statistics for the past six calendar years.

**Criminal Background Unit Statistics**

	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018*	TOTALS
DOJ Records Received	21,715	27,940	33,521	39,396	35,089	13,781	171,422
CORI RAPP Received	3,668	4,672	5,658	6,926	5,900	2,253	29,077
Denials	58	32	52	49	64	76	331
Appeals	32	19	29	26	39	16	161
Probationary Licenses Issued	79	96	68	89	83	23	438

\*As of April 30, 2018



**EXPERIENCE VERIFICATION UNIT**

Business and Professions Code section 7068(g) and California Code of Regulations 824 require that the CSLB Registrar conduct a comprehensive field investigation of a minimum of 3 percent of applications. Such investigations shall include those areas of experience claimed and such other areas as the Registrar deems appropriate for the protection of the public.

Since implementation in September 2014, the Experience Verification unit staff has been assigned and reviewed 2,475 applications for experience verification.

The following chart provides a monthly breakdown of actions taken for applications referred to the Experience Verification unit for the past ten months.

	2017						2018			
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
Withdrawn	11	3	7	2	12	3	9	18	19	13
Verified	18	9	18	16	18	32	42	31	29	30
Denied	12	26	16	11	7	14	24	14	7	19
Appealed	5	3	3	1	2	0	1	2	2	2
Pending	108	121	113	121	152	153	116	104	91	109

The chart on the next page provides the breakdown for appeals, denials, withdrawals, experience verification, and pending applications by classification as of April 30, 2018.

**Experience Verification by Classification – As of April 30, 2018**

Classification	Appealed	Withdrawn	Verified	Denied	Total
A General Engineering	16	39	46	32	133
B General Building	85	278	453	369	1,185
C-2 Insulation and Acoustical	0	1	4	0	5
C-4 Boiler Hot Water	0	0	3	0	3
C-5 Framing / Rough Carp	0	1	7	3	11
C-6 Cabinet-Millwork	0	2	13	5	20
C-7 Low Voltage Systems	0	4	23	2	29
C-8 Concrete	10	26	13	2	51
C-9 Drywall	2	1	3	9	15
C10 Electrical	6	23	123	44	196
C11 Elevator	0	0	1	0	1
C12 Earthwork & Paving	0	3	11	7	21
C13 Fencing	0	0	5	6	11
C15 Flooring	2	3	21	13	39
C16 Fire Protection	1	2	6	2	11
C17 Glazing	0	4	14	4	22
C20 HVAC	5	13	66	24	108
C21 Building Moving Demo	0	6	4	7	17
C22 Asbestos Abatement	0	3	3	1	7
C23 Ornamental Metal	0	2	1	0	3
C27 Landscaping	4	11	41	25	81
C28 Lock & Security Equipment	0	0	6	0	6
C29 Masonry	0	2	5	6	13
C31 Construction Zone	0	1	0	1	2
C32 Parking Highway	0	2	2	0	4
C33 Painting	2	11	66	25	104
C34 Pipeline	1	0	1	0	2
C35 Lath & Plaster	1	1	3	6	11
C36 Plumbing	7	16	75	25	123
C38 Refrigeration	0	1	1	1	3
C39 Roofing	2	8	11	14	35
C42 Sanitation	0	5	3	3	11
C43 Sheet Metal	0	1	1	0	2
C45 Signs	0	1	6	1	8
C46 Solar	1	4	9	6	20
C47 Gen Manufactured House	0	0	1	1	2
C50 Reinforcing Steel	0	0	1	0	1
C51 Structural Steel	1	1	4	1	7
C53 Swimming Pool	2	5	3	7	17
C54 Tile	0	11	24	10	45
C55 Water Conditioning	0	0	0	0	0
C57 Well Drilling	0	2	5	5	12
C60 Welding	0	3	14	1	18
C61 Limited Specialty	2	14	59	18	93
ASB Asbestos Cert	0	0	0	0	0
HAZ Hazardous Cert	0	0	0	0	0
<b>Total</b>	<b>150</b>	<b>511</b>	<b>1,161</b>	<b>686</b>	<b>2,508*</b>

\*Total amount differs from total assigned & reviewed due to multiple class applications.



**LICENSING INFORMATION CENTER (LIC)**

**LIC Support Services**

CSLB’s Licensing Information Center is the first point of contact for applicants, consumers, licensees, and governmental agencies needing information about licensing laws, hiring a contractor, licensing application information, and the status of an application. The LIC receives, on average, 13,000 calls monthly. Staff that respond to calls must have knowledge of all licensing transaction processes in order to assist callers with correct and complete information.

Inbound Activity	2017						2018			
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
Calls Received	12,749	13,949	12,187	12,928	11,406	10,243	14,712	12,628	15,010	14,037
Calls Answered	10,307	11,987	10,656	12,438	10,958	10,031	13,699	12,194	14,054	12,621
Caller Abandoned	1,523	1,186	1,050	338	329	169	605	294	626	954
Longest Wait Time	16:30	10:47	12:53	07:56	08:40	03:31	05:42	04:33	0:6:13	11:06
Shortest Wait Time	02:05	02:05	02:19	00:29	00:20	00:20	00:43	00:39	00:45	0:1:08
Avg. Wait Time	08:14	06:09	05:37	01:56	02:08	01:24	03:17	01:58	02:58	04:44

**Licensing Information Center Call Data - Prior Calendar Years**

Inbound Activity	CY 2013	CY 2014	CY 2015	CY 2016	CY 2017
Calls Received	151,068	161,986	158,409	163,076	166,918
Calls Answered	145,792	154,837	153,258	158,778	147,074
Caller Abandoned	5,255	6,677	5,124	4,178	16,527
Average Longest Wait Time	04:33	08:24	07:28	05:39	01:36
Average Shortest Wait Time	00:33	00:30	00:19	00:22	00:12
Average Wait Time	02:13	03:29	04:17	02:45	06:46



## **JUDGMENT UNIT**

Judgment unit staff process all outstanding liabilities, judgments, and payment of claims reported to CSLB by licensees, consumers, attorneys, credit recovery firms, bonding companies, CSLB's Enforcement division, and other governmental agencies. In addition, the Judgment unit processes all documentation and correspondence related to resolving issues such as satisfactions, payment plans, bankruptcies, accords, motions to vacate, etc.

Outstanding liabilities are reported to CSLB by:

- Employment Development Department
- Department of Industrial Relations
  - Division of Occupational Safety and Health
  - Division of Labor Standards Enforcement
- Franchise Tax Board
- State Board of Equalization
- CSLB Cashiering Unit

Unsatisfied judgments are reported to CSLB by:

- Contractors
- Consumers
- Attorneys

Payments of claims are reported to CSLB by bonding (surety) companies.

The charts on the following page provide the number of notifications mailed to licensees related to outstanding liabilities, judgments, and payment of claims affecting their license status, including the savings to the public as a result of compliance.



Judgment Unit
Reimbursements to State Agencies and Public

Table with 11 columns (2017 Jul, Aug, Sep, Oct, Nov, Dec, 2018 Jan, Feb, Mar, Apr) and 3 main sections: OUTSTANDING LIABILITIES, FINAL JUDGMENTS, and PAYMENT OF CLAIMS. Each section includes rows for Initial, Suspend, Reinstatement, and Total.

Reimbursements to State Agencies and Public by Calendar Years

Table with 6 columns (CY 2013, CY 2014, CY 2015, CY 2016, CY 2017) and 5 rows (Outstanding Liabilities, Final Judgments, Payment of Claims, Total Monetary Savings).



State Agency Outstanding Liabilities Collected

Agency	2017 Jul	Aug	Sep	Oct	Nov	Dec	2018 Jan	Feb	Mar	Apr
EDD	\$1,680,245	\$1,268,091	\$1,209,973	\$1,425,509	\$1,258,520	\$1,046,309	\$982,311	\$902,712	\$988,422	\$1,624,994
FTB	\$204,680	\$132,129	\$349,529	\$114,417	\$309,067	\$438,479	\$392,814	\$490,002	\$586,983	\$681,477
DIR	\$79,957	\$168,896	\$166,407	\$356,391	\$140,644	\$180,354	\$191,546	\$446,973	\$58,036	\$72,927
BOE	---	\$27,760	---	\$1,934	\$11,939	\$2,634	---	\$7,525	---	---
Total Monetary Savings	\$1,968,822	\$1,596,876	\$1,725,909	\$1,898,251	\$1,720,170	\$1,667,776	\$1,566,671	\$1,847,212	\$1,633,441	\$2,379,398

EDD = Employment Development Department  
 FTB = Franchise Tax Board  
 DIR = Department of Industrial Relations  
 BOE = Board of Equalization

## AGENDA ITEM E-2

# Testing Program Update

- a. Examination Administration Unit Highlights
- b. Examination Development Unit Highlights







# CONTRACTORS STATE LICENSE BOARD

## TESTING PROGRAM UPDATE

### EXAMINATION ADMINISTRATION UNIT (EAU)

The Testing division’s EAU administers CSLB’s 46 examinations at eight computer-based test centers. Most test centers are allocated two full-time test monitor positions, with part-time proctors filling in as needed. Test monitors also respond to all interactive voice response (IVR) messages received by CSLB that are related to testing.

#### Number of Examinations Scheduled Per Month March 2017 - February 2018

May 2017	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan 2018	Feb	Mar	Apr	Total
4,199	3,955	3,501	4,255	3,689	3,834	3,527	3,228	3,373	3,534	4,913	4,072	46,080

CSLB maintains test centers in the following locations:

- Sacramento
- Berkeley
- San Jose
- Fresno
- Oxnard
- Norwalk
- San Bernardino
- San Diego

The biannual EAU training was held April 19 and 20, 2018, in San Bernardino.

### Examination Administration Unit Staffing

EAU has no vacancies.

#### Number of Examinations Scheduled by Test Center May 2017 – April 2018

Test Center	Number of Examinations Scheduled
Berkeley	6,058
Fresno	2,593
Norwalk	12,081
Oxnard	5,149
Sacramento	5,346
San Bernardino	6,743
San Diego	4,339
San Jose	3,771
<b>Total</b>	<b>46,080</b>

### EXAMINATION DEVELOPMENT UNIT (EDU)

The Testing division’s EDU ensures that CSLB’s 46 examinations are written, maintained, and updated in accordance with testing standards and guidelines, CSLB regulations, and California state law.



**Occupational Analysis and Examination Development Workload**

Licensure examinations involve two ongoing phases: occupational analysis and exam development. This cycle must be completed every five to seven years for each of CSLB’s 46 examinations.

The occupational analysis phase determines what information is relevant to each contractor classification, and in what proportion it should be tested. The cycle starts with interviews of a sample of active California licensees statewide. EDU staff then conducts two workshops with these subject matter experts, along with online surveys about job tasks and relevant knowledge. The result is a validation report that includes an examination outline, which serves as a blueprint for constructing examination versions/forms.

The examination development phase involves numerous workshops to review and revise existing test questions, write and review new test questions, and determine the passing score for exams from that point forward.

EDU released two new examinations in April 2018: C-12 Earthwork and Paving and C-46 Solar. In May 2018, the C-57 Well Drilling examination was released.

**Examination Programs in Progress as of June 1, 2018**

Occupational Analysis	Examination Development
C-10 Electrical	C-21 Building Moving and Demolition
C-13 Fencing	C-45 Sign
C-22 Asbestos Abatement	C-47 General Manufactured Housing
C-34 Pipeline	C-50 Reinforcing Steel
C-60 Welding	C-55 Water Conditioning

**Examination Development Unit Staffing**

EDU has one Office Technician vacancy and one Exam Specialist vacancy.

**Ongoing Consumer Satisfaction Survey**

EDU conducts an ongoing survey of consumers whose complaint cases have been closed to assess overall satisfaction with the Enforcement division’s handling of complaints related to eight customer service topics. The survey is emailed to all consumers with closed complaints who provide CSLB with their email address during the complaint process.

Consumers receive the survey in the first or second month after their complaint is closed. To improve the survey’s response rate, Testing incorporated a reminder email into the process so that non-responsive consumers now receive an email one month after the initial request is sent.

An annual Consumer Satisfaction Survey Report is produced each spring.

## AGENDA ITEM E-3

# Update on Board Administrative Implementation of Business and Professions Code Section 7071.17 Contractor Licensing: Final Judgments





## AGENDA ITEM E-4

# Update Regarding the Possible Development of an Arborist Health and Safety Certification Program and Specialty “C” License Classification







# CONTRACTORS STATE LICENSE BOARD

## ARBORIST CERTIFICATE AND TREE SERVICE LICENSE

### **Background**

In August 2017, CSLB staff met with members of the tree care industry regarding license classifications and workers' compensation insurance. Members of the industry expressed concern with the current classification structure, accidents and fatalities in this industry, and prevailing wage rates.

Industry also raised issues about inadequate safety training, and that the work performed can be misclassified in order to pay lower workers' compensation premiums. In particular, they expressed concern that the safety aspects of tree service work are not adequately covered by either CSLB license classification that can perform tree service work, as the C-27 is broad, with a limited number of questions on this area, and the C-61/D-49, as a limited specialty classification, does not require a trade exam. The last occupational analysis for the C-27 classification was completed in 2015, and the next one will be performed in 2020.

At the April 2018 Board meeting, the Board directed staff to meet with representatives from California Occupational Safety and Health to develop an arborist certification program and pursue a possible separate license for tree service and, in the interim, hold informational meetings with various stakeholders.

### **Existing Classifications**

The scope of the C-27 Landscaping Contractor is defined as follows:

A landscape contractor constructs, maintains, repairs, installs, or subcontracts the development of landscape systems and facilities for public and private gardens and other areas which are designed to aesthetically, architecturally, horticulturally, or functionally improve the grounds within or surrounding a structure or a tract or plot of land. In connection therewith, a landscape contractor prepares and grades plots and areas of land for the installation of any architectural, horticultural and decorative treatment or arrangement.

There are currently 11,457 active C-27 licenses. Between July 1, 2016 and July 1, 2017, CSLB received 705 complaints against C-27 contractors, thus 6.1 percent of C-27 licenses received a complaint.

The C-61/D-49 Tree Service Contractor is defined as follows:

A tree service contractor prunes trees, removes trees, limbs, or stumps (including grinding) and engages in tree or limb guying.

There are currently 2,759 active C-61/D-49 licenses. Between July 1, 2016 and July 1, 2017, CSLB received 175 complaints against C-61/D-49 licensees, thus 6.3 percent of C-61/D-49 licenses received a complaint.



### **Tree Trimming Sting Operation**

In June 2017, the Northern Statewide Investigative Fraud Team (SWIFT) scheduled a sting operation targeting tree trimming (C-61/D-49) licensees. Two of the three scheduled licensees appeared at the sting and were issued Stop Orders. One licensee was also referred to the district attorney's office for violations of Labor Code (LC) §3700.5 and Business and Professions Code (BPC) §7125.4 for failure to have workers' compensation insurance. The other licensee provided evidence of WC insurance after the sting operation, but informed the undercover Enforcement Representative that he was under-reporting the number of his employees.

### **Workers' Compensation Pilot Program**

As part of its effort to address workers' compensation avoidance, the Enforcement division conducted a pilot project in Sacramento County during the first quarter of 2017. Staff identified 107 C-61/D-49 (Tree Service) contractors, 41 of whom (38%) had a WC exemption on file with CSLB. The pilot program determined that 16, or 70% of the tree service contractors, employed workers and had filed a false workers' compensation exemption.

### **Department of Industrial Relations (DIR) Determination Bulletin**

DIR staff attended an August 2017, meeting at CSLB and, in October 2017, released a notice regarding the landscape maintenance laborer general prevailing wage determination, which follows. The determination excludes tree maintenance from the landscape maintenance laborer craft.

### **Division of Occupational Safety and Health (Cal/OSHA) Serious Violations**

In the two-year period between October 1, 2014 and September 30, 2016, Cal/OSHA investigated nearly 70 accidents involving tree work, including trimming or removal services. Nearly three out of four of these accidents (74%) resulted in a worker hospitalization, and 12 of the accidents involved the death of a worker. A DIR press release on this topic also follows.

### **Discussion with Cal/OSHA**

On May 9, 2018, CSLB staff held a conference call with the Chief of CAL/OSHA, Juliann Sum and staff to discuss the need for an additional safety certification. Cal/OSHA agreed to work with CSLB on this issue but suggested that CSLB first pursue legislation to grant CSLB the authority to require the certification.

### **Status Update**

CSLB staff will meet with members of industry on May 30, 2018, to further discuss. Staff will provide an update on the meeting.

# AGENDA ITEM F

## Enforcement





## AGENDA ITEM F-1

# Enforcement Program Update

- a. Investigation Highlights
- b. General Complaint Handling Statistics





**STAFF VACANCY UPDATE**

Complaint-handling statistics show that CSLB Enforcement division staff are continuing to operate at higher-than-optimum workloads. Ongoing staff vacancies are a critical factor contributing to this issue.

The number of vacancies peaked at 31 positions in July 2017. The joint efforts of division managers, supervisors, and CSLB’s Personnel unit reduced the number of vacancies to 19, as of April 2018. However, new vacancies, retirements, and military deployments, combined with difficulty finding qualified candidates, have resulted in the number of current vacancies rising to twenty-seven. Candidates have been selected and are pending approval for 14 of these 27 vacancies and active efforts continue to fill the remaining 13 vacancies. The chart below shows the current status of the 27 vacant positions:

<b>Position Class</b>	<b>Location</b>	<b>Status</b>
ER I	SWIFT Central	Awaiting new exam list
ERI	SWIFT Central (Oxnard)	Candidate selected; pending approval
ER I	SWIFT North (Santa Rosa)	Position posted
ERI	SWIFT North	Pending budget approval
ERI	SWIFT South	Relocating position to San Diego IC
OA	SWIFT North	Position posted
OA(T)	SWIFT South	Candidate selected; pending approval
OA (T)	SWIFT South	Candidate selected; pending approval
ER I	Case Management - Subsequent Arrest (Sac)	Candidate selected; pending approval
ERII	Case Management – Disciplinary Services (Sac)	Candidate selected; pending approval
SSA	Case Management – Disciplinary Services (Sac)	Position posted
ERI	West Covina IC	Candidate selected; pending approval
ERII	Valencia IC	Relocating position to Bakersfield IC
ERI	Valencia IC	Position posted
ERI	Valencia IC	Candidate selected; pending approval
ERI	Norwalk IC	Candidate selected; pending approval
ERI	San Francisco IC	Candidate selected; pending approval
ERI	San Francisco IC	Candidate selected; pending approval
ERI	Sacramento South IC	Candidate selected; pending approval
ERII	Sacramento South IC	Pending allocation approval



ERI	Sacramento South IC	Pending allocation approval
CSR	IMC Sacramento	Candidate selected; pending approval
CSR	IMC Sacramento	Candidate selected; pending approval
PTII	IMC Sacramento	Position posted
PTII	IMC Sacramento	Position Posted
SPTII	IMC Sacramento	Candidate selected; pending approval
OT(T)	IMC Norwalk	Position Posted

## INVESTIGATION HIGHLIGHTS

### Intake and Mediation Centers Stay Busy

The Investigative Centers and SWIFT often receive attention when they handle a case involving egregious or criminal misconduct; but the majority of complaints received at CSLB involve simple financial disputes or contractual disagreements between consumers and well-intentioned contractors. To ensure prompt and appropriate handling, most of the 1,650 complaints received at CSLB each month are routed through the two Intake and Mediation Centers (IMCs). Skilled Consumer Services Representatives (CSRs) then speak with both complainants and respondents, and – when appropriate – make diligent efforts to mediate. For IMC staff, the question is not whether the consumer or the contractor is “right,” but whether the two sides can come to an agreeable settlement. In fiscal year 2017-18 to date, IMC staff have settled 47 percent of the complaints received against licensees and have achieved over \$14 million in restitution and cost savings to consumers. A few of the IMC’s recent negotiation success stories are highlighted below:

- A Rancho Cucamonga consumer hired a contractor to install a solar system on her home, but the contractor damaged the roof and the job did not pass a building inspection. IMC staff arranged for the contractor to remove the solar panels, repair the roof, and – at the homeowner’s request – cancel the contract, at no cost to the consumer.
- A Los Angeles consumer paid an excessive \$40,000 deposit for a \$230,000 backyard remodel; but, two days into the project, the homeowner learned he had to relocate for work. The contractor agreed to cancel the contract and provide a partial refund, but did not follow through with payment. Through IMC mediation, the contractor cancelled the contract and refunded \$23,000 of the deposit to the homeowner, which accounted for the work already completed. The contractor was reminded that deposits are limited to 10 percent of the contract amount or \$1,000, whichever is less.



- An elderly Inglewood property owner hired a general contractor to provide \$300,000 in fire-damage restoration for his apartment building. The property owner said that the contractor delayed the project, provided poor workmanship, and failed to cover the roof during a rain storm, causing extensive damage. The owner hired a correcting contractor to complete the remainder of the project, while the original contractor sent the property owner an invoice for \$120,092, and filed a mechanic's lien for the same amount. Through IMC mediation, the original contractor agreed to lower the amount due for work completed to \$35,000.

### **Defiant Unlicensed Contractor Charged with Felony**

In October 2015, a San Jose homeowner entered into a \$25,000 contract for home improvement work with unlicensed contractor Ronald Diaz and his associate, and paid \$8,500 as a deposit. Diaz used the license of a licensee (with permission) to obtain a building permit. When Diaz demanded additional funds ahead of schedule the homeowner terminated the contract and called CSLB. An investigation by CSLB's San Francisco IC resulted in citations issued to Diaz, his associate, and the licensee. Diaz's associate and the licensee paid their penalties, but Diaz ignored his \$2,000 citation and continued doing construction work. The same San Francisco investigator opened another investigation into Diaz and contacted him to perform some electrical work. Diaz said he could do the work, and sent a photo of a licensee's pocket card (along with a photo of himself). The investigator contacted the licensee on the pocket card and discovered that Diaz was using the card with permission.

As in the previous case, both Diaz and the licensee received citations; and, also as before, the licensee paid his penalty and Diaz ignored his \$1,000 citation for fraudulent use of a license. Because of Diaz's refusal to comply with *two* citations, CSLB referred the case to the Santa Clara County District Attorney's office for criminal prosecution. The DA has charged Diaz with felony misuse of a contractor license with intent to defraud and contracting without a license. The DA has also charged two of Diaz's associates with felony misuse of a contractor's license for the parts they played.

### **Repeat Offenders Sent to Jail**

On April 9, 2018, the Kern County District Attorney's Office notified CSLB that unlicensed contractor Barry Wayne Hanner was sentenced to three years in jail and three years' probation for grand theft by false pretense (a felony) and contracting without a license. Hanner has an extensive complaint history with CSLB dating back to 1986, and has five prior convictions for similar crimes in the 1990s. Hanner's latest conviction was the result of an investigation by CSLB's Statewide





Investigative Fraud Team (SWIFT), which determined that Hanner had been paid \$7,000 for concrete work, but abandoned the project shortly after he started. The CSLB investigation and Hanner’s conviction were covered by ABC News in Bakersfield.

On April 24, 2018, the Monterey County Superior Court sentenced Salomon Medina to a two-year prison sentence for first degree burglary, unlicensed contracting, and workers’ compensation insurance violations. CSLB and the Monterey County District Attorney’s office had investigated Medina for elder abuse and contracting violations, and criminal charges were filed against him on August 31, 2017. In recognition of Medina’s criminal record and his targeting of elderly victims, the court agreed with the District Attorney that a prison sentence was warranted. He began serving his two-year sentence in May 2018.

**SWIFT Sting in Napa Disaster Area Leads to Three Arrests**



On April 26, 2018, investigators from SWIFT conducted a sting operation in Napa County within the declared wildfire disaster area. Three unlicensed contractors submitted bids for fire-related repairs and were taken into custody by Napa County Sheriff’s deputies for felony violation of Business and Professions Code section 7028.16 (contracting without a license to repair disaster-related damage in a declared emergency area). The sting also resulted in the

issuance of five notices to appear (NTA), one administrative citation, three District Attorney referrals, and one stop order. The highest bid received during the sting was \$14,800 for the installation of a gate.

**GENERAL COMPLAINT-HANDLING STATISTICS  
(FY 2017-18 to April 2018)**

**Pending Investigations**

The optimum level of pending complaints for CSLB Enforcement staff is 3,890. As of April 2018, the pending case load was 4,177, with an average of 39 cases assigned to each Enforcement Representative (35-40 cases is the standard range of case assignment). The preferred maximum case assignment for CSRs and ERs is shown in the following chart:



Job Classification	Current Number of Staff	Closure Goal per Month	Preferred Cycle Time (months)	Maximum Case load per ER/CSR	Maximum Number of Cases per Classification
ERs	58	10	4	35	2,030
CSRs	31	20	2	60	1,860
<b>TOTAL</b>					<b>3,890</b>

### Restitution to Financially-Injured Persons

CSLB continues to assist consumers and licensees resolve non-egregious consumer complaints. From July 2017 to April 2018, Enforcement staff complaint negotiation efforts resulted in more than \$17 million in restitution to financially-injured parties as depicted in the following chart:

Financial Settlement Amount FY 2017-18	
Investigative Center	\$3,523,516.33
Intake and Mediation Center	\$14,047,687.90
<b>TOTAL RESTITUTION</b>	<b>\$17,571,201.23</b>

### Enforcement Representative Production Goals

From July 2017 to April 2018, Investigative Center ERs generally achieved the Board’s goal of 10 complaint closures per month, as shown in the chart below.

Average Monthly Closures of Consumer Complaints (FY 2017-18)											
CSLB OFFICE	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	Average
Fresno	7	3	8	5	5	3	6	4	8	8	5
San Francisco	10	8	11	14	8	11	10	9	10	13	10
Sacramento (North)	8	10	10	9	9	9	10	9	11	8	9
Sacramento (South)	17	12	11	10	9	9	14	11	11	10	12
Valencia	9	9	10	9	11	9	9	11	9	10	9
Norwalk	11	12	12	12	10	11	10	10	11	9	11
West Covina	8	9	11	14	13	10	14	9	8	8	11
San Bernardino	8	9	8	9	8	9	10	9	9	10	9
San Diego	10	11	12	12	10	12	10	11	17	18	11
SIU	6	6	7	12	7	12	10	10	8	8	9



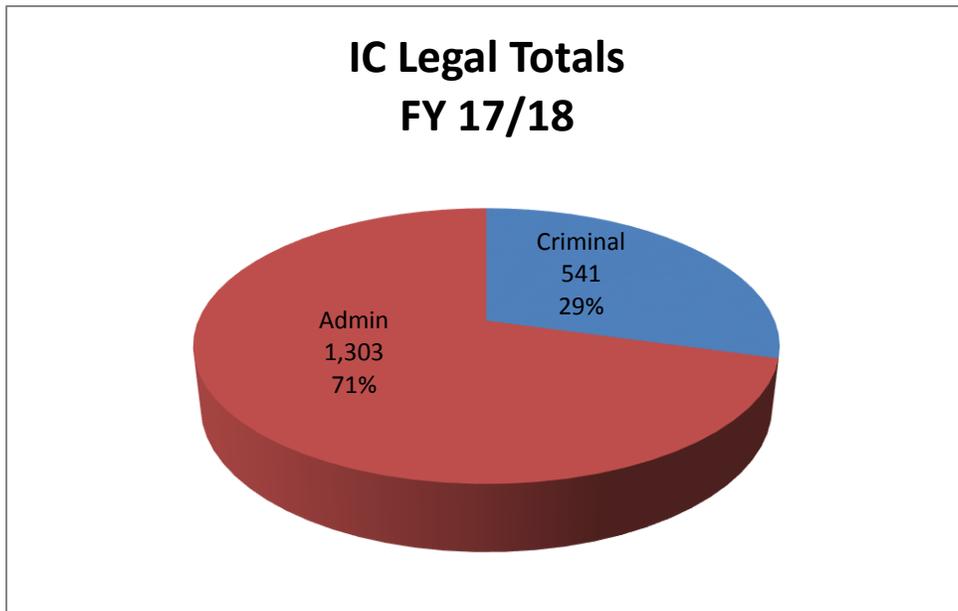
### Complaint-Handling Cycle Time

The Board’s goal is to appropriately disposition all but 100 complaints within 270 days of receipt. As of May 5, 2018, 137 of the 4,177 open complaints – or 3.3 percent – exceeded 270 days in age. The following chart tracks the number of aged cases from July 2017 to May 2018.

Investigation Exceeding 270 Days in Age (FY 2017-18)											
CSLB OFFICE	Jul-17	Jul-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18
Fresno	13	11	5	3	2	4	5	6	6	5	12
San Francisco	0	5	8	6	5	5	8	13	16	17	16
Sacramento (North)	1	5	0	0	2	4	0	1	7	7	6
Sacramento (South)	10	3	8	6	9	12	8	4	7	11	0
Valencia	7	16	17	13	9	11	17	17	17	10	19
Norwalk	17	20	2	15	13	23	2	40	23	16	30
West Covina	17	21	17	25	11	17	17	22	17	11	10
San Bernardino	2	8	0	14	17	9	0	9	11	12	14
San Diego	15	8	4	2	4	8	4	17	18	9	5
SIU	30	24	17	28	18	25	17	22	23	31	25
Monthly Totals	112	121	78	112	90	118	78	151	145	129	137

### Investigative Center Legal Actions

From July 2017 to April 2018, the Investigative Centers (ICs) referred 29 percent, or 541 of the 1,844 legal action investigations for criminal prosecution.



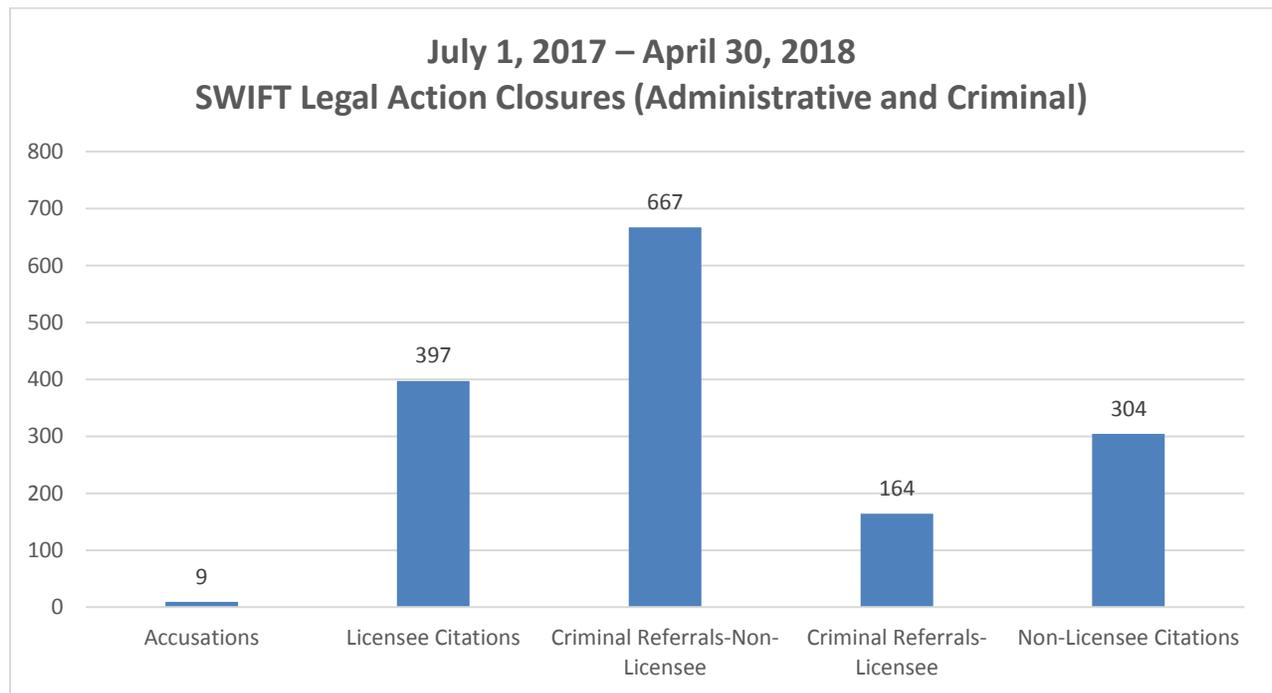


### STATEWIDE INVESTIGATIVE FRAUD TEAM

CSLB’s Statewide Investigative Fraud Team (SWIFT) is comprised of Enforcement Representatives (ERs) who enforce license and workers’ compensation insurance requirements at active jobsites, respond to leads, and conduct enforcement sweeps and undercover sting operations targeting unlicensed persons. From July 1, 2017 to April 30, 2018, SWIFT conducted 56 sting operations in partnership with other state agencies, law enforcement, and district attorneys. During this same period, SWIFT partnered with other state and local agencies to conduct 325 sweep days throughout the state.

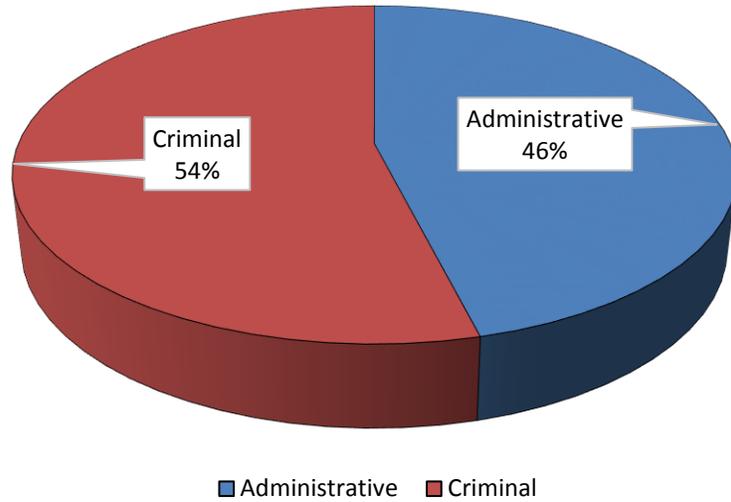
### Legal Action Closures

From July 1, 2017 to April 30, 2018, SWIFT closed 3,435 cases as a result of stings, sweeps, and leads, of which 1,541 resulted in an administrative or criminal legal action. A breakdown of legal action closures is shown below.





**July 1, 2017 – April 30, 2018  
Legal Actions (Administrative and Criminal)**



**Legal Actions: District Attorney Criminal Referrals**

Between July 1, 2017 and April 30, 2018, SWIFT referred 831 cases to local district attorneys’ offices for criminal prosecution.

<b>July 1, 2017 – April 30, 2018 SWIFT Criminal Referrals</b>	
Licensee Criminal Referrals	164
Non-Licensee Criminal Referrals	667
<b>Total</b>	<b>831</b>



**Citations**

Since July 1, 2017, SWIFT has issued 701 licensee and non-licensee citations, and has assessed \$740,350 in non-licensee citation civil penalties.

**Citation Amounts Assessed**

<b>July 1, 2017 - April 30, 2018 Non- Licensee Citations</b>				
	<b>Northern SWIFT</b>	<b>Central SWIFT</b>	<b>Southern SWIFT</b>	<b>Totals</b>
July	\$43,000	\$750	\$23,500	\$67,250
August	\$36,200	\$8,250	\$66,750	\$111,200
September	\$1,500	\$7,750	\$41,000	\$50,250
October	\$12,900	\$9,000	\$45,750	\$67,650
November	\$22,700	\$6,500	\$17,500	\$46,700
December	\$27,300	\$1,500	\$15,000	\$43,800
January	\$25,500	\$0	\$82,000	\$107,500
February	\$750	\$25,750	\$34,750	\$61,250
March	\$4,850	\$4,000	\$60,250	\$69,100
April	\$8,150	\$32,250	\$75,250	\$115,650
<b>Totals</b>	<b>\$182,850</b>	<b>\$95,750</b>	<b>\$461,750</b>	<b>\$740,350</b>

**Stop Orders**

A Stop Order is a legal demand to cease all employee labor at a jobsite due to workers' compensation insurance violations until an appropriate policy is received. A contractor's failure to comply with a Stop Order is a misdemeanor criminal offense, punishable by up to 60 days in county jail and/or by a fine of up to \$10,000. Between July 1, 2017 and April 30, 2018, SWIFT issued 583 Stop Orders to licensed and unlicensed individuals for using employee labor without having a valid workers' compensation policy.

**Labor Enforcement Strike Force (LETF)**

Created in 2012, the Labor Enforcement Task Force (LETF) is comprised of investigators from CSLB SWIFT, the Department of Industrial Relations (DIR) Division of Labor Standards and Enforcement, the DIR Division of Occupational Health and Safety, and the Employment Development Department (EDD). LETF combats the underground economy in California and strives to create an environment where legitimate businesses can thrive. LETF aims to:



- Ensure that workers receive proper payment of wages and are provided a safe work environment;
- Ensure that California receives all employment taxes, fees, and penalties due from employers;
- Eliminate unfair business competition by leveling the playing field; and
- Make efficient use of state resources in carrying out LETF’s mission.

Below are LETF statistics for July 1, 2017 – April 30, 2018:

CATEGORY	RESULT
Number of Contractors Inspected*	254
Number of Contractors Out of Compliance	224
Percentage of Contractors Out of Compliance	88%
Total Initial Assessments**	\$1,415,359

*\*The results reflect multi-partner LETF inspections*

*\*\* The total amount of penalties assessed by Cal/OSHA and DLSE at the time of the initial inspection. These amounts are subject to change.*



Case Management FY 2017-18

CITATIONS ISSUED		
Citation Status	Licensee	Non-Licensee
Issued	1,182	746
Appealed	505	313
Compliance	772	369
MANDATORY SETTLEMENT CONFERENCES		
Scheduled		231
Settled		118
ARBITRATION		
Arbitration Cases Initiated		757
Arbitration Decisions Received		507
Licenses Revoked for Non-Compliance		51
Arbitration Restitution		\$2,568,310
ACCUSATIONS/STATEMENTS OF ISSUES		
Revocations by Accusation		331
Accusation Restitution Paid to Injured Persons		\$445,319
Statement of Issues (Applicants Denied)		21
Cost Recovery Received		\$425,676
Number of Cases Opened		328
Number of Accusations/Statement of Issues Filed		329
Number of Proposed Decisions Received		68
Number of Stipulations Received		94
Number of Defaults Received		97
Number of Decisions Mailed		308

## AGENDA ITEM F-2

# Update and Discussion of Solar Task Force Activities

- a. Historical Solar Complaint Activity
- b. Solar Task Force Action and Accomplishments by Complaint Type
- c. Solar Task Force Outreach







### **Historical Solar Complaint Activity**

**2015** – The Contractors State License Board (CSLB) created the Solar Task Force (STF) to better address the increasing number of complaints involving solar photovoltaic panel installations and growing concern over predatory sales tactics.

The Solar Task Force is currently comprised of one Enforcement Supervisor, two Enforcement Representatives, and two Consumer Services Representatives. The STF works with solar contractors, industry representatives, and consumers to develop consumer protection strategies and investigate the most complicated and critical solar complaints.

**2016** – CSLB received 449 solar-related complaints in 2016 (a 61 percent increase over 2015) and closed 567 solar complaints (some complaints carried over from 2015). Of the cases closed, 94 were settled and \$642,461 in restitution was paid to injured persons. Solar complaint investigations resulted in 72 legal actions, including 17 cases referred for criminal prosecution.

**2017** – CSLB received 792 solar-related complaints in 2017 (an 83 percent increase over 2016). Of these, 136 were successfully settled, resulting in over \$844,000 in restitution to injured parties, and 24 were recommended for disciplinary action, including two criminal cases. Further analysis revealed that 43 percent of these complaints were filed against 33 contractors.

**2018** – Between January 1, 2018 and April 30, 2018, CSLB received 273 solar-related complaints, compared to 256 complaints received for the same period in 2017.

### **Solar Task Force Action and Accomplishments by Complaint Type**

Through investigation by the Solar Task Force of complaints consumers filed, CSLB has identified four distinct types of solar contracts, each generating different enforcement issues: leases, Power Purchase Agreements (PPA), Property Assessed Clean Energy (PACE), and privately funded. In an effort to best understand the composition of the complaints being received, staff completed a data analysis to evaluate the contract type associated with all open complaints. As of March 2018, CSLB had 267 open solar complaints.



Open Solar Complaints by Type

Type	# Open	% of Total	Trend v. 2017
Lease	24	9	↓
PPA	21	8	-
PACE	101	38	↑
Privately Funded	95	35	-
Miscellaneous*	26	10	↓

\* Complaints with coding errors, unknown contract type, or that involve a contractor versus a contractor

The data from the change in complaint trends shown above allows CSLB to implement future strategies and efforts to reduce the number of complaints in each category. Below are outlined the background, actions taken, and future plans for lease, PPA, PACE, and privately funded complaints.

**Lease** – Complaints about solar panel lease agreements initially involved an unlicensed contractor associating with a licensed installer to enter into a contract with a homeowner for a 20 to 30-year lease with a consumer, who uses the energy the panels produced.

Many of these lease agreements were predatory (e.g., misrepresentation resulting in total lease payments exceeding \$100,000 for a \$30,000 system), initiated by an unregistered home improvement salesperson (HIS). The contracts did not meet the requirements set forth by statute and the lease agreement was secured by a lien on the property title that could hinder the sale of the property.

CSLB collaborated with legal counsel at the Department of Consumer Affairs (DCA) to draft a formal letter advising leasing companies that California law requires them to be licensed with CSLB and that disciplinary action would follow if they failed to comply. The STF has cited several leasing companies for being unlicensed and/or employing unregistered HIS. The STF’s contractor education and disciplinary action has resulted in a significant reduction in unlicensed and/or predatory complaints.

**Power Purchase Agreement (PPA)** – Complaints received by the Solar Task Force involving a PPA are commonly a result of misrepresentation by an unregistered salesperson. As a result, consumers enter into a contract where they either pay more per kilowatt-hour than their local utility charges, or are charged for power generated that they do not use. In many cases, the power purchase provider is the prime contractor, yet is unlicensed.

Assembly Bill 1070 enacted new sections of the Business and Professions Code (BPC) effective January 2018, which requires CSLB, by July 1, 2018, in consultation with the Public Utilities Commission, to develop and make available online a “solar energy system disclosure contract” that solar energy systems companies must provide to



consumers prior to completing the sale, financing, or leasing of solar energy systems. A draft of the contract disclosure document is complete and is included in the Legislative section of this packet. In drafting the document, CSLB conferred with the Public Utilities Commission and will hold stakeholder meetings to solicit additional expert input on the draft.

CSLB staff has scheduled a meeting with power purchase providers for May 30, 2018, to discuss the following:

- Power purchase financing and lease options
- How financiers interact with contractors and consumers
- Overview of consumer-filed complaints
- Contractor license law requirements
- Opportunities to increase customer satisfaction
- Strategies to identify predatory contractors

**Green Funding/Property Assessed Clean Energy (PACE)** – The most frequent elements of a consumer complaint involving PACE funding include an unregistered HIS, misrepresentation of contract terms, and concerns regarding the program itself. Homeowners frequently misunderstand the nature of the financing and learn, often too late, that the loan is directly tied to their property taxes and/or home mortgage. The increased monthly cost becomes unaffordable, and homeowners have lost their homes. In addition, the most egregious of these complaints involve targeting of the elderly and those who speak English as a second language (both protected classes under California law).

The number of complaints regarding the PACE program has also attracted the attention of State legislators and litigators, resulting in a number of legislative bills and class action lawsuits that address the violations of contractors' state license law .

**Assembly Bill 1284 (2017)**– Amended Labor Code section 160 effective January 2018, to require that, by January 2019, the Department of Business Oversight (DBO) ensure program administrators who administer a PACE program on behalf of a public agency are licensed under the California Financing Law. The bill requires PACE solicitors, or their agents, be either licensed or registered in good standing with CSLB, unless they are exempt from licensure. CSLB anticipates an influx of HIS registrants attempting to enroll as solicitors or agents. On May 8, 2018, CSLB and DBO executed an information sharing agreement to assist in the implementation of this bill.

**Senate Bill 1087 (2018)** – A summary of this bill and its provisions appears in the Legislative portion of the Board packet.



***Nemore v. Renovate America, Inc.*** – This class action lawsuit alleges financial elder abuse, breach of contract, and violation of Business and Professions Code section 17200 against Renovate America, Inc. (commonly referred to as HERO).

***Ocana v. Renew Financial Holdings, Inc.*** – This class action lawsuit alleges financial elder abuse, breach of contract, and violation of Business and Professions Code section 17200 against the PACE Provider known as “California First.”

**Privately Funded** – CSLB is receiving an increase in the number of complaints that involve solar systems that have been purchased outright by a consumer. Approximately 70 percent of these complaints have been referred to field offices because they are workmanship-related, and Investigative Center staff are better equipped to investigate such complaints using the CSLB industry expert program. STF members will continue to assist field staff with any investigation that may include predatory business practices.

The 30 percent of privately-funded complaints that remain with the STF include allegations of misrepresentation, predatory sales practices, or a history of non-compliance with contractors’ state license law. Some notable criminal cases resulting from CSLB Solar Task Force investigations follow:

***American Solar Criminal Conviction:*** In a case involving American Solar and Home Remodeling, the elderly licensee was apparently duped into renting his license to others (that included revoked licensees), who used false advertising, misleading promises, and high-pressure sales tactics to induce victims to install residential solar energy systems. CSLB referred the case to the Riverside County District Attorney and two of those involved pled guilty to four counts of conspiracy to commit grand theft. They were subsequently sentenced to 180 days in jail, five years of formal probation, and ordered to pay restitution to the victims and over \$48,000 to CSLB in investigative costs.

***MC Wire Electric Criminal Conviction:*** A Solar Task Force investigation of MC Wire Electric was filed with the San Diego District Attorney’s office on March 27, 2017, resulting in the defendant pleading guilty to grand theft, diversion of construction funds, and workers’ compensation premium fraud. The plea agreement also included an order to pay \$287,066.50 in restitution to injured consumers and the revocation of the license.

### **Solar Task Force Outreach**

- Solar Task Force staff have met with over half of the 33 contractors against whom the majority of CSLB complaints have been filed. Meetings with the large, nationwide solar providers/installers have proven productive and resulted in changes in business practices, including commitments to improve their complaint handling



response time and their in-house training with field staff to decrease the number of incoming complaints. Eighteen of the 33 contractors currently have pending legal action against their license (citations and/or accusations).

- Solar Task Force investigators have conducted outreach in Kern and Riverside Counties to train other state agencies in identifying complaints that CSLB would handle and how to assist consumers in filing complaints.
- The Director of Department of Consumer and Business Affairs (DCBA), Los Angeles, Brian Stiger, met with staff to ask if DCBA could refer over 50 cases that had been submitted to their office involving solar contracts with PACE financing because CSLB has the authority that DCBA lacks to discipline licenses. CSLB staff are screening the complaints to ensure that they are not duplicates of cases currently being worked; once properly vetted the cases will be distributed to the Solar Task Force.
- The Solar Task Force has developed and is working with the Public Affairs Office to implement webinars to inform contractors about the requirement for and process of registering their salespeople and providing a proper home improvement contract.
- Solar Task Force investigators have developed in-house training courses to keep staff up to date about the constantly changing trends in the solar industry, as well as providing resources to educate staff and other partnering agencies.
- CSLB has included a page on the website to educate consumers about the different types of solar systems, as well as proper contracting practices. Consumers can access this on the “Consumer” tab on CSLB’s website or by inputting “solar” in the search box.



## AGENDA ITEM F-3

# Discussion Regarding Implementation of Business and Professions Code Section 7099.2: Letter of Admonishment







# CONTRACTORS STATE LICENSE BOARD

## LETTER OF ADMONISHMENT UPDATE

### **Background**

At its December 2016 meeting, the Board approved a recommendation to pursue legislative approval for a new, intermediate form of corrective action between a citation and an advisory notice for use with licensed contractors: the “letter of admonishment.” The letter of admonishment, as proposed, would compel prompt corrective action for violations that may not rise to the level of a citation, but which warrant more serious action than an advisory notice. To authorize the letter of admonishment, Senator Monning sponsored Senate Bill 486, which the Legislature subsequently approved, and the Governor signed into law in September 2017. SB 486 authorized use of the letter of admonishment after January 1, 2018, becoming the first major addition to CSLB’s disciplinary options since the licensee citation in 1979.

### **Letter of Admonishment**

The enabling legislation limits the letter of admonishment for use in cases of a single, non-egregious violations by licensed contractors. The letter of admonishment allows the following:

- It can include a requirement for specific corrective action by the respondent.
- If the contractor does not complete the corrective action, he or she faces consequences (i.e., a citation).
- It will be publicly disclosed for one year (citations are disclosed for five years).
- A letter of admonishment can be contested; but disputes are handled internally by CSLB.

It is anticipated that the letter of admonishment will enhance public protection through its requirement for prompt corrective action and through expanded public disclosure, while also effectively addressing less egregious violations.

### **Update**

Enforcement division staff consulted with the California Pharmacy Board (which already uses a letter of admonishment) and with staff counsel to develop CSLB’s new letter of admonishment (see sample below) and the procedures for its use. Enforcement Supervisors and Program Managers will be trained on the letter of admonishment program at their upcoming supervisors’ conference on June 26-27, 2018, and the program will be formally initiated on July 1, 2018.



**Letter of Admonishment**

# LOA-2018-023

*Sent via Certified Mail*

July 3, 2018

John C. Smith  
Mr. Megawatt  
2525 Exeter Street  
Sacramento, CA 96880

**Reference**

CSLB Complaint No.: SX-2017-56789

Project Location: Elm Street, Sacramento County

The Contractors State License Board (CSLB) has concluded an investigation of the above-referenced matter. Based on a review and evaluation of all relevant information, the Registrar has probable cause to believe a violation of Contractors' State License Law was committed and has decided that this Letter of Admonishment will be issued pursuant to Business and Professions Code (BPC) section 7099.2.

Statements and information relating to the investigation have been documented in an Investigation Report on file at CSLB. The facts contained in this report lead to the conclusion that the following violation of Contractors License Law or regulations occurred:

**Business and Professions Code (BPC) §7110 – Failure to obtain required building permit**

CSLB's investigation supports that on or about February 1-2, 2018, while doing business as "Mr. Megawatt" (license #123456), you installed a plug-in electric vehicle (PEV) charging station in a residential garage on Elm Street in unincorporated Sacramento County. The County of Sacramento requires the procurement of a building permit prior to installation of any residential PEV charging station, and your failure to do so was in violation of BPC §7110.

This Letter of Admonishment will be considered a public record for purposes of disclosure for one year from the date of issuance. You should maintain and have readily available a copy of this Letter of Admonishment for that one-year period. Please be aware that the issuance of this Letter of Admonishment and/or any corrective action taken by you does not limit the Board's ability to pursue other disciplinary or administrative action under Contractors State License Law.



**Necessary Action**

Within 30 days of the mailing of this letter, specifically by **August 3, 2018**, you must do one of the following:

1. Comply with the Letter of Admonishment, including any Corrective Action Plan. Please note that compliance with the Letter of Admonishment does not constitute an admission of the violation described in the Letter.
2. Submit a written request for an office conference to CSLB using the enclosed Acknowledgement / Request for Office Conference. This form should be sent to:

Contractors State License Board  
Enforcement Division / LOA  
9821 Business Park Drive  
Sacramento, CA 95827

In either case, ***return the completed Acknowledgement / Request for Office Conference form by the date entered above*** to indicate your response. If you have any questions regarding the Letter of Admonishment or any of the enclosures, please contact Ms. Jane Simpson, Program Coordinator, at (916) 255-4047.

Sincerely,

Missy Vickrey, Chief  
Enforcement Division

Enclosures:

1. Letter of Admonishment Instructions
2. Acknowledgement / Request for Office Conference
3. Declaration of Service by Certified Mail



## AGENDA ITEM F-4

# Update, Discussion, and Possible Action on Recommendations from Board Member Advisory Sub-Committee on California Workers' Compensation Enforcement Strategies, Resources, and Accomplishments







### **Background**

To maintain an active California contractor license, licensees are required to have on file with the Contractors State License Board (CSLB) either a Certificate of Workers' Compensation Insurance (WC) or a Certificate of Self-Insurance issued by the Department of Industrial Relations. With the exception of C-39 (Roofing) contractors, a contractor who does not employ anyone subject to the workers' compensation laws of California may file an exemption request with CSLB and certify that he or she is not required to carry workers' compensation insurance.

CSLB studies have determined that 55 percent of all licensees have an exemption from WC on file, and 59 percent of the contractors contacted in four targeted classifications that perform outdoor construction (Concrete, Earthwork/Paving, Landscaping, and Tree Trimming) had false workers' compensation exemptions on file with CSLB.

On November 3, 2017, the Enforcement Committee established a two-person Advisory Sub-Committee comprised of Board members Kevin Albanese and Ed Lang was established to develop strategies to address workers' compensation insurance avoidance.

### **State Agency Collaboration**

At the Advisory Sub-Committee's recommendation, CSLB staff are working closely with the following state agencies to enhance WC enforcement strategies:

- Employment Development Department – Responsible for employment tax compliance and chairs the Joint Enforcement Strike Force (JESF), which provides for sharing of information among designated state agencies to combat the underground economy.
- California Occupational Safety and Health Administration (Cal/OSHA) – Responsible for employment work conditions, and able to assist in identifying contractors without workers' compensation insurance that have an injured worker.
- Division of Labor Standards Enforcement – Responsible for ensuring that workers receive wages owed and that employers carry a valid workers' compensation insurance policy.
- California Department of Insurance (CDI) – Responsible for investigating workers' compensation insurance premium fraud, and also for funding the prosecution of violators.



**Workers' Compensation Advisory Sub-Committee Accomplishments**

**January 25, 2018** – Advisory Sub-Committee members Kevin Albanese and Ed Lang, along with CSLB staff, met with State Compensation Insurance Fund. (Established by the California Legislature in 1914, State Compensation Insurance Fund is a self-supporting, non-profit enterprise that provides workers' compensation insurance to California employers).

Participants explored the feasibility of expanding the requirement that certain classifications of licensees who perform work likely to require more than one employee must obtain workers' compensation policies. Also discussed was the mandatory audit provision that is presently required for roofing contractors.

**March 9, 2018** – A Joint Enforcement Strike Force Sub-Committee meeting to discuss strategies to eliminate workers' compensation avoidance was held at CSLB headquarters. CSLB attendees included Board Chair Kevin Albanese, Enforcement Committee Chair Ed Lang, Registrar David Fogt, CSLB staff and representatives from the California Department of Insurance (CDI), Division of Occupational Safety and Health (DOSH), Division of Labor Standards Enforcement (DLSE), Employment Development Department (EDD), and State Compensation Insurance Fund (SCIF). At the meeting, recommendations for action were developed for Board consideration.

**April 13, 2018** – During the April 2018 Board meeting, members unanimously passed a motion to approve the following workers' compensation strategies (JESF action items) and move the possible legislative considerations to the Legislative Committee.

***JESF Action Items***

**1. Develop Predictability Modeling Audits**

SCIF hosted a meeting on May 10, 2018, to review its audit process, attended by Enforcement Committee Chair Ed Lang, Registrar David Fogt, CSLB staff, and representatives from the Roofing Contractors Association of California (roofing subject matter experts).

**2. Division of Occupational Safety and Health Information Sharing**

CSLB has been in communication with Julieann Sum, Chief of Cal/OSHA and a meeting has been tentatively scheduled for the first week in June 2018, to identify opportunities to gather information about employees injured while working for an uninsured employer.

**3. Workers' Compensation Insurance Rating Bureau Violation Reporting**

Business and Professions Code (BPC) section 7125 requires that an insurer report to CSLB when that insurer has completed a premium audit or



investigation, and a material misrepresentation has been made by the insured that results in financial harm to the insurer.

CSLB will use insurer information provided to the Workers' Compensation Insurance Rating Bureau (WCIRB), pursuant to BPC section 7125, to issue a letter of admonishment (or formal disciplinary action when appropriate) to the licensee for WC violations. The letter of admonishment will provide for 12 months of public disclosure.

Insurers will be asked to provide the names of insured contractors that report payroll for fewer than two employees. CSLB will monitor the list for consumer complaints that may help support a premium insurance fraud investigation.

A memorandum of understanding will be pursued between the California Department of Insurance, WCIRB, and CSLB to establish information-sharing protocols and statistical reporting parameters.

- 4. Labor Enforcement Task Force Classification Targeting** – CSLB has spoken with the director of LETF and he has indicated support for incorporating a program to perform targeted job site inspections of specific license classifications to determine if they are likely to have employee labor.

**5. Possible Legislation Considerations**

- Add a mandatory workers' compensation insurance requirement for other license classifications in addition to C-39 Roofing.
- Preclude licensees from filing a new workers' compensation exemption with CSLB for a period of one year if they are found to have violated Labor Code 3700.5 (employing workers without a workers' compensation insurance policy).

The Legislative Committee is scheduled to meet at the end of July 2018, and will include these two legislative proposals on their agenda.



## AGENDA ITEM F-5

# Update, Discussion, and Possible Action on Recommendations from Board Member Advisory Sub-Committee on Strategies to Address Owner-Builder Construction Permits and Unlicensed Activity Violations in California







### **Background**

At the September 2017 Board meeting, Board member Nancy Springer (Past President of the County Building Officials Association of California (CBOAC) and current Butte County Building Division Manager) explained that the Enforcement division is exploring options to increase contractor compliance with local building permit requirements, with a focus on permit avoidance and fraudulent or misused owner-builder permits. Over the last four years, CSLB investigated 4,400 building permit violations, and took legal action in approximately 1,200 of those cases. These violations jeopardize public safety and put those contractors who comply with code requirements at a competitive disadvantage. As a result, at its November 3, 2017 meeting, the Enforcement Committee unanimously established a two-person Advisory Committee, comprised of Nancy Springer and Linda Clifford, to explore strategies to increase contractor compliance with local building permit requirements.

### **Building Permit Advisory Sub-Committee Accomplishments**

**January 10, 2018** - Advisory Committee members Nancy Springer and Linda Clifford conducted a meeting with CSLB staff to initiate the development of strategies to increase contractor compliance with local building permit requirements. The meeting resulted in a multi-level strategic approach that was presented at the February 23, 2018, Enforcement Committee meeting.

**February 23, 2018** – The Enforcement Committee meeting, unanimously passed a motion for the full Board to consider approval of six action items developed by the advisory committee to address owner-builder construction permits and unlicensed activity violations.

**April 12–13, 2018** – At the Board meeting, the full Board unanimously passed a motion to approve the following six action items to address owner-builder construction permits and unlicensed activity violations.

1. On February 7, 2018, at CSLB's request, CALBO distributed the Board-approved collaboration letter statewide to its members. In response to the letter, CSLB received partnering interest from the following building departments:
  - Rancho Cordova
  - City of Folsom
  - Riverside
  - Brentwood
  - Corona
  - San Diego
  - Glendale



- Santa Paula
- South San Francisco

Designated CSLB Staff will contact these building departments to begin partnership development and attend meetings starting in June 2018.

2. Staff has developed a master list of local CSLB liaisons, which will be made available upon request to building departments receptive to collaborating with CSLB.
3. CSLB produced a contact list for cooperating building departments, which includes David Fogt, Tonya Corcoran, Missy Vickrey, Jessie Flores, and Steve Grove. These contacts can be utilized in the event that the local liaison is unreachable.

CONTRACTORS STATE LICENSE BOARD CONTACTS FOR BUILDING OFFICIALS ONLY	
DAVID FOGT, Registrar	
PHONE: (916) 226-4888	EMAIL: david.fogt@cslb.ca.gov
TONYA CORCORAN, Chief Deputy Registrar	
PHONE: (916) 226-4888	EMAIL: tonya.corcoran@cslb.ca.gov
MISSY VICKREY, Enforcement Chief	
PHONE: (916) 226-4100	EMAIL: missy.vickrey@cslb.ca.gov
JESSIE FLORES, Enforcement Deputy Chief	
PHONE: (916) 226-3871	EMAIL: jessie.flores@cslb.ca.gov
STEVE GROVE, SWIFT Manager	
PHONE: (916) 226-1212	EMAIL: steve.grove@cslb.ca.gov

4. CSLB Public Affairs and IT will take the lead on website enhancements and have developed a dedicated email address to report permit violations ([permitviolations@cslb.ca.gov](mailto:permitviolations@cslb.ca.gov)) to streamline communications.
5. Chief of Legislation Mike Jamnetski drafted an operational agreement between CSLB and individual building departments. The agreement contains clear expectations for signatories, including a commitment on the part of building officials to provide the necessary evidence to support the violation if a case proceeds to hearing. A copy of the agreement follows.
6. Procedures will be developed requiring contractors to complete a course on permit compliance as part of a corrective action plan when they are issued a letter of admonishment for permit violations. The Business & Professions Code statute that authorizes CSLB to require a corrective action plan when issuing a letter of admonishment is as follows:

*7099.2 (B) – Comply with the letter of admonishment and, if required, submit a written corrective action plan to the registrar documenting compliance. If an office conference is not requested pursuant to this section, compliance with the letter of admonishment shall not constitute an admission of the violation noted in the letter of admonishment.*

The procedures will be distributed at the CSLB statewide supervisor meeting on June 26, 2018, and the letter of admonishment will go live July 1, 2018.



**May 2, 2018** – Board Member Nancy Springer and Registrar David Fogt presented to the attendees of CBOAC's 54<sup>th</sup> Annual Business Meeting and Conference. Their well-received presentation addressed opportunities for partnering, tools available for Building Departments, and the development of the permit compliance course. At the request of attendees, CSLB staff will attend building official chapter meetings to further opportunities to collaborate with specific building departments.

### **Permit Compliance Course Development Meeting**

On May 29, 2018, the Advisory Committee is scheduled to meet with CSLB staff and two subject matter experts to begin development of the online interactive training course on permit compliance that will incorporate video clips, embedded quizzes, attendance tracking, and the issuance of completion certificates.

The course will include content that will address the following topics:

- The value of obtaining a permit
- How to obtain a permit
- Disciplinary actions taken if a permit is not obtained
- Why building permits are required
- Benefits to the contractor, homeowner, and community of obtaining a permit
- Exceptions to permits (building, electrical, gas, plumbing, emergency repairs, public service agencies)
- The process to obtain a permit (time limitation, validity, expiration, suspension or revocation, placement/posting)
- Penalties for not getting a permit (homeowner vs. contractor)
- How to address a client who asks a contractor to not get a permit
- How to report permit violators
- Resources and reference materials

Staff anticipates launching the permit compliance course by the end of July 2018, which will be used in conjunction with the letter of admonishment for educating respondents about permit requirements.



## CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, California 95827  
Mailing Address: P.O. Box 26000, Sacramento, CA 95826  
800-321-CSLB (2752)  
[www.cslb.ca.gov](http://www.cslb.ca.gov) • [CheckTheLicenseFirst.com](http://CheckTheLicenseFirst.com)

STATE OF CALIFORNIA

Governor Edmund G. Brown Jr.

### CONTRACTORS STATE LICENSE BOARD AND BUILDING DEPARTMENT PARTNERSHIP

The Contractors State License Board (CSLB) and the \_\_\_\_\_ Building Department will collaborate to protect the public by enforcing permit, license, and workers' compensation requirements.

#### Partnership Goals:

Establish a cooperative partnership to identify and resolve problems created by licensed and unlicensed contractors who:

- Disregard or violate local building codes
- Perform substandard work
- Violate license requirements
- Fail to obtain workers' compensation for employees

#### CSLB Responsibilities

- Provide rapid response to complaints filed by building departments
- Review owner/builder permits for active job sites for CSLB inspection
- Provide field Enforcement staff to meet with and attend building department staff meetings, as requested
- Report on enforcement success
- Support local partnering with government officials at public meetings

#### \_\_\_\_\_ Building Department Responsibilities

To assist CSLB in this effort by:

- Reporting suspected violators using the CSLB Building Department referral form
- Identifying staff able to testify about code requirements
- Making CSLB consumer/contractor publications available to the public

## AGENDA ITEM F-6

# Update and Discussion on the CSLB Consumer Satisfaction Survey







CONTRACTORS STATE LICENSE BOARD  
REPORT ON THE

CONSUMER SATISFACTION SURVEY:  
2017 COMPLAINT CLOSURES  
(January to December)

Report Date: May 2018

## Executive Summary

The Consumer Satisfaction Survey Report is based on surveys of individuals who have filed complaints with the Contractors State License Board (CSLB) Enforcement division against licensed or unlicensed contractors. These surveys assess the public's satisfaction with CSLB's handling of their complaints. The original benchmark survey began with complaints that were closed in 1993, and assessment of consumer satisfaction has continued since that time. The present report measures consumer satisfaction for complaints closed in calendar year 2017.

Eight of the nine questions on the 2017 survey were identical to those used since 1993, and the same seven-point agreement scale was used. From 1993-2009, 4,800 complainants (400 per month) were selected randomly to receive surveys. In 2010, the survey's format and sampling method were changed; CSLB began to email the survey to all consumers with closed complaints who had provided email addresses. In 2017, 8,044 complainants provided email addresses, of which 7,850 were deemed valid. Surveys were sent out in individual monthly batches throughout 2017 and early 2018.

In 2017, a total of 1,354 complainants, 17 percent of those surveyed, responded to the questionnaire, a rate similar to that of previous years.

### *Major Findings and Comparison with Previous Years*

Table 1 summarizes the survey results from consumers with complaints closed in 2017. The table also includes the annual ratings for the eight consumer satisfaction questions (service categories) over the last four years.

In 2017, the lowest agreement (57%) was for the question, "The action taken in my case was appropriate," whereas the highest agreement (85%) was for the question related to being treated courteously, a consistent pattern for the last five years. From 2016 to 2017, one service category showed a 2 percent increase, two service categories showed a 1 percent increase, three service categories showed a 1 percent decrease, one service category showed a 2 percent decrease, and one service category remained unchanged.

**TABLE 1: HISTORICAL RESULTS OF THE CONSUMER SATISFACTION SURVEY (2013-2017)**

Questionnaire Statements	Percent Agreement by Calendar Year				
	2013	2014	2015	2016	2017
1. The CSLB contacted me promptly after I filed my complaint.	77%	80%	77%	77%	78%
2. The procedures for investigating my complaint were clearly explained to me.	72%	75%	74%	76%	75%
3. The CSLB kept me informed of my case's progress during the investigation.	63%	66%	66%	68%	68%
4. I was treated courteously by the CSLB's representative(s).	82%	83%	84%	87%	85%
5. My complaint was processed in a timely manner.	61%	65%	66%	65%	66%
6. I understand the outcome of the investigation (whether or not I agree with the action taken).	67%	69%	70%	70%	69%
7. The action taken in my case was appropriate.	54%	58%	56%	58%	57%
8. I am satisfied with the service provided by the CSLB.	58%	63%	62%	62%	64%

Forty percent of survey respondents selected “yes” to Question 9, “Before hiring, I inquired about my contractor’s license status with the CSLB,” very similar to previous years.

The vast majority of complaints were filed by non-industry consumers. Over 80 percent involved a licensed contractor. More than 80 percent of the complaints addressed home improvement repairs or remodeling.

In order to examine possible response bias, a comparison was made between the 7,850 surveyed complainants and the 1,354 respondents, regarding complaint outcome. Approximately 52 percent of the complaints in the total survey sample were closed in favor of the complainant. Approximately 48 percent of the survey responses came from those whose complaints had positive outcomes. The 2017 results, therefore, show no indication of a positive response bias.

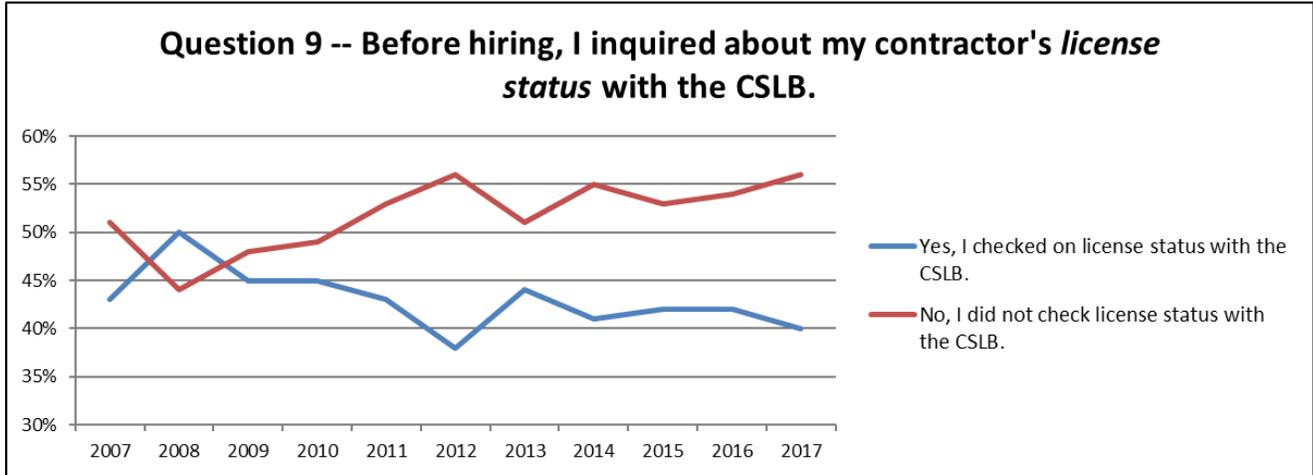
## History

In 1994, the Contractors State License Board began a program to improve consumer satisfaction with CSLB's enforcement program. A cornerstone of this effort was a survey to solicit feedback from individuals who filed complaints with the Board. The first postcard survey, covering complaint closures from 1993, was designed to serve as a benchmark in an ongoing evaluation program as well as to identify areas in need of improvement. These ongoing surveys have been conducted by CSLB's Testing division. The present report covers complaints closed between January and December 2017 and compares these results with the previous four years.

In 2013, the lowest agreement (54%) was for the question, "The action taken in my case was appropriate," whereas the highest agreement (82%) was for the question related to being treated courteously, a consistent pattern over the last five years.

The Consumer Satisfaction Survey also provides a convenient method for polling consumers on other issues. Since 2000, the survey has been used to estimate the percentage of complainants who inquired about the contractor's qualifications with CSLB. Agreement with this question has ranged from 29 percent in 2000 to 50 percent in 2008. In 2007, this question was rephrased from "Before hiring, I inquired about my contractor's *qualifications* with the Contractors State License Board" to "Before hiring, I inquired about my contractor's *license status* with the CSLB," and the answer choices changed from an agreement scale to a yes/no format. Since 2007, between 38 percent and 50 percent of respondents endorsed this statement (a mean of 43 percent). Figure 1 shows these results by year.

Figure 1



In 2007, Question 10, an open-ended follow-up to Question 9, was added to assess the reasons why some consumers did not inquire about the license status of their contractors with CSLB. The responses to Question 10 were reviewed and sorted into twelve comment categories. In 2010, CSLB eliminated this question.

## **Project Design**

### *Questionnaire Description*

The nine-item 2017 questionnaire was developed in Survey Monkey and included eight questions assessing customer service. Seven of them related to specific aspects of the complaint process, and one was about overall satisfaction. These questions were virtually identical to those used since 1994. Complainants were asked to rate the questions on a seven-point agreement scale that provided three levels of agreement with a question (strongly agree, agree, and mildly agree), and three levels of disagreement (strongly disagree, disagree, and mildly disagree). The rating scale also included a "neutral" point. The final question addressed whether or not consumers inquired with CSLB about their contractor's license status prior to hiring and required a yes/no response. The questionnaire also provided space for written comments. A copy of the questionnaire is attached as Appendix A.

Before receiving the survey, each complainant's email address was linked with his/her case number to allow for an analysis of survey responses by the nature of the complaint. The information from complaint files also helped to determine whether or not the respondent sample was representative of the larger group of complainants.

### *Sampling Procedure*

In calendar year 2017, CSLB completed the investigation or mediation process for 20,024 complaints filed by consumers against licensed and unlicensed contractors, 33 more than in 2016. Complainants who provided CSLB with an email address were selected from all of the closed complaint files in 2017. Duplicate complainants and clearly incorrect email addresses were removed from the sample prior to emailing, leaving a total sample of 7,850. Surveys of consumers whose complaints were closed in that month were emailed throughout 2017 and early 2018.

### *Analysis Procedure*

Combining the three "Agreement" points, and then dividing this number by the total number of respondents, determined the level of agreement with each service category question. This procedure provided the proportion of respondents who agreed with the question.

The complaint number attached to each complainant's email address linked response ratings with specific characteristics of the complaint itself. This allowed assessment of complainant satisfaction in the context of the ultimate outcome of the complaint.

The complaint files also helped to determine whether or not the consumers who responded to the survey were representative of the total sample. Analysts developed a profile for the respondent group and compared it to the profile for the total sample. Close correspondence between the two profiles would confirm a representative (unbiased) consumer response.

### *Complainants' Comments*

In previous survey years, comments were hand-entered into a database and assigned one or more subject-specific codes (comment category). The majority of comments elaborated on the questionnaire statements; the remaining comments presented additional areas of consumer concern. Some complainants used the comment space to request contact by a CSLB representative, to indicate that they were unsure about the outcome of their case, or to provide positive remarks about CSLB representatives who handled their cases. These surveys were forwarded to CSLB Enforcement staff. Since 2010, all of the comments have been typed by the complainants themselves, thereby reducing the need to first decipher handwriting and then enter and code the comments.

## **Results**

### *Response Rate*

In 2017, the total number of survey responses, 1,354, was 17 percent of those selected for the sample. The response rate for this survey has ranged from 17-31 percent, which is considered standard for this type of survey.

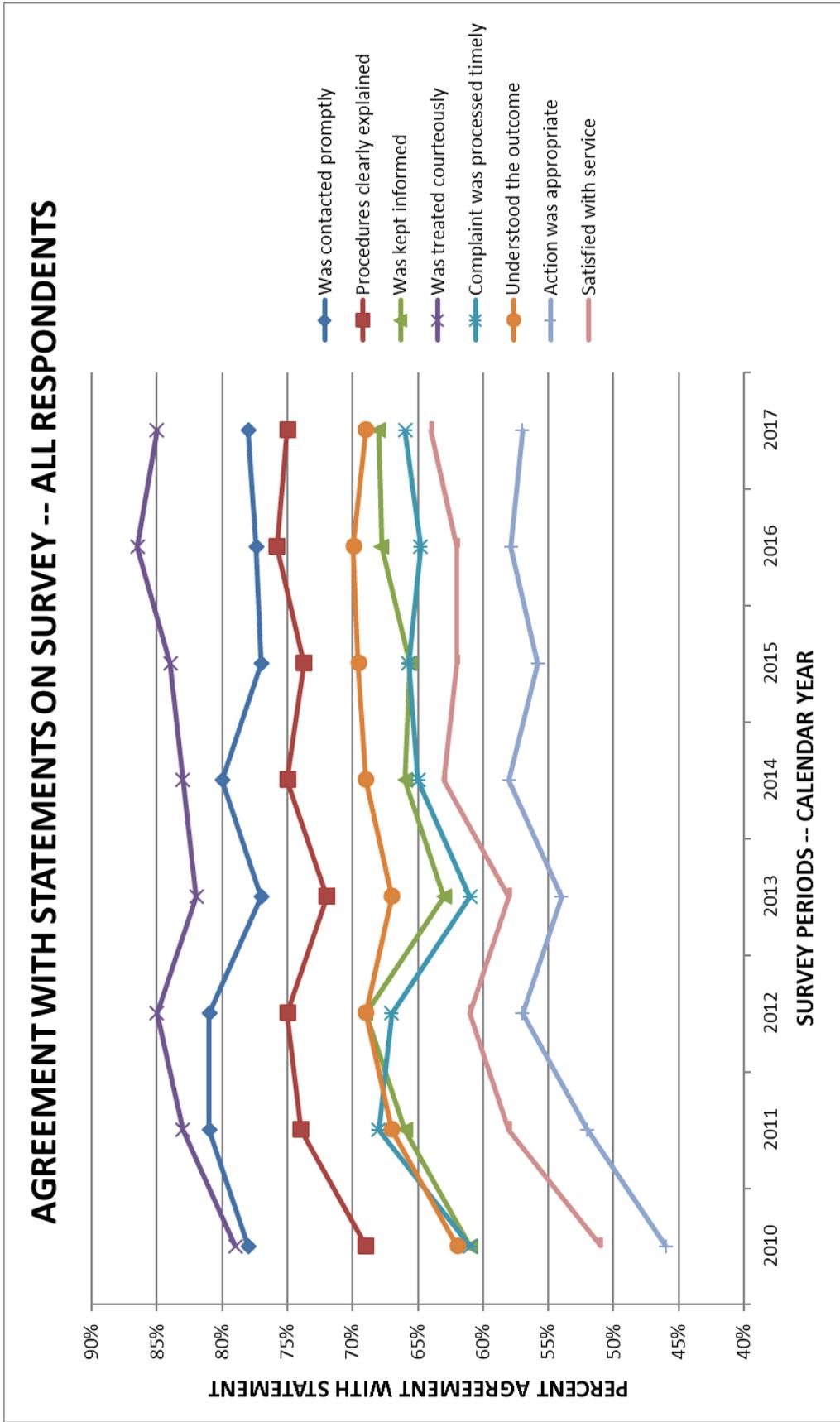
### *Consumer Agreement with Questionnaire Statements*

Appendix B (Table B-1) contains the detailed results for the 2017 Consumer Satisfaction Survey, indicating the individual percentages for each "agreement" category. Table 1 of the Executive Summary presents the satisfaction ratings for the 2017 survey, along with results from 2013 to 2016. Consumer agreement information is also presented in graph form in Figure 2.

### *Contractor Qualifications*

The question addressing contractor qualifications was included to assess the need for public education in this area. Question 9 asked, "Before hiring, I inquired about my contractor's qualifications with the Contractors State License Board." See Figure 1.

**FIGURE 2**  
**HISTORICAL RESULTS OF THE CONSUMER SATISFACTION SURVEY**  
**(2010 - 2017) LINE GRAPH PRESENTATION**



### *Complainants' Comments*

Sixty-four percent of the responding complainants chose to include comments with their survey responses, a percentage consistent with past results. As in previous years, the comments ranged from requests for follow up, additional information about the status of complainants' cases, and feedback regarding CSLB representatives. The comments also included suggestions for procedure changes regarding the CSLB complaint process. All comments were forwarded to the CSLB Enforcement staff for review.

### *Sampling Validity*

In survey research, respondents to a survey may not be representative of the overall group, which can occur when a particular segment of the sample is more motivated to respond to the survey. In order to examine possible response bias, a profile was developed for the 7,850 surveyed complainants and compared to the 1,354 complainants who responded to the survey. The profile demonstrates that the responding group has similar characteristics to the sample group.

### *Response Trend*

The following comparison was done to determine whether the outcome of the complaint influenced the respondent's willingness to complete the survey. Approximately 52 percent of the total sample had outcomes in favor of the complainants, and approximately 48 percent of the survey respondents had outcomes in their favor. The survey results from 2010 to the present indicate the absence of a positive response bias.

### *Change in Sampling Method*

Beginning in 2010, CSLB altered the sampling method from random sampling to convenience sampling. Random sampling is preferred for most surveys to ensure that the sample is representative of the overall population of interest. It assumes that characteristics such as gender, age, socioeconomic status, etc. are equally distributed across the survey population and, therefore, will be equally distributed across a random sample.

Convenience sampling selects participants based on their availability to the researcher. As applied to the CSLB Consumer Satisfaction Survey, using an email survey rather than a paper and pencil survey reduces costs and saves staff time and, thereby, makes the most convenient sample for those complainants who provided their email addresses. While convenience sampling can induce bias in a

survey, depending on the topic, there is no reason to expect that consumers who provided their email addresses to CSLB would have different opinions on the satisfaction measures assessed by the current survey from those who did not provide email addresses.

## TECHNICAL APPENDICES

Appendix A: CONSUMER SATISFACTION SURVEY QUESTIONNAIRE  
Appendix B: DETAILED RESULTS OF CONSUMER SATISFACTION SURVEY  
Appendix C: CONSUMER COMPLAINT PROFILE

## APPENDIX A

### Consumer Satisfaction Survey Questionnaire

## Consumer Satisfaction Survey month/year

### 1. Introduction Section

Dear Consumer:

As part of our ongoing efforts to improve service to consumers, we are conducting a survey to monitor the quality of service provided to consumers who have filed a complaint with the Contractors State License Board.

Your name was selected from our complaint files that were recently closed.

Would you please take a few minutes to respond to the following survey? We need to hear from you so that we can identify where improvements are needed. Of course, we would also like to hear how we are serving you well.

When you are done just click on the "DONE" button at the bottom of the last page to forward your responses on to the Board.

Thank you for taking the time to participate in this survey!

Contractors State License Board

## Consumer Satisfaction Survey month/year

### 2. Survey instructions and questions

Please have the person most familiar with the complaint complete the survey. Select the response that shows how much you agree with each statement on the survey.

We are identifying your response with your complaint number to provide specific information about CSLB operations. YOUR IDENTITY WILL BE KEPT COMPLETELY CONFIDENTIAL UNLESS YOU REQUEST CONTACT FROM THE CSLB.

	STRONGLY AGREE	AGREE	MILDLY AGREE	NEUTRAL	MILDLY DISAGREE	DISAGREE	STRONGLY DISAGREE
The CSLB contacted me promptly after I filed my complaint.	<input type="radio"/>						
The procedures for investigating my complaint were clearly explained to me.	<input type="radio"/>						
The CSLB kept me informed of my complaint's progress during the investigation.	<input type="radio"/>						
I was treated courteously by the CSLB's representative(s).	<input type="radio"/>						
My complaint was processed in a timely manner.	<input type="radio"/>						
I understand the outcome of the investigation (whether or not I agree with the action taken).	<input type="radio"/>						
The action taken in my case was appropriate.	<input type="radio"/>						
I am satisfied with the service provided by the CSLB.	<input type="radio"/>						

Before hiring, I inquired about my contractor's license status with the CSLB.

YES

NO

Comments (please include any areas that you feel our staff could improve in and/or examples of superior service to you):

## APPENDIX B

### Detailed Results of Consumer Satisfaction Survey

# Consumer Satisfaction Survey Report - Table B-1

## Overall Results of Consumer Satisfaction Survey 2017 Complaint Closures

QUESTION ASKED	STRONGLY AGREE	AGREE	MILDLY AGREE	NEUTRAL	MILDLY DISAGREE	DISAGREE	STRONGLY DISAGREE	NO RESPONSE
1. Was contacted promptly	492 (37%)	420 (31%)	139 (10%)	62 (5%)	50 (4%)	92 (7%)	90 (7%)	9
2. Procedures clearly explained to me	496 (37%)	378 (28%)	136 (10%)	93 (7%)	68 (5%)	71 (5%)	106 (8%)	6
3. Was kept informed	423 (31%)	359 (27%)	133 (10%)	83 (6%)	85 (6%)	111 (8%)	149 (11%)	11
4. Was treated courteously	776 (58%)	313 (23%)	53 (4%)	70 (5%)	29 (2%)	35 (3%)	67 (5%)	11
5. Complaint was processed timely	458 (34%)	300 (22%)	126 (9%)	95 (7%)	67 (5%)	93 (7%)	198 (15%)	17
6. Understood the outcome	536 (40%)	323 (24%)	65 (5%)	111 (8%)	37 (3%)	84 (6%)	177 (13%)	21
7. Action was appropriate	472 (36%)	227 (17%)	58 (4%)	124 (9%)	53 (4%)	121 (9%)	271 (20%)	28
8. Satisfied with service	527 (40%)	263 (20%)	59 (4%)	105 (8%)	44 (3%)	90 (7%)	242 (18%)	24

	YES	NO	NO RESPONSE
9. Checked contractor's license status with CSLB	547 (40%)	763 (56%)	44 (4%)

## APPENDIX C

### Complaint Profile

Complaint Profile  
(January - December 2017)

**TABLE C-1: CLOSING ACTION**

Code	Description	% of Respondent Sample (1354)	% of Survey Sample (7850)
CL20	Insufficient Evidence	21%	16%
CL70	Settled in Screening (CSR) [+]	20%	13%
CL90	No Further Action	14%	11%
CL50	Settled in Investigation (Deputy) [+]	6%	5%
CN20	Insufficient Evidence (Non-Licensee)	6%	8%
CL1C	Citation [+]	5%	7%
CL7M	Mandatory Arbitration [+]	4%	3%
CL80	Minor Violation - Warning [+]	4%	10%
CN10	Prosecutor (Non-Licensee) [+]	4%	8%
CL30	No Jurisdiction	3%	2%
CN60	Citation (Non-Licensee) [+]	3%	4%
CL1A	Accusation [+]	2%	3%
CN30	No Jurisdiction (Non-Licensee)	2%	1%
CN40	No Further Action (Non-Licensee)	2%	2%
CL40	No Violation	<1%	1%
CL60	License Already Revoked [+]	2%	1%
CN50	No Further Action - Warning [+]	<1%	1%
CL10	Prosecutor [+]	<1%	<1%
CL7A	Voluntary Arbitration [+]	< 1%	< 1%

# AGENDA ITEM G

## Public Affairs





## AGENDA ITEM G-1

# Public Affairs Program Update

- a. Online Highlights
- b. Video/Digital Services
- c. Social Media Highlights
- d. Media Relations Highlights
- e. Publications/Graphic Design Highlights
- f. Industry/Licensee Outreach Highlights
- g. Consumer/Community Outreach Highlights
- h. Intranet/Employee Relations







# CONTRACTORS STATE LICENSE BOARD

## PUBLIC AFFAIRS PROGRAM UPDATE

CSLB's Public Affairs Office (PAO) is responsible for media, industry, licensee, and consumer relations, as well as outreach. PAO provides a wide range of services, including proactive public relations; response to media inquiries; community outreach, featuring Senior Scam Stopper<sup>SM</sup> and Consumer Scam Stopper<sup>SM</sup> seminars, and speeches to service groups and organizations; publication and newsletter development and distribution; contractor education and outreach; social media outreach to consumers, the construction industry, and other government entities; website and employee Intranet content, including webcasts and video; as well as disaster outreach and education.

### STAFFING UPDATE

PAO is staffed with six full-time positions and one part-time Student Assistant.

Staff Name	Position
Rick Lopes	Chief of Public Affairs
Claire Goldstene	Information Officer II
Amber Foreman	Graphic Designer III
Jane Kreidler	Associate Government Program Analyst
Ashley Robinson	Information Officer I
Natalie Watmore	Information Officer I
Mikia Fang	Student Assistant

### ONLINE HIGHLIGHTS

#### CSLB Website Statistics

Website usage has remained steady since the April 2018 Board meeting, and over the past 12 months. The majority of website usage takes place from Monday through Thursday, with a slight drop on Friday, and a dramatic drop on weekends. For the past three months, Monday through Thursday usage has been between 23,000 and 27,000 users per day. On Friday user numbers drop to between 19,000 and 23,000, and average between 6,000 and 8,000 on weekends.

As noted in red below, for the past year, the website has averaged almost 4.9 million pageviews per month by 330,947 different users. Thirty-one percent of the visitors over the past year had not previously visited the website. For the last year, almost four million users viewed nearly 58.5 million pages.

The types of devices used to access the CSLB website have also remained constant over the past year, as has the website's list of 25 most viewed pages (not including "Instant License Check" and "Find My Licensed Contractor" searches).



Month	Sessions	Users	New Users	Page Views	Desktop	Mobile	Tablet
<b>May 2017</b>	774,640	336,266	237,728	5,303,862	68.60%	26.97%	4.42%
<b>June</b>	748,951	325,302	228,407	4,969,614	67.89%	27.63%	4.49%
<b>July</b>	699,726	314,905	222,140	4,642,647	66.66%	28.27%	5.07%
<b>August</b>	783,922	338,796	240,324	5,275,193	67.67%	27.08%	5.25%
<b>September</b>	701,869	317,408	225,120	4,600,039	68.30%	26.55%	5.15%
<b>October</b>	761,019	339,620	243,917	4,957,284	68.97%	26.10%	4.93%
<b>November</b>	692,295	322,863	225,693	4,369,464	70.05%	25.31%	4.64%
<b>December</b>	608,932	278,880	192,453	3,930,820	68.16%	27.00%	4.84%
<b>January 2018</b>	804,179	351,585	255,925	5,284,303	67.74%	27.29%	4.96%
<b>February</b>	727,255	328,719	228,295	4,723,344	67.34%	27.73%	4.93%
<b>March</b>	824,851	360,495	257,396	5,320,460	66.85%	28.25%	4.90%
<b>April</b>	797,044	356,524	249,624	5,098,797	66.88%	28.33%	4.80%
<b>Monthly Ave.</b>	<b>743,724</b>	<b>330,947</b>	<b>233,919</b>	<b>4,872,986</b>	<b>67.93%</b>	<b>27.21%</b>	<b>4.87%</b>
<b>Totals</b>	<b>8,924,683</b>	<b>3,971,363</b>	<b>2,807,022</b>	<b>58,475,827</b>	N/A	N/A	N/A



The 25 Most Viewed Pages on CSLB’s Website – Ranked by Page Views/Quarter (does not include homepage, or online services pages, including instant license check)

Page Title	Jan. - March. 2018	Oct. - Dec. 2017	July – Sept. 2018	April – June 2018
Forms and Applications	1	1	1	1
Contractor Home Page	2	2	2	2
Licensing Classifications	3	3	4	4
Consumer Home Page	4	4	3	3
Mechanics Lien Release Forms	5	6	5	5
Contact CSLB	6	5	6	6
License Application	7	7	7	8
Applicant Home Page	8	8	9	7
“B” General Building Contractor	9	9	8	9
Exam Application Info	10	11	10	10
Maintain License	11	10	13	11
Before Applying for a License	12	14	12	13
Guides and Publications	13	12	14	14
Filing a Complaint	14	13	11	12
Examination Study Guides	15	15	15	15
C-61 Limited Specialty	16	17	16	16
Renew Your License	17	19	19	19
About Us FAQs	18	16	17	17
“A” General Contractors	19	23	22	20
About Us	20	-	-	-
Contractor Laws	21	20	20	21
License Experience Requirements	22	21	21	24
Mechanics Liens Industry Bulletin	23	22	23	23
C-10 Electrical Contractor	24	24	24	22
Hire a Contractor	25	18	18	18



**“FIND MY LICENSED CONTRACTOR” WEBSITE FEATURE**

On January 8, 2018, CSLB launched a new “Find My Licensed Contractor” website feature that allows consumers to search for licensed contractors by classification within a specific geographic area based on either city or zip code, which then links to current licensing information. All search results are displayed in random order, which changes with each search conducted. Lists can be downloaded as a .pdf or into a spreadsheet for future reference.

Consumers can use this feature to start their search for a licensed contractor, contractors to identify potential sub-contractors, and awarding agencies to identify potential bidders for contracts.

Below is information about how many times the feature page has been viewed:

Dates	# of Pageviews
January 2018	44,909
February	55,734
March	68,701
April	61,731
Monthly Average	57,769
Total	231,075

PAO is highlighting this new resource at all outreach events, press releases, and media interviews, and is currently developing plans for a more broad-range outreach campaign.

**VIDEO/DIGITAL SERVICES**

**Public Meetings**

- *Board Meetings – Live Webcasts*

March 2, 2018: PAO provided a live webcast of the Public Affairs and Legislative Committee meetings in Sacramento.

April 13, 2018: PAO provided a live webcast of Day 2 of the Quarterly Board meeting in San Diego.



CSLB Quarterly Board Meeting Day 2 April 13, 2018



Public Affairs and Legislative Committee Meeting



The following is a list of live meeting webcasts produced over the last year, along with the number of live viewers during each webcast:

Date	Meeting	Live Viewers
June 15, 2017	Quarterly Board Meeting – Day 1	208
June 16, 2017	Quarterly Board Meeting – Day 2	101
September 29, 2017	Quarterly Board Meeting	97
November 3, 2017	Licensing and Enforcement Committee Meetings	99
November 8, 2017	Legislative Committee Meeting	59
December 7, 2017	Quarterly Board Meeting	227
February 23, 2018	Enforcement and Licensing Committee Meetings	132
March 2, 2018	Legislative and Public Affairs Committee Meetings	65
April 13, 2018	Quarterly Board Meeting – Day 2	119

**Social Media Highlights**

**Followers on CSLB’s Social Media Channels**

Date	Facebook	Twitter	YouTube	Periscope	LinkedIn	Instagram	Flickr
November 2010	86	50	2	-	-	-	-
November 2011	731	638	20	-	-	-	-
November 2012	1,139	1,040	282	-	-	-	-
November 2013	1,457	1,349	343	-	-	-	-
November 2014	1,796	1,622	352	-	-	-	-
November 2015	2,228	1,824	434	10	14	-	-
November 2016	2,909	2,123	600	62	59	12	7
November 2017	3,312	2,405	702	46	105	99	10
May 14, 2018	3,467	2,470	762	47	137	155	10

CSLB continues to use a variety of posts that include infographics to enhance engagement with audiences via a variety of social media. The use of infographics has increased CSLB’s interaction by 67.5 percent in comparison to posts without graphics.



Below are examples of infographics recently posted on Facebook, Twitter, Instagram, and LinkedIn:



### Nextdoor Partnership



Nextdoor is a private social network for neighborhoods. This network serves over 158,000 neighborhoods across the country and is used as a source of local information.

CSLB is a Nextdoor Public Agency Partner, which allows PAO to create targeted messages to reach residents in communities of declared disaster areas. CSLB’s agency account can currently reach all active neighborhoods in Napa, Sonoma, Yuba, Butte, Lake, Mendocino, Nevada, Orange, and Solano counties.

In April 2018, 13,666 people joined CSLB’s reachable Nextdoor network, bringing the total number of verified residents in CSLB’s network to 581,402.

CSLB’s post about debris removal on Nextdoor received 66,567 views, 26 “thanks,” and 415 digest clicks.

### Facebook Growth

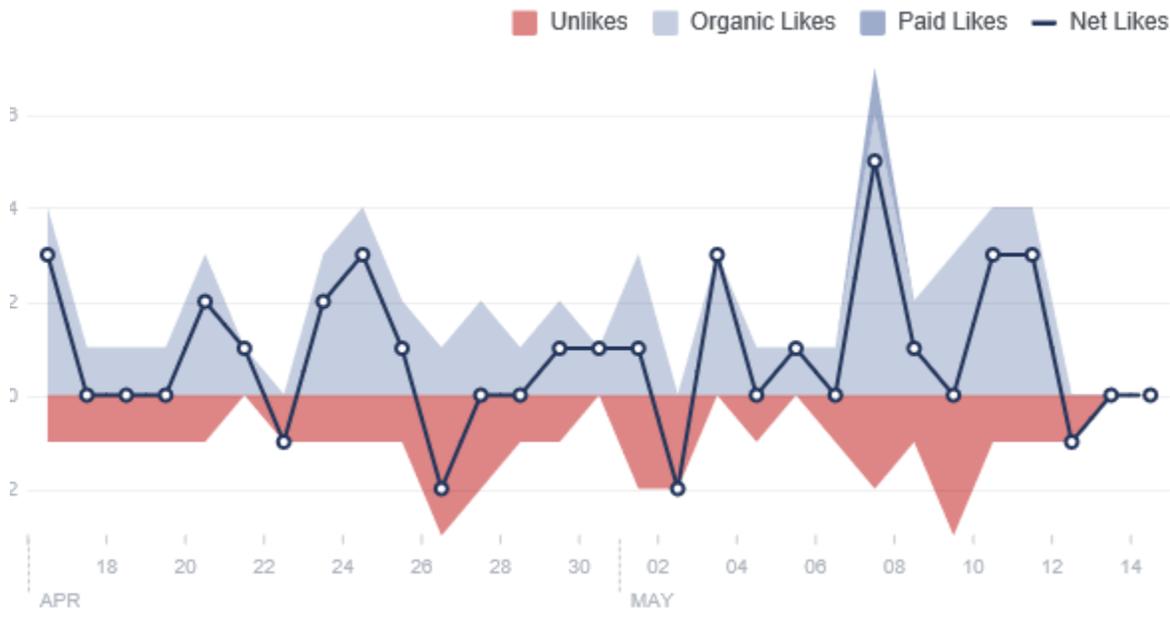
Between April 16, 2018 and May 13, 2018, CSLB “reached” 3,802 people on its Facebook page.

- 67 percent of those who “react” to CSLB on Facebook are male; 32 percent female.
- 57 percent of CSLB’s Facebook fans are between the ages of 35 and 54.
- Most viewed posts:
  - Napa County Burn Area Sting - reached 1,700 people
  - Rick Lopes interview with KLAA AM 830 in Anaheim - reached 1,500 people



Since the April 2018 Board meeting, CSLB published one Facebook Live video. The video streamed a live interview of CSLB’s Public Affairs Chief Rick Lopes, on KLLA AM 830 in Anaheim where he discussed tips for consumers when hiring a licensed contractor. \

The chart below shows the net growth per day from April 16, 2018 through May 13, 2018, for CSLB’s Facebook page. The blue line represents individuals who have “liked” CSLB, and the red areas represent individuals who have “liked” CSLB at one point, but subsequently “un-liked” CSLB.



### Twitter Growth

Between April 16, 2018 and May 13, 2018, CSLB gained 17.6K impressions on Twitter. CSLB currently has 2,470 followers on Twitter, an increase of 33 followers since the April 2018 Board meeting.

- 71 percent of CSLB’s Twitter followers are male; 29 percent female.
  - The number of male followers has increased 15 percent since the April 2018 Board meeting.
- Top tweets:
  - Contractor Licensing Workshop – 3,800 impressions



### CA Contractors Board @CSLB

Learn how to apply for a contractor license!  
We are hosting another Licensing Workshop  
at CSLB's Headquarters in Sacramento.

Don't miss out on this information Friday, April 20, 2018. Information is presented in both English and Spanish. **#CSLB**  
**#CheckTheLicenseFirst**  
[pic.twitter.com/b4bsMcZTgQ](https://pic.twitter.com/b4bsMcZTgQ)

- CSLB Job Vacancies – 950 impressions



### CA Contractors Board @CSLB

Take a look at the current CSLB job openings.  
Visit our website to see the complete list of  
vacancies.

[http://www.cslb.ca.gov/About\\_Us/Job\\_Announcements.aspx](http://www.cslb.ca.gov/About_Us/Job_Announcements.aspx) ...  
**#FindAJobFriday**  
[pic.twitter.com/3zwdY7GEmW](https://pic.twitter.com/3zwdY7GEmW)

## YouTube Growth

CSLB's YouTube Channel received 1,486 views between April 16, 2018 and May 13, 2018, an average of 53 visitors per day. Viewers watched a combined total of 6,525 minutes of video. CSLB gained 23 followers on YouTube since the April 2018 Board meeting, growing from 739 to 762.

- CSLB has a total of 435,772 views (1,357,636 minutes watched) since the page was created in 2009.
- 32 percent of viewers find CSLB videos through “suggested videos” on YouTube, 31 percent from a YouTube search, 13 percent through channel pages, and 24 percent use other methods.

## Instagram Growth

- CSLB uses Instagram as a visual tool to connect with followers. As the significance of using images on social media grows in conjunction with the use of smartphones, CSLB will continue to adapt and communicate in as many ways as possible.

## Flickr Growth

CSLB is expanding its portfolio of photographs on Flickr, a no-cost, photo-sharing social media website.



Flickr allows PAO staff to upload and post high-resolution photos as individual photographs or in album format. Flickr also permits professional media and industry followers of CSLB to download photographs at the resolution level of their choosing.

As of May 14, 2018, CSLB had 284 photos available for download on Flickr.

### **LinkedIn Growth**

PAO actively posts current job vacancies to LinkedIn, a business-oriented social networking site primarily used for professional networking. LinkedIn can increase exposure and act as an effective recruiting tool to attract quality employees for CSLB positions.

### **Periscope Growth**

CSLB currently uses Periscope to stream live videos during outreach events. A link to the live stream can be sent out via social media and is available for viewers for 24 hours. Periscope allows viewers to send “hearts” (likes) to the broadcaster by tapping on the mobile screen as a form of appreciation. Viewers can also send comments and questions during the broadcast. CSLB has 455 likes on its Periscope channel.

### **Email Alert Feature**

In May 2010, PAO launched a website feature that allows people to subscribe to their choice of four types of CSLB email alerts:

- *California Licensed Contractor* newsletters
- News Releases/Consumer Alerts
- Industry Bulletins
- Public Meeting Notices/Agendas

PAO added a CSLB Job Openings category in May 2016, and an email containing all current CSLB job openings is sent out weekly.

The total subscriber database currently stands at 27,377, which includes 764 new accounts over the past 12 months.



Date	Industry Bulletins	Meeting Notices	CLC Newsletter	News Releases	Job Openings
May 2010	185	187	103	277	-
May 2011	2,390	1,531	3,141	2,361	-
May 2012	4,387	2,879	5,212	4,015	-
May 2013	5,089	3,341	5,975	4,660	-
May 2014	6,027	4,017	6,947	5,538	-
May 2015	6,459	4,273	7,293	5,852	-
May 2016	6,866	4,479	7,575	6,096	17
May 2017	7,410	4,573	7,857	6,468	305
May 15, 2018	<b>7,525</b> <b>+115</b>	<b>4,653</b> <b>+80</b>	<b>8,017</b> <b>+160</b>	<b>6,720</b> <b>+252</b>	<b>462</b> <b>+157</b>

PAO also utilizes a database consisting of email addresses voluntarily submitted on license applications and renewal forms. This database now consists of addresses for 146,368 licensees, which brings the combined database to 173,745 email addresses.

**MEDIA RELATIONS HIGHLIGHTS**

**Media Calls**

Between March 1, 2018 and May 15, 2018, PAO staff responded to 16 media inquiries, providing information and/or interviews to a variety of media outlets.

**Media Events**

No media events have been conducted since the April 2018 Board meeting.

**News Releases**

PAO continued its policy of aggressively distributing news releases to the media, especially to publicize enforcement actions and undercover sting operations. Between March 1, 2018 and May 15, 2018, PAO distributed six news releases.

Release Date	Release Name
March 16, 2018	CSLB Sting in Roseville Reveals Why Consumers Should Take Time to Research Contractors Before Hiring
March 26, 2018	CSLB Shuts Down Illegal Operators During Undercover Sting in San Diego County
March 29, 2018	CSLB Reminds Unlicensed Painters to Brush Up on the Law During Undercover Sting Operation in Merced



<b>April 9, 2018</b>	Illegal Contractors Feel the Sting in CSLB Orange County Investigation
<b>April 18, 2018</b>	More than a Dozen Caught in CSLB Napa County Sting Proves Need to "Check The License First"
<b>May 4, 2018</b>	Unlicensed Contractors Caught in Napa Burn Area May Face Felony Charges After Showing Up to CSLB Sting Operation

**PUBLICATION/GRAPHIC DESIGN HIGHLIGHTS**

Publications are regularly reviewed and updated for accuracy and to reflect any changes in the law.

<b>Publication</b>	<b>Description</b>	<b>Current Publish Date</b>
<b>10 Tips to Make Sure Your Contractor Measures Up</b>	Card (English/Spanish)	Aug 2017
<b>A Consumer Guide to Asbestos</b>	Booklet (English)	June 2013
<b>A Consumer Guide to Filing Construction Complaints</b>	Brochure (English)	March 2017
<b>A Consumer Guide to Filing Construction Complaints</b>	Brochure (Spanish)	March 2017
<b>A Guide to Contractor License Bonds</b>	Brochure (English)	March 2016
<b>A Homeowner's Guide to Preventing Mechanics Liens</b>	Brochure (English)	Jan 2016
<b>A Homeowner's Guide to Preventing Mechanics Liens</b>	Brochure (Spanish)	Jan 2016
<b>Advertising Guidelines for Contractors</b>	Brochure (English)	Jan 2013
<b>After a Disaster Don't Get Scammed</b>	Brochure (English)	Feb 2018
<b>After a Disaster Don't Get Scammed</b>	Brochure (Spanish)	Feb 2018
<b>Asbestos: Contractor's Guide &amp; Open Book Exam</b>	Booklet (English)	March 2017
<b>Before You Dive into Swimming Pool Construction</b>	Brochure (English)	Nov 2011
<b>Building Official Information Guide</b>	Booklet (English)	April 2011
<b>Building Your Career as a Licensed Contractor</b>	Brochure (English)	Aug 2017
<b>Building Your Career as a Licensed Contractor</b>	Brochure (Spanish)	Aug 2015
<b>CA Contractors License Reference &amp; Law Book (2018)</b>	Book (English)	Jan 2018
<b>Caught for Illegal Contracting What Happens Now</b>	Brochure (English)	Sep 2015
<b>Caught for Illegal Contracting What Happens Now</b>	Brochure (Spanish)	Jan 2016
<b>Choosing the Right Landscaper</b>	Brochure (English)	Jan 2016
<b>Consumer Guide to Using the Small Claims Court</b>	Brochure (English)	June 2015



<b>Contracting for Success: Contractor's Guide to Home Improvement</b>	Booklet (English)	Sept 2006
<b>Description of Classifications</b>	Booklet (English)	June 2016
<b>Description of Classifications</b>	Booklet (Spanish)	Jan 2018
<b>Industry Expert Program</b>	Brochure (English)	Aug 2010
<b>Mandatory Arbitration Program Guide</b>	Pamphlet (English)	March 2017
<b>Voluntary Arbitration Program Guide</b>	Pamphlet (English)	March 2017
<b>Owner-Builders Beware! Know Your Responsibilities</b>	Brochure (English)	Aug 2010
<b>Owner-Builders Beware! Know Your Responsibilities</b>	Brochure (Spanish)	Aug 2011
<b>Terms of Agreement: Consumer's Guide to Home Improvement</b>	Booklet (English)	Sept 2012
<b>Tips for Hiring a Roofing Contractor</b>	Brochure (English)	Sept 2008
<b>Tips for Hiring a Roofing Contractor</b>	Brochure (Spanish)	Sept 2008
<b>What is a Stop Order</b>	Brochure (English)	June 2015
<b>What is a Stop Order</b>	Brochure (Spanish)	Feb 2018
<b>What Seniors Should Know Before Hiring A Contractor</b>	Brochure (English)	May 2017
<b>What Seniors Should Know Before Hiring A Contractor</b>	Brochure (Spanish)	July 2017
<b>What You Should Know Before Hiring A Contractor</b>	Brochure (English)	Aug 2015
<b>What You Should Know Before Hiring Contractor</b>	Brochure (Spanish)	Feb 2018
<b>Building a Rewarding Career Protecting California Consumers</b>	Brochure (English)	Feb 2016

## INDUSTRY/LICENSEE OUTREACH HIGHLIGHTS

### **California Licensed Contractor Newsletter**

No newsletters have been issued since the April 2018 Board meeting. A new issue is currently in production.

### **Industry Bulletins**

PAO alerts industry members to important and interesting news by distributing Industry Bulletins, which are sent out via email on an as-needed basis to 7,525 people and interested parties. Distribution includes those who signed-up to receive the bulletins through CSLB's Email Alert System. Between March 1, 2018 and May 15, 2018, PAO distributed two industry bulletins.



Release Date	Bulletin Title
March 21, 2018	What Contractors Should Know about Fenestration Product Labels
April 17, 2018	CSLB to Hold Public Participation Hearing on Energy Storage Systems

## **APPLICANT & INDUSTRY OUTREACH REGARDING CSLB LICENSURE PROCESS**

In November 2017, CSLB launched a new program of monthly workshops to assist potential and likely license applicants. The Licensing Workshops, conducted in both English and Spanish, are designed to review the benefits of getting a contractor license, provide an overview of licensing requirements, explain the steps involved in getting a license, and to answer general questions about the licensing process. In January 2018 the workshops were expanded to Norwalk.

## **CONSUMER/COMMUNITY OUTREACH HIGHLIGHTS**

### **Disaster Workshops**

Since October 2017, several California communities were devastated by wildfires and mudslides/debris flows. The natural disasters were responsible for the deaths of at least 88 people and destroyed more than 10,800 structures, most of them homes.

CSLB has sponsored and conducted workshops targeting both survivors and licensed contractors hoping to participate in the rebuilding effort. These workshops have been conducted in Butte, San Diego, and Yuba counties. Additional workshops are being scheduled for mid-June 2018 in Ventura County.

### **Senior Scam Stopper<sup>SM</sup> Seminars**

CSLB's Senior Scam Stopper<sup>SM</sup> seminars have been offered throughout the state since 1999, in cooperation with legislators, state and local agencies, law enforcement, district attorneys, and community-based organizations. Seminars provide information about construction-related scams and how seniors, who are often preyed upon by unlicensed or unscrupulous contractors, can protect themselves when hiring a contractor.

Sessions feature expert speakers from local, state, and federal agencies, who present broader topics, including identity theft, auto repair, Medicare, foreign lotteries, and mail fraud.



The following seminars were conducted in April and May 2018:

<b>Date</b>	<b>Location</b>	<b>Legislative / Community Partner(s)</b>
<b>April 2, 2018</b>	Palm Springs	Millennium Housing
<b>April 3, 2018</b>	Victorville	Sterling Inn
<b>April 5, 2018</b>	Riverside	Riverside Meadows Mobile Home Park
<b>April 6, 2018</b>	Sunnyvale	Asm. Mark Berman
<b>April 11, 2018</b>	Cypress	Asm. Sharon Quirk-Silva
<b>April 12, 2018</b>	Castro Valley	Sen. Bob Wieckowski/Asm. Bill Quirk
<b>April 18, 2018</b>	Antioch	Asm. Jim Frazier
<b>April 19, 2018</b>	Irvine	Atria Woodbridge
<b>April 20, 2018</b>	Upland	Senior Medicare Patrol
<b>April 25, 2018</b>	Vacaville	Asm. Jim Frazier
<b>April 27, 2018</b>	Stanton	Asm. Sharon Quirk-Silva
<b>May 1, 2018 AM</b>	Indian Wells	Asm. Chad Mayes/Asm. Eduardo Garcia
<b>May 1, 2018 PM</b>	Thermal	Asm. Eduardo Garcia
<b>May 4, 2018</b>	Irvine	Asm. Matthew Harper/Asm. Steven Choi
<b>May 11, 2018</b>	Clovis	Asm. Jim Patterson
<b>May 16, 2018</b>	Brentwood	Asm. Jim Frazier
<b>May 22, 2018</b>	Palmdale	Sen. Scott Wilk/Asm. Tom Lackey

### **Outreach Events**

In April and May 2018, CSLB staff spoke at or managed booths for the following organizations/events:

<b>Date</b>	<b>Location</b>	<b>Organization / Event</b>
<b>April 5, 2018</b>	Sacramento	Foundation for Fair Contracting Underground Economy Enforcement—Prevailing Wage/Labor Compliance Conference
<b>April 10, 2018</b>	Sacramento	California PHCC Legislative Day
<b>April 10, 2018</b>	San Diego	CSLB Wildfire Rebuilding Workshop for Contractors
<b>April 11, 2018</b>	Gardena	Dept. of Business Oversight Financial Literacy Month Resource Fair
<b>April 19, 2018</b>	Downey	Downey Building Department
<b>April 20, 2018</b>	Sacramento	CSLB Licensing Workshop
<b>April 21, 2018</b>	San Diego	PHCC Flow Expo
<b>April 27, 2018</b>	Sacramento	California Regional Common Ground Alliance
<b>April 28, 2018</b>	Pasadena	2018 Conference on Healthy Aging



May 4, 2018	West Sacramento	West Sacramento Senior Resource Fair
May 8, 2018	Sacramento	California Senior Rally
May 9, 2018	Yreka	Office on Aging Senior Fraud Fair
May 9, 2018	Norwalk	CSLB Licensing Workshop
May 10, 2018	Los Angeles	Mexican Consulate Binational event
May 18, 2018	Sacramento	CSLB Licensing Workshop

### INTRANET/EMPLOYEE RELATIONS

#### Intranet (CSLBin)

CSLBin, the employee-only Intranet site, was launched in November 2013. Stories and photos highlight employee and organizational accomplishments. In addition to employee news, the site is also kept up to date with the latest forms, policies, reports, and other information used by CSLB staff around the state.

Recent articles and photo galleries highlighted graduates of CSLB’s 14<sup>th</sup> Enforcement Academy; recognizing exemplary work by Enforcement division staff; tradeshow participation; profiles of a new Licensing division manager and an employee who went above and beyond; licensing workshops and bi-lingual outreach programs; and 2017 CSLB statistics.



Staff shows support for colleagues at CSLB Enforcement Academy graduation.



Registrar recognizes Dawn Willis for her exemplary work in Enforcement.



Tyler Hicks and Mike Daino represent CSLB at a tradeshow in San Diego.





# AGENDA ITEM H

## Executive





## AGENDA ITEM H-1

# Review and Possible Approval of April 12-13, 2018, Board Meeting Minutes







# CONTRACTORS STATE LICENSE BOARD

## BOARD MEETING MINUTES

### Day 1

#### **A. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM AND CHAIR'S INTRODUCTORY REMARKS**

Board Chair Kevin Albanese called the meeting of the Contractors State License Board (CSLB) to order 9:00 a.m. Thursday, April 12, 2018, at Four Points by Sheraton, 8110 Aero Drive, San Diego, CA 92123.

Vice Chair Marlo Richardson led the Board in the Pledge of Allegiance. A quorum was established.

#### Board Members Present

Kevin Albanese, Chair  
Marlo Richardson, Vice Chair  
Augie Beltran  
Linda Clifford  
David De La Torre  
David Dias  
Nancy Springer

Susan Granzella  
Joan Hancock  
Pastor Herrera Jr.  
Michael Layton  
Ed Lang  
Frank Schetter

#### Board Member Excused

Johnny Simpson, Secretary

#### BCSH Agency Present

Sonya Logman, Deputy Secretary, Business, Consumer Services & Housing Agency

#### Staff Present

David Fogt, Registrar  
Tonya Corcoran, Chief Deputy Registrar  
Stacey Paul, Budget Analyst  
Michael Jamnetski, Chief of Legislation  
John Cleveland, Chief of IT  
Rick Lopes, Chief of Public Affairs

Michael Melliza, Chief of Administration  
Kayla Bosley, CSLB Staff  
Kristy Schieldge, Legal Counsel  
Missy Vickrey, Chief of Enforcement  
Laura Zuniga, Chief of Licensing

#### DCA Staff Present

Julie Kolaszewski, DCA SOLID Planning Solutions Group  
Trisha St. Clair, DCA SOLID Planning Solutions Group  
Chris Castrillo, DCA Board and Bureau Services

#### Public Visitors

Jody Costello, Founder ContractorsFromHell.com  
Tony Forchette, National Contractor License Agency



Jeremy Hutman, Renew Financial  
Chris Walker, CAL SMACNA

Kevin Albanese reviewed the importance of the strategic planning session and reiterated the importance of CSLB’s consumer protection mission.

**B. PUBLIC COMMENT**

Jody Costello, founder of ContractorsFromHell.com, explained that a remodeling nightmare prompted her to found her website in 2000. She thanked Board Chair Kevin Albanese for his initial comments regarding the importance of consumer protection and noted that she has been educating consumers via her website by providing tips on how to avoid construction nightmares. She created an online course for homeowners to help them understand the construction process. Ms. Costello commented that education is key for consumers to learn how to prevent construction disasters and to protect themselves and, most importantly, how to find the right contractor. She also spoke about online lead “referral” websites that claim they do background checks. Ms. Costello said she is glad to hear that the Board continues to focus on consumer protection and education.

**C. STRATEGIC PLANNING OVERVIEW**

Board Chair Kevin Albanese welcomed Julie Kolaszewski and Trisha St. Clair from DCA’s SOLID Planning Solutions Group and invited them to lead the strategic planning session. In addition, he thanked staff, the Board, and all the stakeholders for their time in completing the survey.

**D-F. STRATEGIC PLANNING SESSION**

The Board agreed on a three-year timeframe for the new strategic plan. Staff from DCA SOLID agreed to provide the draft plan to CSLB executive staff by May 1, 2018, which will include the goals discussed and placement in the applicable program areas. It was agreed that the Board members will review the draft plan at upcoming committee meetings and prioritize goals for presentation to the full Board at the September 2018 Board meeting. Further, a review of CSLB’s mission, vision, and values statements may occur at the committee meetings and recommendations brought to the full Board.

**G. REVIEW, DISCUSSION, AND POSSIBLE ACTION ON REVISIONS TO THE BOARD MEMBER ADMINISTRATIVE AND PROCEDURE MANUAL**

Board Chair Kevin Albanese noted that the Board Member Administrative and Procedure Manual was created more than 15 years ago to provide Board members a guide on important laws and regulations, Board and DCA policies, as well as to delineate Board and staff responsibilities to make sure that the Board operates in an



effective, efficient, and legal manner. The Board last approved the manual in April 2016.

Board Member Linda Clifford wanted to ensure that any updates to the mission, visions, and values statements as part of the strategic planning process will be changed in the Board Member Administrative and Procedures Manual. Legal Counsel Kristy Schieldge stated that when the Board adopts the strategic plan members will want to ensure that changes are also made to the manual.

#### **H. CLOSED SESSION**

Pursuant to Section 11126(a)(1) of the Government Code, the Board moved into closed session to conduct the annual performance evaluation of the Registrar. Board Chair Kevin Albanese welcomed Chris Castrillo from DCA's Board and Bureau Services to brief the Board on the process before they began deliberations. The Board held closed session from 1:52 to 3:50 p.m.

#### **I. RECESS**

The Board returned to open session where Board Chair Kevin Albanese adjourned the meeting at 3:51 p.m.



**Day 2**

**A. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM AND CHAIR'S INTRODUCTION**

Board Chair Kevin Albanese called the meeting of the Contractors State License Board (CSLB) to order at 8:00 a.m. Friday, April 13, 2018, at Four Points by Sheraton, 8110 Aero Drive, San Diego, CA 92123.

Board member Marlo Richardson led the Board in the Pledge of Allegiance. A quorum was established.

**Board Members Present**

Kevin Albanese, Chair  
Marlo Richardson, Vice Chair  
Augie Beltran  
Linda Clifford  
David De La Torre  
David Dias  
Susan Granzella

Joan Hancock  
Pastor Herrera Jr.  
Ed Lang  
Michael Layton  
Frank Schetter  
Nancy Springer

**Board Members Excused**

Johnny Simpson

**CSLB Staff Present**

David Fogt, Registrar  
Tonya Corcoran, Chief Deputy Registrar  
Kayla Bosley, Executive Staff  
Michael Jamnetski, Chief of Legislation  
Rick Lopes, Chief of Public Affairs  
Michael Melliza, Chief of Administration  
John Cleveland, Chief of Information Technology (IT)

Stacey Paul, Budget Manager  
Ashley Robinson, Public Affairs Staff  
Kristy Schieldge, DCA Legal Counsel  
Missy Vickrey, Chief of Enforcement  
Laura Zuniga, Chief of Licensing

**Public Visitors**

John Berdner, Enphase Energy  
Paul Besson, International Brotherhood of Electrical Workers Local Union 569  
Dan Bohnett, San Diego Gas & Electric  
Mayra Castro, Center for Public Interest Law  
Bernadette Del Chiaro, California Solar & Storage Association  
Berry Cinnamon, Cinnamon Energy  
Jeremy Hutman, Renew Financial  
Jim Kahlil, Tesla  
Chris Layton, CRH California Water Inc.  
Martin Learn, Home Energy Systems



Gary Liardon, Peterson Dean Roofing & Solar  
 Ernesto Macias, West Coast Arborist  
 Richard Markuson, Plumbing, Heating, and Cooling Contractors of California  
 Michael Milderberger, Renovate America  
 Gretchen Newsom, International Brotherhood of Electrical Workers 569  
 Michael Palat, Urban Forest Council  
 Chris Walker, California Sheet Metal and Air Conditioning Contractors' National Association

Mr. Albanese held a moment of silence to commemorate the passing of Nancy McFadden, who had served as Governor Brown’s Chief of Staff since 2011. Mr. Albanese noted that in her long and impressive career, Ms. McFadden proudly served as the Deputy Associate Attorney General for President Clinton, Deputy Chief of Staff for Vice President Al Gore, and General Counsel for the Department of Transportation.

Mr. Albanese recognized Pastor Herrera Jr. for his eight years of service as a public member on the Board. Mr. Herrera Jr. was honored for his dedication to consumer protection, especially to senior citizens and members of Spanish-speaking communities; and presented with a certificate of appreciation.

Mr. Albanese thanked the Board and CSLB staff for their efforts during the Strategic Planning meeting held the previous day.

**B. PUBLIC COMMENT**

There was no public comment.

**C. LEGISLATION**

**1. Review and Possible Approval of March 2, 2018, Legislative Committee Summary Report**

**MOTION:** To approve the March 2, 2018, Legislative Committee Meeting Summary Report. Augie Beltran moved; Linda Clifford seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				

David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson					✓
Nancy Springer	✓				

**2. Update and Discussion on CSLB’s Previously Approved 2018 Legislative Proposals**

**a. Remove Statutory Authority for Registrar to Accept Cash Deposit in Lieu of Bond**

Legislative Committee Chair Augie Beltran presented this bill, which was introduced to the legislature on March 23, 2018, by Assembly Member William Brough. Chief of Legislation Mike Jamnetski will testify in support of this bill at a hearing the week of April 16, 2018.

**b. Increase Multiple-Firm License Qualifier Requirements**

Legislative Committee Chair Augie Beltran presented this bill, which failed to secure an author. CSLB Licensing is working to address the concerns that prompted the legislative proposal.

**3. Review, Discussion, and Possible Action on 2017-18 Pending Legislation**

**a. SB 721 (Hill) (2017) Contractors: Decks and Balconies Inspection**

Legislative Committee Chair Augie Beltran presented this bill, which requires inspection of the exterior on multi-family dwellings, with the cost borne by the building owner. The bill does not directly involve contractors and will be enforced by local jurisdictions. DCA Legal suggested that CSLB staff work with Senator Hill’s office to incorporate the language into contractors’ state license law. Chief of Legislation Mike Jamnetski explained that staff discussed the bill with the Senate Business and Professions



Committee, who agreed to consider moving the language to different part of the legal code, but during the following year.

**MOTION:** To support SB 721. This is fully formed motion from the Legislative Committee. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**b. SB 981 (Dodd) (2018): Home Solicitation Contract Offers: Water Treatment: Contractor Responsibilities**

Legislative Committee Chair Augie Beltran presented this bill, which removes the prohibition against the installation of a water treatment device during the 3-day right to rescind period.

Public Comment:

Chris Layton, of CRH California Water Inc., said that the Board should support SB 981. He noted that the bill affects only water treatment devices and is not applicable to sales of other in-home installation products and services. Mr. Layton also said that there is currently little-to-no enforcement of the law by local government and that most C-55 (Water Conditioning) contractors do not support the current law because it creates an unfair competitive market with unlicensed sellers.

Board Member Comment:

Board member Pastor Herrera Jr. stated that in his experience local governments in Los Angeles County take this matter seriously and do address and enforce the law.



**Staff Comment:**

Chief of Legislation Mike Jamnetski explained that state contractors’ license law requires that a contractor provide the consumer a copy of the contract before any work begins, which must include a notice of the 3-day right to rescind without penalty or obligation. He also explained that the intent of the bill is to allow installation of water treatment devices within the 3-day right to rescind period by licensed sellers, because unlicensed sellers are installing within this period to remain competitive.

**Legal Counsel Comment:**

Kristy Schieldge stated that all home improvement contracts have the 3-day right to rescind. Specifically, regarding water treatment devices, the contractor is not to perform any installation during the 3-day period.

**Board Member Comment:**

Board member Joan Hancock asked if the lack of a waiver in the contract is the reason installation cannot occur during the 3-day period. Ms. Schieldge replied that a waiver is allowed only in the event of an emergency.

Board member Frank Schetter noted that because installations require permits it seems unlikely one can be acquired in three days. Mr. Layton mentioned that installers generally request a permit before an inspection is performed.

**Public Comment:**

Richard Markuson stated that the Plumbing, Heating and Cooling Contractors of California support the amendments to SB 981.

**MOTION:** To oppose SB 981, unless amended. This is fully formed motion from the Legislative Committee. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				



**c. SB 1042 (Monning) (2018) Contractors: Violations—Authority to Hold Informal Citation Conferences**

Legislative Committee Chair Augie Beltran presented this bill, which authorizes the Registrar to settle informal citations prior to administrative hearings.

**MOTION:** To support SB 1042. This is fully formed motion from the Legislative Committee. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**d. AB 2138 (Chiu and Low) (2018) Licensing Boards: Denial of Application: Criminal Conviction**

Legislative Committee Chair Augie Beltran presented this bill, which prohibits denying an application for licensure solely on the basis of a nonviolent criminal conviction.

Chief of Legislation Mike Jamnetski explained that the bill had been substantially amended from what appears in the meeting packet. A handout listing the amendments was provided to the Board and made available at the meeting.

Mr. Jamnetski noted that the bill intends to reduce barriers for applicants with prior convictions attempting to obtain a license. He reviewed the key amendments, including one that provides that an applicant cannot be denied a license for a conviction older than five years. Among other requirements, CSLB could not deny a license for certain nonviolent crimes unless the crimes were directly or adversely related to the licensed business. Under this bill, a probationary license would be considered a denial, and the



applicant would have the right to appeal that decision. CSLB also could not deny a license for a crime if the applicant presents a certificate of rehabilitation or meets the new rehabilitation criteria by completing his or her sentence without violating parole or probation. Further, CSLB could not deny an applicant for failing to disclose information that would not serve as grounds for denial if disclosed, nor could CSLB require that applicants provide their criminal history on the application.

Legal Counsel Comment:

Kristy Schieldge mentioned that the current language in the bill will make it difficult to discipline or deny an application. Applicants typically have to prove they are qualified for licensure. This bill shifts the burden of proof to the Board, requiring CSLB to prove why the applicant is not qualified. If the applicant is placed on probation, CSLB must prove those terms are required by clear and convincing evidence.

Board Member Comment:

Board member Pastor Herrera Jr. suggested that due to the complexity of the bill it be moved to the Legislative Committee for further review.

Public Comment:

Richard Markuson noted that Plumbing, Heating and Cooling Contractors of California support the CSLB staff recommendation to oppose AB 2138 and agrees that further review is needed.

**MOTION:** To oppose AB 2138. Augie Beltran moved; David Dias seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				



**e. AB 2353 (Frazier) (2018) Construction Defects: Actions: Statutes of Limitation**

Legislative Committee Chair Augie Beltran presented this bill, which will change the statute of limitation on taking administrative action against construction defects from 10-years to five years after the completion of construction.

Mr. Jamnetski explained that this bill aims to limit the opportunity to file class action lawsuits for construction defects.

Legal Counsel Comment:

Kristy Schieldge mentioned that the bill will reduce the consumer’s right to file for restitution for construction damages that are five years old or older. CSLB can still investigate older cases, but consumers cannot receive the amount of restitution that they could with a large class action litigation case. She also noted that CSLB licensing process and investigations would not be affected by this bill.

Board Member Comment:

Board member Joan Hancock asked for the history of the current statute and when the 10-year statute of limitations was established. Ms. Schieldge answered that the 10-year statute of limitations has been established for at least 20 years, but that this bill applies to a specific type of construction defect.

Board Chair Kevin Albanese noted that there is a stricter 10-year statute of limitations on latent defects.

Public Comment:

Richard Markuson added that the 10-year statute of limitations has been established for at least 30 years in California, but that the statute varies among states. There is a trend with new construction that about nine years after the construction is completed attorneys solicit claims for construction defects. Mr. Markuson expressed agreement with the staff recommendation to watch the bill.

Board Member Comment:

Board Chair Kevin Albanese mentioned that there is much to consider with this bill and supported a watch position.

**MOTION:** To watch AB 2353. Augie Beltran moved; Linda Clifford seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				

David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson					✓
Nancy Springer	✓				

**f. AB 2483 (Voepel) (2018) Department of Consumer Affairs: Office of Supervision of Occupational Boards**

Chief of Legislation Michael Jamnetski explained that the bill was significantly amended since publication of the Board packet. The bill no longer creates an intermediary office of review and is now a measure to amend Government Section 825 with regard to indemnification of Board members for civil liability.

Board Member Comment:

Board Chair Kevin Albanese asked about DCA’s position on the bill. Kristy Schieldge answered that the Department has not taken a position. The current amendments targeted all the issues the Legislative Committee had with the bill in regard to generating a supervisory board over all the DCA entities. It replaces those supervisory provisions with indemnity provisions for Board members should there be an anti-trust case filed. Currently, California will indemnify a Board member that is sued individually for compensatory damages, but not for putative and exemplary damages. It is unclear whether a court would consider anti-trust damages compensatory or punitive. Ms. Schieldge supports the staff recommendation for a new motion to watch the bill.

**MOTION:** To oppose AB 2483 (Voepel). This is a fully formed motion from the Legislative Committee. The motion failed unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese		✓			
Augie Beltran		✓			
Linda Clifford		✓			
David De La Torre		✓			
David Dias		✓			
Susan Granzella		✓			
Joan Hancock		✓			
Pastor Herrera Jr.		✓			
Ed Lang		✓			

Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**Board Member Comment:**

Board Chair Kevin Albanese suggested amending that the Board consider a new motion on this bill that includes the Board’s support of indemnity for Board members.

**MOTION:** To watch AB 2483 and express support for the concept of indemnity for Board members. Augie Beltran moved; Linda Clifford seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**g. AB 2705 (Holden) (2018) Contractors: Violations—Failure to Secure Workers’ Compensation: Statute of Limitations**

Legislative Committee Chair Augie Beltran presented this bill, which increases the statute of limitations to prosecute an unlicensed contractor for failing to secure workers’ compensation insurance for employees from one year to two.

Mr. Jamnetski reported that he testified at the legislative hearing on AB 2705 and that the legislative members gave unanimous support for the bill.



**MOTION:** To support AB 2705. This is fully formed motion from the Legislative Committee. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**4. Update on 2017-18 Enacted Legislation**

Legislative Committee Chair Augie Beltran reported that the following legislation which affects CSLB either directly or indirectly went into effect January 1, 2018:

- AB 1070 (Gonzalez Fletcher) Solar Energy Systems: Contracts: Disclosures
- AB 1278 (Low) Contractor Licensing: Final Judgments
- AB 1284 (Dababneh) California Financing Law: Property Assessed Clean Energy Program: Program Administrators
- SB 486 (Monning) Contractors State License Law: Letter of Admonishment

Public Comment:

Jeremy Hutman, Director of Government Affairs for Renew Financial offered his company’s expertise and to serve as a resource in matters related to implementation of AB 1284.

Emily, from Ygrene Energy Fund, offered her organization’s expertise as a resource involving matters related to PACE funding and consumer protection. She noted Ygrene Energy Fund supports of the enacted legislation.

Michael Milderberger, of Renovate America, thanked CSLB and said he looks forward to collaborating one PACE funding matters related to the new legislation.



Bernadette Del Chiaro, of the California Solar and Storage Association, emphasized her organization’s support for AB 1070, AB 1278, and AB 1284 for their effect on consumer protection and looks forward to working with CSLB on implementation of these new laws.

**D. LICENSING**

**1. Review and Possible Approval of February 23, 2018, Licensing Committee Meeting Summary Report**

Licensing Committee Chair Marlo Richardson reviewed the Meeting Summary Report from the February 23, 2018, Licensing Committee meeting and noted a correction on page 108 that should read “additionally Ms. Schieldge responded that you should only consider reciprocity if CSLB determined if the qualifications are the same or similar to California’s and if the other states will accept California licensees. She suggested taking a hard look at the facts to avoid any legal problems.”

**MOTION:** To approve, as amended, the February 23, 2018 Licensing Committee Meeting Summary Report. David De La Torre moved; David Dias seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				



## **2. Licensing Program Update**

Licensing Committee Chair Marlo Richardson thanked the Licensing staff for their work to reduce the processing times in several units.

Chief of Licensing Laura Zuniga reviewed updated statistics on licensing applications processed, workers' compensation, the criminal background unit, experience verification unit, call center, and judgment unit. She noted an increase in the number applications received compared to the number received in 2017. During January and February 2018, Licensing staff worked overtime and staff from other divisions joined to help reduce application processing times. In response to a question from the Board's strategic planning meeting the previous day, Ms. Zuniga reported that the Call Center does not have the ability to track received calls by consumers or licensees, but staff believes that a majority of calls come from licensees.

## **3. Testing Program Update**

Chief of Licensing Laura Zuniga highlighted the number of operating CSLB test centers and how many exams are administered at the centers. A chart was provided detailing the current occupational analyses in progress and the exams in development. She also reported that Testing is currently working to complete the consumer satisfaction survey.

### Board Member Comment:

Board member Susan Granzella commented on the improvements to the presentation of the Board materials.

## **4. Review and Discussion Regarding Minimum Experience Requirements for a "B" General Building Contractor License**

Legal Counsel Kristy Schieldge presented an update to her review of the statutory and regulatory requirements for a "B" General Building contractor in regard to minimum experience for licensure. The review focused on if journeyman level or hands-on experience is required or if experience as a foreman, supervisory employee, or contractor meets the experience requirements for licensure.

Current Title 16, California Code of Regulations section 825 states that the Board can require an applicant to show his or her degree of knowledge and experience for the license classification applied for. The Board adopted its first rule regarding experience requirements in 1943. The rule on experience classifications has remained unaltered. Section 825 states that applicants must have had at the minimum four years of experience within 10 years immediately preceding the filing of the application, as a journeyman, foreman, supervising employee, or contractor in the classification the applicant intends to engage in as a contractor.



According to older Board policies adopted at rule 39, experience is practical knowledge gained through observation, learning and employment in that occupation. Under Section 825 journeyman, foreman, supervisory employee, or contractor are the four occupations that meet the minimum experience requirements for licensure. Journeyman level experience is not required for licensure in every case. Regarding experience as a foreman, supervising employee, and contractor Ms. Schiedge suggested that the Board clarify the regulation to specify what types of job experience would qualify a license. For example, what types of supervisory experience would qualify?

**Board Member Comment:**

Board Chair Kevin Albanese mentioned that the word “contractor” is defined in the Business and Professions Code. Ms. Schiedge explained that because of the time in which the regulation was adopted, the Board intended contractor experience to refer to currently or formerly licensed contractor experience; work performed as an unlicensed contractor would not meet the minimum requirements. She suggested that as the policy making body, the Board should consider amending the regulation for clarification.

Board member David Dias asked if a supervisory employee that worked under contract for a mechanical contractor but only supervised the automobile mechanic shop would then qualify for a contractor license. Ms. Schiedge answered that it would not be considered contracting experience. She explained that the qualifier on a license must meet the supervisory employee experience since they are legally responsible for directly supervising all construction activity for a contractor. Under the current regulation, only journeyman is clearly defined; the other accepted occupations need further clarification.

**5. Review, Discussion, and Possible Action on Recommendations Regarding Licensing Reciprocity with Other States and Use of the National Association of State Contractors Licensing Agencies (NASCLA) Commercial General Building Trade Exams and Trade Exam Waivers**

Licensing Committee Chair Marlo Richardson reviewed the recommendations for licensing reciprocity and the use of the NASCLA commercial general building trade exams and trade exam waivers. California currently seeks to establish reciprocity with the five states who utilize the NASCLA exam: Alabama, Georgia, Louisiana, North Carolina, and Oregon, and waive the “B” General Building exam for qualified applicants from these states if they passed the NASCLA commercial general building trade exam. Under these terms California would accept out of state applicants only if the other state accepts CSLB’s “B” General Building trade exam and the applicant passes the California Law and Business Exam. Arkansas expressed interest, however they no longer utilize the NASCLA commercial general building trade exam.

**MOTION:** To approve the updated staff recommendation to pursue reciprocity agreements with Alabama, Georgia, Louisiana, North Carolina, and Oregon to waive the CSLB “B” General Building exam for a qualified applicant that has passed the NASCLA



Commercial General Building exam, if the state agrees to accept CSLB’s “B” General Building trade exam. Further, those applicants must take and pass the California law and business exam. Augie Beltran moved; David De La Torre seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**6. Review and Discussion Regarding the Possible Development of an Arborist Health and Safety Certification program and Specialty “C” License Classification**

Licensing Committee Chair Marlo Richardson reviewed the development of an arborist health and safety certification program and specialty “C” license classification. At the February 23, 2018, Licensing Committee meeting, members recommend that staff meet with California occupational health and safety representatives to develop an arborist certification program and to potentially create a separate tree service license. Additionally, the Committee directed staff to hold meetings with tree service stakeholders.

Public Comment:

Ernesto Macias, of West Coast Arborist, stated that his organization and other arborist agree with the Committee recommendations and encourage the creation of a separate “C” classification for tree service.

Michael Palat, Urban Forest Council, agrees with the Committee recommendations.

Dan Bohnett, San Diego Gas and Electric, agrees with the Committee recommendations because of the danger involved with tree service. His organization



has noticed an increased trend with third party contractors using unqualified individuals working around powerlines and said there had already been six near fatal accidents involving powerlines this year.

Board Member Comment:

Board Chair Kevin Albanese asked if the individuals involved in the accidents were licensed and, if so, what type of license they held. Mr. Bohnett did not have this information, but Mr. Albanese asked staff follow-up on these accidents.

**MOTION:** To direct staff to develop an Arborist Health and Safety Certification program and Specialty “C” License Classification. This is fully formed motion from the Licensing Committee. The motion carried unanimously, 12–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer				✓	

**7. Review, Discussion, and Possible Action on License Classifications Authorized to Install Energy Storage Systems**

Registrar David Fogt discussed CSLB’s plan to review which license classifications are appropriate to install energy storage systems. Four letters from stakeholders were shared with the Board and made available to the public. Mr. Fogt explained CSLB wants to determine what types of energy storage systems are being installed and if new technology has been developed. He commented that CSLB needs to collect more information about any public safety issues that involve the installation of an energy storage systems; the voltage range each system can store; and any differences between installing these systems on commercial versus residential properties.



Mr. Fogt said that staff recommends holding a public meeting about energy storage systems to solicit information industry leaders and other stakeholders. He noted that staff hopes to model the meeting after the Public Utility Commission Workshops, where no Board members attend. CSLB staff would facilitate the meeting and have all written and oral testimony transcribed into a report, which would be made public and presented before the Board for review.

Board Member Comment:

Board member Joan Hancock asked why Board members would be excluded from attending the meeting and also asked if the meeting could be video recorded. Mr. Fogt replied that the meeting will not be a discussion but, rather, attendees will give testimony. However, two Board members could attend if the Board chooses. Mr. Fogt added that he intends to have the meeting audio recorded, but that a video recording could also be made.

Board member Augie Beltran mentioned that other agencies have held hearings regarding solar energy with only audio recordings and that the video recording may deter some from providing full testimony.

Board member David Dias said he would like the Board to be active on this issue and recommends that staff research the new technology in energy storage systems and be prepared to answer questions that may be asked.

Board Member David De La Torre requested more information on incidents, accidents, and fatalities that have occurred resulting from the installation of an energy storage system.

Public Comment:

Bernadette Del Chiaro, from California Solar and Storage Association, emphasized that her members work to ensure that contractors are properly licensed. In California, she said, there are no profuse problems with the installation or workmanship related to solar and storage systems. Her organization supports the staff recommendation and looks forward to presenting their information before the Board. She also noted her organization's strong opposition to the idea that a C-46 (Solar) contractor does not have the knowledge to install an energy storage system. This issue is similar to one from 2005, which centered on what classification can install solar photovoltaic systems and concluded that both C-10 (Electrical) and C-46 licensees can perform that work.

Berry Cinnamon, Cinnamon Energy System, said that he assisted CSLB in developing the C-46 trade exam to help ensure that it covered new technology. He believes C-46 licensees are capable of installing an energy storage system and noted that the C-10 trade exam has no questions related to battery storage. C-46 contractors have installed about 90 percent of California's energy storage systems and it's important to ensure that the most qualified people install energy storage systems.



Gretchen Newsom, IBEW 569, stated that her organization looks forward to participating in the hearings. Martin Learn, Home Energy Systems, expressed his agreement with the previous speakers and looks forward to participating, as well.

Chris Walker, CAL SMACNA, stated that his organization supports the staff recommendation but is concerned about the licensing structure of the C-10 and C-46. He asked why a C-10 requires a certified electrician to install an energy storage system but a C-46 does not.

Gary Liardon, Peterson Dean Roofing & Solar, looks forward to being involved in the discussion of energy storage systems and supports the idea that C-46 contractors are capable of installing these systems.

John Berdern, Enphase Energy, commented that the variety of energy storage systems precludes identifying a single way to determine who is capable of installing the systems. With the development of new technology his organization is monitoring the safety issues and encourages the development of new standards. Mr. Berdern supports the staff recommendation and added that the increased installation of solar in California makes energy storage an important issue. His organization deems both C-10 and C-46 contractors qualified to install energy storage systems.

Jim Kahlil, Tesla, said that while Tesla supports the staff recommendation, it opposes the idea that only C-10s are qualified to install energy storage systems. He stated that the C-46 is a specialty license and those holding it are highly qualified and knowledgeable about installing energy storage systems.

Paul Besson, Local Union 569, said that he supports allowing both the C-10 and C-46 classifications to install energy storage systems.

Board Member Comment:

Board member Joan Hancock asked how many C-46 contractors CSLB currently licenses. Rick Lopes answered there are approximately 1,374 C-46 licensees, which includes active and inactive licenses.

Board member Nancy Springer requested that as staff collects information they record the size of the energy system installed and what licenses the contractor installing the system holds.

Board member David Dias requested further research on how a solar system is installed without employee assistance, since 67 percent of C-46 licensees are currently exempt from having workers' compensation insurance.

**MOTION:** To direct staff to hold a public meeting to collect information about energy storage systems. This is fully formed motion from the Licensing Committee. The motion carried unanimously, 13–0.



NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**8. Review, Discussion, and Possible Action on Recommendations to Appoint Members to the Construction Management Education Account Advisory Committee**

Licensing Committee Chair Marlo Richardson reviewed the recommendations to appoint members to the Construction Management Education Account Advisory Committee

**MOTION:** To approve the appointment recommendations of members to the Construction Management Education Account Advisory Committee. This is a fully formed motion from the Licensing Committee. The motion carried, 12-0-1.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.			✓		
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	



Nancy Springer

✓

**Board Member Comment:**

Board member Frank Schetter commented that only C-36, C-20, and C-10 licensees can design their own installations. Any C-46 contractor designing his or her own installation is in violation of the engineering code. Mr. Schetter requested that the letter from Richard Umoff be forwarded to the committee that regulates engineering.

The Board recessed at 9:52 a.m.

The Board reconvened at 10:07 a.m.

Board Chair Kevin Albanese selected Augie Beltran and Nancy Springer to serve as the nomination committee for Board officer positions for the 2018-19 fiscal year. The nomination committee will create a list of nominees for each position to present at the June 2018 Board meeting.

**E. ENFORCEMENT**

**1. Review and Possible Approval of February 23, 2018, Enforcement Committee Meeting Summary Report**

**MOTION:** To approve the February 23, 2018, Enforcement Committee Meeting Summary Report. Augie Beltran moved; Linda Clifford seconded. The motion carried unanimously, 11–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson				✓	
Frank Schetter				✓	
Johnny Simpson				✓	



## 2. Enforcement Program Update

Chief of Enforcement Missy Vickrey presented the Enforcement program update. She noted that vacancies and the redirecting of staff resources to Local Assistance Centers in response to disaster has caused high caseloads in certain area and a higher than desired number of aged cases. She also reported that the Enforcement Representative I exam is in process, which should generate a new candidate list to help fill vacancies.

Ms. Vickrey reviewed the number of pending investigations, SWIFT statistics, and noted that CSLB has obtained \$14 million in restitution for the current fiscal year. She also provided an update on the Solar Task Force, reporting that staff will meet with the 33 solar contractors with multiple complaints filed against them.

### Board Member Comment:

Board member Augie Beltran asked if there is a website for applicants interested in CSLB's job openings. Ms. Vickrey provided the website address: [www.calhr.ca.gov](http://www.calhr.ca.gov).

Mr. Herrera Jr. also asked about the solar complaint trends from the first three calendar months of 2018, and expressed concern that the solar complaints not get lost among the other complaints. Ms. Vickrey replied that Solar Task Force members have provided training to investigative center staff about how to process solar complaints, and that the training should be complete by June 2018. Mr. Herrera Jr. added that having complaints going to difference centers could interfere with their coordination and tracking and that it may be better to have a group dedicated to solar complaints. Ms. Vickrey responded that there are codes and mechanisms to track solar complaints. Mr. Fogt explained that contractors with multiple complaints are identified and directed to the same staff member and that actions are taken against contractors who continue to receive complaints. He also clarified the comment in the Board packet about the possible disbanding of the task force and said that would not happen until the Task Force had achieved its objectives and the practices that result in contractors receiving multiple complaints have been corrected.

### Public Comment:

Bernadette Del Chiaro, California Solar and Storage Association, commented that she believes that AB 1070 will help clarify for consumers the financing options for solar contracts and noted her organization's support for a simple and standard disclosure to consumers for signing a contract.



**3. Update, Discussion, and Possible Action on Recommendations from Board Member Advisory Sub-Committee on Workers’ Compensation Enforcement Strategies, Resources, and Accomplishments**

Board Chair Kevin Albanese reported that on January 25, 2018, he, member Ed Lang, Registrar Fogt, and Enforcement Chief Vickrey met with representatives from the State Compensation Insurance Fund (SCIF) to discuss the feasibility of expanding the number of license classifications with a mandatory workers’ compensation (WC) requirement for active licenses. Currently that requirement only applies to C-39 Roofers.

Since many C-39 licensees obtain their WC policy from SCIF, Mr. Albanese noted that it’s expected that many licensees will also go to SCIF if the requirement is expanded to other classifications. He also stressed that CSLB wants to ensure that adding a new requirement would benefit all consumers, contractors, and would not harm SCIF.

In addition, Mr. Albanese reported that the subcommittee met on March 9, 2018, with representatives of other state agencies that are part of the Joint Enforcement Strike Force, which resulted in the creation of a list of additional tools CSLB staff may find useful to help address WC avoidance.

The advisory subcommittee recommended that CSLB consider two proposals. One would mandate workers’ compensation for several other license classifications; the second would prohibit licensees who violate Labor Code 3700 from filing a new workers’ compensation exemption for one year. The proposal was presented to the Board in two separate motions.

**MOTION:** To refer to the Legislative Committee a recommendation that other classifications, in addition to C-39 Roofing, be required to have a WC policy. This was a fully formed motion from the Enforcement Committee. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				

Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**MOTION:** To refer to the Legislative Committee a recommendation that licensees found to have violated Labor Code 3700.5 be precluded from filing a new WC exemption with CSLB for one year.

Public Comment:  
 Richard Markuson, Plumbing, Heating and Cooling Contractors of California, stated that he supports the concept, but believes a one-year suspension may not be sufficient for licensees who falsely claim a WC exemption, and suggested that repeat offenders be indefinitely prohibited from filing an exemption after the second offense.

Board Member Comment:  
 Board member Joan Hancock expressed concern that this proposal may encourage unscrupulous behavior, causing contractors to go underground. She suggested pursuing an alternative solution, such as imposing a large fine. She also expressed concern that CSLB and the other agencies may not have the resources to monitor licensees during a probation period.

Board Chair Albanese responded that he believes contractors who have employees without workers' compensation are already working underground and added that the proposals are a starting point toward finding a solution.

The motion carried, 12–0-1.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock			✓		
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				



**4. Update, Discussion, and Possible Action on Recommendations from Board Member Advisory Sub-Committee on Strategies to Address Owner-Builder Construction Permits and Unlicensed Activity Violations**

Board member Nancy Springer noted a correction in the meeting packet, stating that she was not the past chair of CALBO but past president of the County Building Officials Association of California.

Ms. Springer reported that she and Board member Linda Clifford met with CSLB staff to develop strategies to increase building permit and contractor compliance. The Enforcement Committee on February 23, 2018, recommended the full Board approve six strategies:

- On February 7, 2018, California Building Officials (CALBO) distributed a contact letter to local building officials and 400 of their members, in which CSLB offered to directly assist building departments in addressing local permit violations by establishing a designated local CSLB staff member as the primary point of contact. CSLB hopes that CALBO's distribution will increase building department participation.
- CSLB has created a contact information card for building officials that includes direct contact information for CSLB management, which building officials may use if their designated CSLB liaison is unavailable.
- In addition to the new building department referral form, an email address ([permitviolations@cslb.ca.gov](mailto:permitviolations@cslb.ca.gov)) was generated to process reports of permit violations.
- Mike Jamnetksi drafted a letter of agreement to establish partnership goals and expectations between CSLB and building officials.
- CSLB can issue a letter of admonishment for building permit violations, which allows CSLB to require a corrective action plan that can include completion of a course on permit compliance. The sub-committee and CSLB staff are developing an internet training course to address permit violations.

Legal Counsel Comment:

Kristy Schieldge suggested amending the disciplinary guidelines to include the training course requirement for other enforcement actions and not limiting it to only corrective action plans as part of the letter of admonishment.

**MOTION:** To approve the six strategies to address owner-builder construction permits and unlicensed activity violations. This is a fully formed motion from Enforcement Committee. The motion carried unanimously, 13-0.



NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

**F. PUBLIC AFFAIRS**

Public Affairs Committee Chair Susan Granzella thanked the Public Affairs and Information Technology staff for their efforts in developing the “Find my Licensed Contractor” website feature. Ms. Granzella also thanked the CSLB staff for their dedication to disaster relief and for conducting the contractor workshops for those interested in working during the rebuilding process.

**1. Review and Possible Approval of March 2, 2018, Public Affairs Committee Meeting Summary Report**

**MOTION:** To approve the March 2, 2018, Public Affairs Committee Meeting Summary Report. Nancy Springer moved; Linda Clifford seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				

	<b>CSLB</b>	<b>BOARD MEETING MINUTES</b>				
Michael Layton	✓					
Marlo Richardson	✓					
Frank Schetter	✓					
Johnny Simpson					✓	
Nancy Springer	✓					

## 2. Public Affairs Program Update

Chief of Public Affairs Rick Lopes provided the Public Affairs program update. He reported on the new “Find My Licensed Contractor” website feature that launched in January 2018, and which allows users to locate licensed contractors in a specific location by license classification to generate a randomly ordered list. Mr. Lopes noted that outreach through the NextDoor community website has enabled CSLB to target messages specifically to individual communities. Mr. Lopes also reported that PAO staff have continued to focus on disaster relief efforts, including workshops conducted for wildfire survivors in Yuba County, and for contractors hoping to get rebuilding work after wildfires in Yuba and San Diego Counties.

Mr. Lopes reported that the *2017 Accomplishments and Activities* report is complete and available in print and on the CSLB website, that the applicant licensing workshops in Sacramento and Norwalk continued to be successful, and that the Senior Scam Stopper seminars are back on schedule after a decrease in the number events hosted in January and February 2018, in order to set-up and conduct disaster outreach workshops.

### Board Member Comment:

Board member Joan Hancock asked if there is a link for users to submit complaints on the Nextdoor website. Mr. Lopes responded that CSLB can post messages to provide a direct link and reach users in specific zip codes, if necessary, but cannot currently reach the entire state of California registered through Nextdoor.

Board member Pastor Herrera Jr. asked if the “Find My Licensed Contractor” feature was still in its soft launch phase. Mr. Lopes answered that since the feature has not yet been fully promoted it is still considered a soft launch. Mr. Herrera Jr. added that searching by zip code versus by city leads to different results and suggested adding an option for distance radius. Mr. Lopes replied that this is a feature staff hope to include as they enter phase two, as well as other features to expand the search options.

## 3. Update and Discussion on CSLB’s Outreach, Educational, Media, and Enforcement Response to 2017-18 Natural Disasters

Chief of Public Affairs Rick Lopes reported CSLB’s response to the natural disasters that devastated California during 2017-2018, one of the largest responses in its history.



He noted that CSLB staffed Local Assistance Centers in at least 18 counties, primarily drawing on Enforcement personnel. The Public Affairs staff distributed more than 50,000 pages of materials, in addition to providing signs, brochures, posters, and other materials. Dozens of signs were placed in disaster areas to warn consumers of unlicensed and unscrupulous contractors, while others warned unlicensed contractors that contracting without a license in a declared disaster area can be charged as a felony.

Mr. Lopes reported that outreach and media efforts involved holding press conferences, releasing consumer alerts, and hosting workshops for both consumers and licensees. CSLB conducted a sting operation in the Santa Rosa area, and is also involved in several task forces and workgroups to address issues on rebuilding and contractor workforce development.

**G. EXECUTIVE**

**1. Review and Possible Approval of December 7, 2017, Board Meeting Minutes**

**MOTION:** To approve the December 7, 2017, Board Meeting minutes, as amended (page 248 “subsequence” should be “subsequent”). Linda Clifford moved; David De La Torre seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				



## **2. Personnel, Facilities, and Administration Update**

Chief of Administration Mike Melliza provided the Personnel, Facilities and Administration update. He reported that staff vacancies have declined, provided an update on the Sacramento Headquarters lease renewal, noting that building upgrades are schedule for completion by December 2018, and reported that the DCA approved CSLB's fleet acquisition plan. Mr. Melliza also reported that CSLB has a contract with CPS HR Consulting to conduct a comprehensive analysis of Enforcement's classification, recruitment, and retention. The study will begin in April 2018, and should take approximately four-to-five months to complete.

## **3. Information Technology Update**

Chief of Information Technology (IT) John Cleveland provided an update on the "Find my Licensed Contractor" website feature, updates to the cyber and data security, and the number of calls received by CSLB. Mr. Cleveland reported that between its January 10, 2018, launch and March 26, 2018, the feature had over 155,000 page hits. He also said that IT staff updated the CSLB website's Completely Automated Public Turing test to tell Computers and Humans Apart (CAPTCHA); the update is invisible and protects against robotic software attacks without users having to check "I am not a robot" boxes. Mr. Cleveland further reported that CSLB submitted a draft business modernization plan in November 2017, to request resources from the Department of Consumer Affairs SOLID program to help document CSLB's current and future business processes.

### Board Member Comment:

Board member Susan Granzella asked for an update on CSLB's involvement with the BreZE program and the deadline for the final decision and requested a standing agenda item on this issue. Mr. Cleveland replied that CSLB has not made a decision at this time. Chief Deputy Registrar Tonya Corcoran added that the deadline has been extended and CSLB is currently negotiating for additional resources to continue mapping the business processes.

## **4. Budget Update**

CSLB Budget Analyst Stacey Paul provided the budget update and reported that for fiscal year 2017-2018, as of January 1, 2018, CSLB spent about 43 percent of its budget. She noted that a budget change proposal for SB 661 will go to hearing in April 2018, and that she and Mike Jamnetski will attend. She also reported that the contractors' license fund remains consistent.

### Board Member Comment:

Board member Marlo Richardson asked why there is funding for temporary employees when there are vacancies that need to be filled. Ms. Paul explained that the temporary help fund is utilized for employees on extended medical leave and those that will soon



retire. The positions of retiring employees are filled, such that the new employee and the retiring employee briefly overlap. Ms. Corcoran added that it is standard to have a temporary help budget, as it provides a funding source for temporary help in case an employee retires, goes on extended medical leave, or additional staff is needed.

Linda Clifford asked if the revenue shown in the fund condition reflects the fee increase that took effect this fiscal year and when will DCA might provide revenue reports. Ms. Paul responded that it does reflect the increased fees and that currently DCA has only provided revenue information for the first few months of the fiscal year and has no timeframe for when revenue reports will be available. Ms. Paul added that she is currently using internal widget counts of applications received, along with raw accounting data, to try and get the most accurate predictions of revenue. Ms. Clifford requested a budget report once the revenue reports are available.

Board member Susan Granzella requested that the BreEZe update be part of the Administrative report in future meetings.

**5. Registrar’s Report**

Board Chair Kevin Albanese took a moment to congratulate Frank Schetter on the birth of his grandson. Additionally, Board members thanked Pastor Herrera Jr. for his service to the Board.

Registrar David Fogt reviewed the tentative Board meeting schedule for 2018:

- June 7-8, 2018 – Nevada
- September 20, 2018 – Sacramento, CA
- December 13, 2018 – Berkeley, CA

Mr. Fogt reported that he is collaborating with the Nevada Contractors’ Board Executive Officer Margi Grein to prepare for the joint Board meeting in June 2018, and noted some agenda items for possible inclusion: comparing license fees, insurance requirements, multi-state criminal cases, and enforcement trends for growing industries, and unlicensed activity.

**H. ADJOURNMENT**

**MOTION:** To adjourn the April 12-13, 2018, Board meeting. Pastor Herrera Jr. moved; David De La Torre seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				



David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

Board Chair Kevin Albanese adjourned the meeting at approximately 11:30 a.m.

\_\_\_\_\_  
Kevin Albanese, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
David Fogt, Registrar

\_\_\_\_\_  
Date



## AGENDA ITEM H-2

# Personnel, Facilities, and Administration Update







### PERSONNEL UPDATE

During the third quarter of fiscal year 2017-18, CSLB Personnel staff completed 48 recruitment transactions. This included the addition of 14 new employees from other state agencies and six employees new to State service. Within CSLB, 12 employees were promoted, two transferred to different units, and one accepted a Training and Development Assignment. Additionally, 13 examination proctors were hired for the Testing Centers.

#### Total Number of Recruitments per Quarter - Fiscal Year 2017-18

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
From other State Agencies	13	9	14	---
New to State Service	3	7	6	---
Student Assistant	1	2	0	---
Retired Annuitants	0	---	0	---
Promotions	4	14	12	---
Transfers within CSLB	3	14	2	---
Training and Development	0	---	1	---
Examination Proctors	1	---	13	---
<b>Total Per Quarter</b>	<b>24</b>	<b>46</b>	<b>48</b>	<b>---</b>

#### Total Number of Recruitments per Quarter – Fiscal Year 2016-17

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
From other State Agencies	8	6	7	8
New to State Service	2	4	3	6
Students	0	0	1	0
Retired Annuitants	0	1	1	0
Promotions	13	14	16	10
Transfers within CSLB	5	3	2	6
Training and Development	1	0	1	0
<b>Total Per Quarter</b>	<b>29</b>	<b>28</b>	<b>31</b>	<b>30</b>



In January 2018, the California Department of Human Resources (CalHR) updated the specifications of the Information Technology (IT) classifications and consolidated 36 separate IT classifications into nine new service-wide classifications. The Personnel unit continues to work closely with DCA and CSLB’s Information Technology unit to place staff in the appropriate new classifications and ranges. The Personnel unit coordinated four ergonomic trainings in April and May 2018, for staff in the Sacramento, San Diego, Valencia, and Norwalk offices.

The Personnel unit completed its recruitment effort to fill the Personnel Manager position vacated by Alexander Christian and is pleased to announce the addition of Ingrid Witowski-Sedlar to CSLB. Ms. Witowski-Sedlar brings with her four years of State service experience and was previously CSLB’s Classification and Pay Analyst at DCA.

Vacancies in the third quarter of fiscal year 2017-18 have remained steady at twenty-nine. CSLB management and Personnel continue to work closely with CSLB hiring managers and DCA’s Office of Human Resources to identify and minimize delays in the recruitment process. These efforts have improved the recruitment process and helped to reduce the number of CSLB’s overall job vacancies.

**Total Vacancies per Month by Fiscal Year**

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
FY 2017-18	45	37	33	31	38.5	34	29	29	29	29	---	---
FY 2016-17	48	43	44	45	43	39	45.5	41.5	38.5	38.5	42	45
FY 2015-16	37	37	39	45	40	42	39	39	39	41.5	40	43

**Examinations**

DCA and CalHR offer several examinations throughout the year, as shown in the table on the following page:



**ENFORCEMENT**

Consumer Services Representative	Last exam administered in:	August 2017
	Tentative exam date:	June 2018
Enforcement Representative I	Last exam administered in:	June 2017
	Tentative exam date:	June 2018
Enforcement Representative II	Last exam administered in:	November 2017
	Tentative exam date:	May 2018
Enforcement Supervisor I/II	Last exam administered in:	November 2017
	Tentative exam date:	TBD

**INFORMATION TECHNOLOGY**

Assistant/Associate/Staff Information Systems Analyst (CalHR)	Continuous
Systems Software Specialist I/II/III (CalHR)	Continuous

**LICENSING AND EXAMINATIONS**

Personnel Selection Consultant I/II	Last exam administered in:	June 2017
	Tentative exam date:	June 2018
Test Validation & Development Specialist I/II	Last exam administered in:	June 2017
	Tentative exam date:	June 2018

**ALL CSLB**

Information Officer I, <i>Specialist</i> (CalHR)	Continuous
Management Services Technician (CalHR)	Continuous
Office Services Supervisor II (CalHR)	TBD
Office Technician (CalHR)	Continuous
Office Assistant (CalHR)	Continuous
Program Technician (CalHR)	Last exam administered in: April 2018 Tentative exam date: TBD
Program Technician II (CalHR)	Last exam administered in: March 2018 Tentative exam date: June 2018
Program Technician III (CalHR)	Last exam administered in: March 2018 Tentative exam date: June 2018
Supervising Program Technician III (CalHR)	Continuous
Associate Governmental Program Analyst/ Staff Services Analyst (CalHR)	Continuous
Staff Services Analyst Transfer Exam	Tentative exam dates: March/June Sept./December
Staff Services Manager I/II/III (CalHR)	Continuous

**BUSINESS SERVICES UPDATE****Facilities**

**San Diego** – The Department of General Services (DGS) Real Estate Officer contacted the Lessor to provide a construction schedule for the modifications to the Testing and Enforcement suites. The DGS Planner will provide the schedule and work details (paint, carpet, etc.) to the general contractor who will then begin work. Construction bids have been completed.

Projected Completion Date: **September 2018**

**Sacramento Headquarters** –The proposal for the lease renewal and tenant improvements was approved on May 8, 2018. The lease renewal includes energy upgrades to comply with the Governor’s Executive Order and Green Building Action Plan. Seven conference rooms will be updated, including a media control room attached to the Hearing Room. Major modifications to the building include: a security kiosk, new flooring, paint, film on the windows and electrical upgrades. Modifications are anticipated to begin August 2018.

Projected Completion Date: **December 2018**

**Oxnard** – DGS awarded a contract to a general contractor who is in the process of scheduling the requested tenant improvement work, which includes new carpet and paint in the Enforcement and Testing suites. The Testing suite will receive new key card access. The lease was extended to March 31, 2019.

Completed Date: **May 2018**

**Norwalk** – Additional staff positions will be established in the Norwalk office, which requires altering the current space to accommodate the new employees. In May 2018, CSLB Headquarters staff visited Norwalk to determine how to reconfigure the space and DGS, DCA and CSLB expect to meet in late May to move forward with this project.

Projected Completion Date: **TBD**



**San Francisco** – The DGS Real Estate Officer is reviewing the projected cost for the new lease and the requested tenant improvements. Tenant improvements and electric vehicle charging stations were submitted to lessor to determine cost. The Lessor will seek three competitive bids for the modifications, which will include paint touch-up, a new sink and garbage disposal, new cabinets, and an electrical vehicle charging station.

Projected Completion Date: **September 2018**

**Valencia** – The lessor is in the process of locating a space in the new building to accommodate the CSLB office. Department of Consumer Affairs visited the site in April 2018 and is currently working on the scope of work for the new location.

Projected Completion Date: **December 2018**

**Fresno** – The DGS Space Planner prepared new floor plans, which CSLB approved. The DGS Leasing Officer is negotiating the lease, which includes some building modifications – touch-up paint, installation of lower plates on all doors, corner guards throughout the office, and an exhaust fan in the breakroom. The lessor is obtaining bids for the tenant improvements.

Projected Completion Date: **September 2018**

## **Contracts and Procurement**

### Contracts in Process:

- Translation and transcription services contract for Testing and Public Affairs is currently with DCA awaiting approval.
- Maintenance contract for the trifold machine in the CSLB Headquarters Warehouse.
- Preventative maintenance and emergency service contract for the Ansul Fire Suppression System located in the CSLB Network Server Room at Headquarters is currently with DCA awaiting approval.
- Forklift maintenance contract for the CSLB HQ warehouse forklift.
- New copier and maintenance contract for West Covina.

### Procurements in Process:

- Purchase of a new Uninterrupted Power Supply (UPS) for CSLB Headquarters.
- Purchase of ergonomic equipment for CSLB Headquarters, such as sit/stand stations, document holders, back supports, keyboards and foot rests.



- Purchase of MovinCool unit for the San Jose IT Room.

**Executed Contracts/Procurement:**

- The California Highway Patrol (CHP) annual contract to provide security services for various meetings and testing offices.
- Contract for shredding services at CSLB Fresno location.
- Subscription for Legislative Bill Tracking and Regulatory Reporting renewed through RELX Inc. DBA LexisNexis.
- CPS HR Consulting contract for Enforcement's classification, recruitment, and retention study.
- Online survey SurveyMonkey Inc. contract renewed for CSLB Testing.
- GoDaddy.Com, LLC contract renewed for the domain names (seniorscamstopper.org/.net/.com) for two years.
- Maintenance service contract for the three UPS's located at CSLB Headquarters.
- Service contracts to clean task chairs at CSLB Testing Centers in San Diego and Fresno.
- New copier and maintenance for Norwalk Investigation Unit.

**Fleet**

Under the current approved fleet acquisition plan, CSLB recently replaced two vehicles – a Ford Fusion was delivered to the West Covina and Norwalk offices in April 2018. CSLB has identified five vehicles for replacement on the 2017-18 Fleet Acquisition Plan, which is pending DGS approval.

## AGENDA ITEM H-3

# Information Technology Update







### **Network Access Control Implementation**

To enhance security and protect CSLB from malicious cyber threats, the Information Technology (IT) division has completed implementation of a network access control solution with behavior analytics-based attack detection. The tool allows CSLB IT to control and grant access to the network via workstations, laptops, and mobile devices in all field offices based on certain criteria, such as software patch levels, present and up-to-date antivirus software, device type, CSLB ownership, and authenticated user. It also allows IT to quarantine devices that do not meet security requirements until any deficiencies can be remediated. This technology fills a critical gap and satisfies the final remaining audit finding from the 2016 State Security Audit.

### **Firewall Rules Validation and Updating**

Firewall rules define the conditions by which various computer programs and certain types of traffic are either allowed or denied passage into or out of the network. CSLB has completed an evaluation and update of its firewall rules to ensure that they effectively block unwanted inbound traffic and allow only business-related computer applications to leave the network. The work involved validating the business need for any outbound computer applications and removing rules that allowed applications no longer in use. This effort helps CSLB maintain the highest level of security possible to protect consumer and licensee information.

### **“Find My Licensed Contractor” Website Search Update**

This enhanced online search feature on CSLB’s website, which allows users to search for licensed contractors by classification in a particular geographic area, continues to be widely used. As of May 15, 2018, the page had received 264,563 hits. This enhancement satisfied the requirements of AB 2486, which mandated implementation by January 2019.

### **Department of Consumer Affairs Business Modernization Project**

The Department of Consumer Affairs (DCA) Business Modernization Project lays out the framework that boards and bureaus will follow to evaluate their Information Technology system needs consistent with the Project Approval Lifecycle (PAL). In collaboration with DCA, CSLB has developed a Business Modernization Report that will address priority business activities and assessment criteria; identify risks, issues, and assumptions; and provide a timeline for major project milestones. CSLB submitted a draft Business Modernization Report to DCA on November 14, 2017. CSLB is continuing to work with the Department on the scope of the project plan.



**Interactive Voice Response (IVR) System**

CSLB’s IVR is an interactive, self-directed telephone system that provides valuable information to consumers, contractors, and others. It allows callers to request forms or pamphlets that are sent to them immediately, check a license status and history, and check the status of an application. The IVR also provides consumers with information about how to file complaints, as well as how to become a licensed contractor. In addition, the IVR gives callers the option to speak to call center agents in Sacramento or Norwalk.

The IVR system offers dozens of possible menu options. Following is a list of the top 20 IVR requests from February 2018 through April 2018.

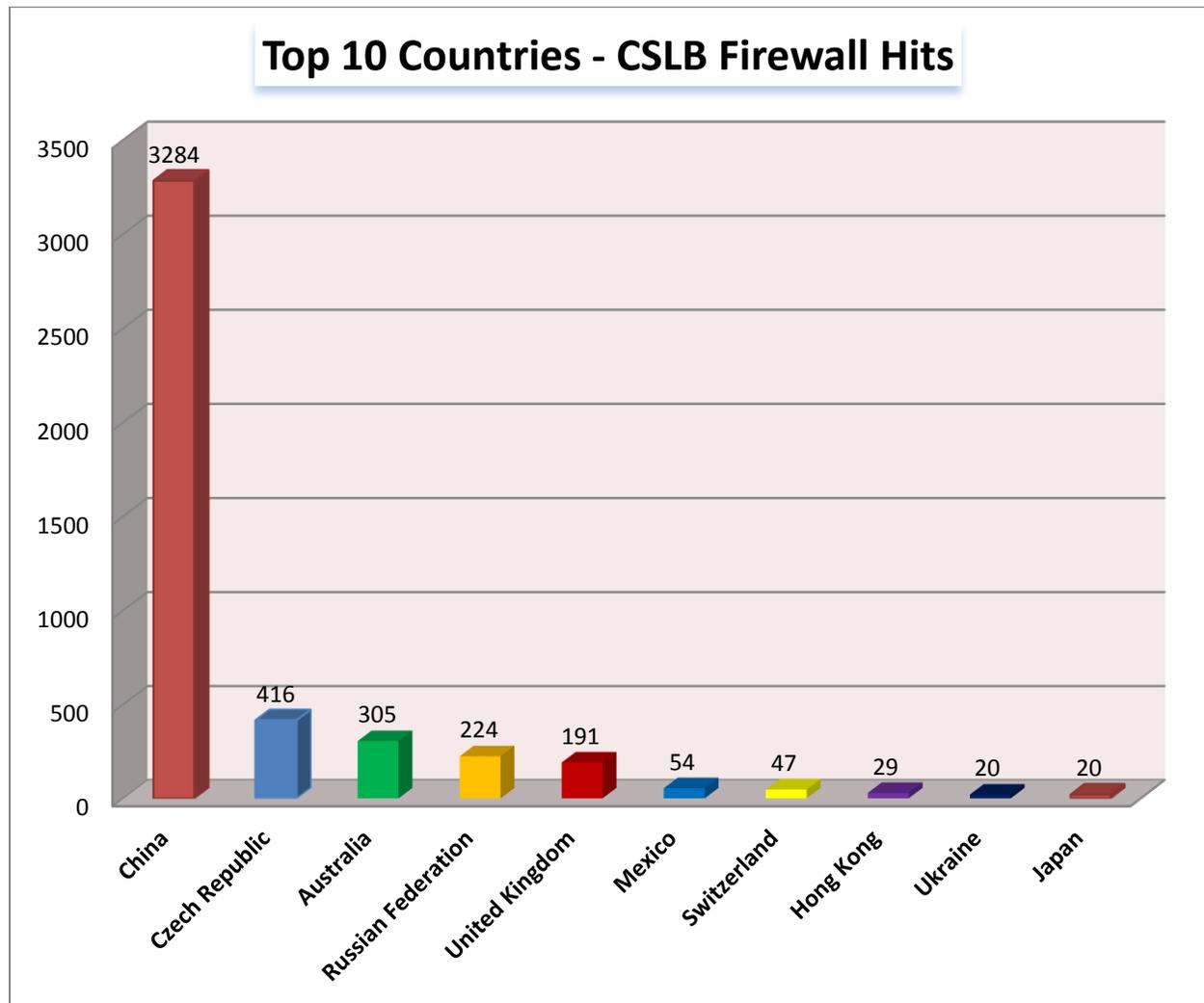
<b>IVR Statistics</b>	<b>Feb 2018</b>	<b>Mar 2018</b>	<b>Apr 2018</b>	<b>Total</b>
IVR calls received	33,947	39,029	36,426	109,402
Monthly average				36,467
<b>Top 20 IVR Requests</b>	<b>3 Month Totals</b>			
Contractor or Want to Become Contractor	16,777	19,407	18,018	54,202
Info on Maintaining or Changing License	10,426	12,107	11,263	33,796
Contractor's License Check	8,241	9,930	8,936	27,107
Contractor License Application	4,451	5,038	4,663	14,152
About License Renewal	3,714	4,263	3,982	11,959
License Number Not Known	3,634	4,365	3,933	11,932
About Making Changes to License	3,531	4,103	3,943	11,577
Hire or Problem with Contractor	3,168	3,486	3,332	9,986
For Changes to Existing Licenses	2,169	2,467	2,379	7,015
About Continuing Requirements	2,089	2,613	2,305	7,007
License Requirements	1,874	2,076	2,049	5,999
Reschedule Exam Date	1,838	2,076	1,980	5,894
General Application & Examination Info	1,664	1,937	1,718	5,319
Info on Problems with Contractor	1,505	1,696	1,587	4,788
For Changing the Business Structure of an Existing	1,202	1,521	1,423	4,146
To Fax Forms, or To Order Forms by Mail	1,025	1,238	1,150	3,413
Info about Bond or Workers' Comp Requirements	763	971	903	2,637
For Adding Classifications, Certifications or Chan	743	810	766	2,319
License Complaint Information	661	721	729	2,111
For Business Name or Address Changes	620	706	638	1,964



### Enterprise IT Security – Firewall Hits

CSLB’s IT staff maintains high security for the Board’s information technology networks, systems, and applications. Using various technologies, CSLB proactively blocks/denies unauthorized attempts to breach its systems from all sources, including those emanating from foreign countries.

The chart below shows the top 10 foreign countries from which users have attempted to access CSLB systems and applications between January 1, 2018 and May 15, 2018, all of which were successfully denied. CSLB’s IT security systems have successfully safeguarded CSLB information assets, and no unauthorized attempts to penetrate the system have succeeded.





# AGENDA ITEM H-4

## Budget Update







# CONTRACTORS STATE LICENSE BOARD

## BUDGET UPDATE

### ❖ Fiscal Year (FY) 2017-18 CSLB Budget and Expenditures

Through March 31, 2018, CSLB spent or encumbered \$44 million, roughly 66 percent of its FY 2017-18 budget. This chart details CSLB's FY 2017-18 budget, including expenditures through March 2018:

EXPENDITURE DESCRIPTION	FY 2017-18 REVISED BUDGET	MARCH 2018 EXPENSES	BALANCE	% OF BUDGET REMAINING
<b>PERSONNEL SERVICES</b>				
Salary & Wages (Staff)	25,114,000	17,081,895	8,032,105	32.0%
Board Members	16,000	6,800	9,200	57.5%
Temp Help	860,000	525,713	334,287	38.9%
Exam Proctor	41,000	40,000	1,000	2.4%
Overtime	146,000	258,115	-112,115	-76.8%
Staff Benefits	12,438,000	8,976,302	3,461,698	27.8%
<b>TOTALS, PERSONNEL</b>	<b>38,615,000</b>	<b>26,888,825</b>	<b>11,726,175</b>	<b>30.4%</b>
<b>OPERATING EXPENSES AND EQUIPMENT (OE&amp;E)</b>				
Operating Expenses	18,946,000	13,900,793	5,045,207	26.6%
Exams – Subject Matter Experts	436,000	161,673	274,327	62.9%
Enforcement	8,719,000	3,608,946	5,110,054	58.6%
<b>TOTALS, OE&amp;E</b>	<b>28,101,000</b>	<b>17,671,412</b>	<b>10,429,588</b>	<b>37.1%</b>
<b>TOTALS</b>	<b>66,716,000</b>	<b>44,560,237</b>	<b>22,155,763</b>	<b>33.2%</b>
Scheduled Reimbursements	-353,000	-150,707	-202,293	
Unscheduled Reimbursements		-396,114	396,114	
<b>TOTALS, NET REIMBURSEMENTS</b>	<b>66,363,000</b>	<b>44,013,416</b>	<b>22,349,584</b>	<b>33.7%</b>

### ❖ Revenue

CSLB received the following revenue amounts through March 31, 2018:

Revenue Category	Through 03/31/2018	Percentage of Revenue	Change from prior year (03/31/2017)*
Duplicate License/Wall Certificate Fees	\$91,009	0.2%	17.5%
New License and Application Fees	\$10,254,173	22.5%	12.1%
License and Registration Renewal Fees	\$31,677,944	69.4%	-4.0%
Delinquent Renewal Fees	\$1,951,965	4.3%	7.1%
Interest	\$83,335	0.2%	27.3%
Penalty Assessments	\$1,463,012	3.2%	0.9%
Misc. Revenue	\$92,736	0.2%	1.0%
<b>Total</b>	<b>\$45,614,174</b>	<b>100.00%</b>	<b>0.1%</b>

\* License & Registrations Renewals Fees are based on 2-year cycle (comparative data is from FY 2015-16, a non-peak renewal year).



❖ **CSLB Fund Condition**

Below is the fund condition for the Contractors’ License Fund, which shows the final FY 2016-17 reserve (\$16 million – approximately 3 months’ reserve), along with the projected reversion amounts for current year (CY) 2017-18 through budget year (BY) 2019-20:

	<b>Final FY 2016-17</b>	<b>Projected CY 2017-18</b>	<b>Projected BY 2018-19</b>	<b>Projected BY+1 2019-20</b>
<b>Beginning Balance</b>	\$19,040	\$16,181	\$13,508	\$12,491
Prior Year Adjustment	-\$69	\$0	\$0	\$0
<b>Adjusted Beginning Balance</b>	<b>\$18,971</b>	<b>\$16,181</b>	<b>\$13,508</b>	<b>\$12,491</b>
<b>Revenues and Transfers</b>				
Revenue	\$60,078	\$63,650	\$66,990	\$65,082
<b>Totals, Resources</b>	<b>\$79,049</b>	<b>\$79,831</b>	<b>\$80,498</b>	<b>\$77,573</b>
<b>Expenditures</b>				
Disbursements:				
Program Expenditures (State Operations)	\$59,662	\$62,363	\$63,423	\$64,501
Statewide Pro Rata (State Operations)	\$3,124	\$3,879	\$3,879	\$3,879
Supplemental Pension Payments			\$698	\$698
Financial Info System Charges (Fi\$Cal)	\$81	\$81	\$7	\$7
<b>Total Expenditures</b>	<b>\$62,867</b>	<b>\$66,323</b>	<b>\$68,007</b>	<b>\$69,085</b>
<b>Fund Balance</b>				
Reserve for economic uncertainties	<b>\$16,181</b>	<b>\$13,508</b>	<b>\$12,491</b>	<b>\$8,488</b>
<b>Months in Reserve</b>	2.9	2.4	2.2	2.0

Notes:

- 1) All dollars in thousands.
- 2) Revenue assumes 1.5% renewal license fee growth, based on prior 2-year cycle.
- 3) Expenditures in FY 2017-18 based on projections and then assumes growth projected at 1.7% starting in FY 2018-19, and then ongoing.
- 4) Assumes workload and revenue projections are realized for FY 2017-18 and FY 2018-19.



❖ **Construction Management Education Account (CMEA) Fund Condition**

Below is the CMEA fund condition, which shows the final FY 2016-17 reserve (\$249,000 – approximately 19 months’ reserve), along with the projected reversion amounts for current year (CY) 2017-18 through budget year (BY) 2019-20:

	Final FY 2016-17	Projected CY 2017-18	Projected BY 2018-19	Projected BY+1 2019-20
<b>Beginning Balance</b>	\$ 161	\$ 249	\$ 344	\$ 284
Prior Year Adjustment	-\$1	\$0	\$0	\$0
<b>Adjusted Beginning Balance</b>	<b>\$ 160</b>	<b>\$ 249</b>	<b>\$ 344</b>	<b>\$ 284</b>
<b>Revenues and Transfers</b>				
Revenue	\$89	\$95	\$100	\$100
<b>Totals, Resources</b>	<b>\$ 249</b>	<b>\$ 344</b>	<b>\$ 444</b>	<b>\$ 384</b>
<b>Expenditures</b>				
Disbursements:				
Program Expenditures (State Operations)	\$0	\$0	\$10	\$10
Local Assistance Grant Disbursements	\$0		\$150	\$150
<b>Total Expenditures</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 160</b>	<b>\$ 160</b>
<b>Fund Balance</b>				
Reserve for economic uncertainties	<b>\$ 249</b>	<b>\$ 344</b>	<b>\$ 284</b>	<b>\$ 224</b>
<b>Months in Reserve</b>	18.7	25.8	21.3	16.8

Notes:

- 1) All dollars in thousands.



# CONTRACTORS STATE LICENSE BOARD

## STATISTICS SUMMARY

### Applications Received

	2014-15	2015-16	2016-17	2017-18
July	2,805	3,398	3,513	2,624
August	3,004	3,419	3,749	3,141
September	3,207	2,955	3,668	3,254
October	3,177	3,484	3,844	3,188
November	2,542	3,143	3,080	2,669
December	2,944	3,058	3,260	2,903
January	2,958	2,862	3,282	3,714
February	3,568	4,027	3,087	3,598
March	3,978	3,952	4,059	4,223
April	3,878	4,045	4,081	3,430
<b>Total</b>	<b>32,061</b>	<b>34,343</b>	<b>35,623</b>	<b>32,744</b>
		<i>% Change from Prior FY</i>		<i>-8.1%</i>

### Original Applications Received

	2014-15	2015-16	2016-17	2017-18
July	1,450	1,593	1,618	1,197
August	1,399	1,631	1,811	1,141
September	1,562	1,351	1,692	1,624
October	1,588	1,596	1,842	1,429
November	1,204	1,490	1,374	1,306
December	1,441	1,400	1,453	1,522
January	1,479	1,297	1,584	1,990
February	1,749	2,035	1,090	1,766
March	1,957	2,041	1,938	1,885
April	1,729	1,941	1,969	1,401
<b>Total</b>	<b>15,558</b>	<b>16,375</b>	<b>16,371</b>	<b>15,261</b>
		<i>% Change from Prior FY</i>		<i>-6.8%</i>
		<i>% of Apps Rcvd are Original Apps</i>		<i>47.0%</i>

### Original Licenses Issued

	2014-15	2015-16	2016-17	2017-18
July	1,248	1,155	1,245	1,150
August	1,275	1,098	1,334	1,355
September	1,036	1,030	1,329	1,095
October	1,247	954	1,403	986
November	724	866	1,407	1,334
December	887	965	1,036	1,170
January	1,225	904	1,241	1,170
February	1,078	888	1,072	1,065
March	1,139	1,185	1,423	1,446
April	971	1,386	1,111	1,438
<b>Total</b>	<b>10,830</b>	<b>10,431</b>	<b>12,601</b>	<b>12,209</b>
		<i>% Change from Prior FY</i>		<i>-3.1%</i>
		<i>% Licenses Issued of Original Apps Rcvd</i>		<i>80.0%</i>



Licenses Renewed	<i>PEAK</i>		<i>PEAK</i>	
	2014-15	2015-16	2016-17	2017-18
July	10,079	11,584	10,394	8,153
August	11,505	8,611	11,069	9,283
September	11,584	10,292	9,215	9,534
October	8,448	8,501	9,842	8,805
November	6,467	6,881	7,618	5,651
December	11,886	11,885	9,147	9,651
January	9,847	7,206	8,958	7,593
February	8,045	11,381	8,800	11,586
March	12,291	11,911	12,317	9,760
April	10,647	10,029	11,853	9,830
<b>Total</b>	<b>100,799</b>	<b>98,281</b>	<b>99,213</b>	<b>89,846</b>
		<i>% Change from Non-Peak FY 2015-16</i>		<i>-8.6%</i>

Original HIS Registrations Issued				
	2014-15	2015-16	2016-17	2017-18
July	520	894	350	302
August	605	658	581	420
September	497	624	391	405
October	635	533	552	495
November	583	580	428	419
December	476	596	359	385
January	410	499	377	468
February	497	614	382	396
March	703	587	448	433
April	638	733	499	502
<b>Total</b>	<b>5,564</b>	<b>6,318</b>	<b>4,367</b>	<b>4,225</b>
		<i>% Change from Prior FY</i>		<i>-3.3%</i>

HIS Registrations Renewed				
	2014-15	2015-16	2016-17	2017-18
July	158	167	188	213
August	147	140	271	402
September	187	133	252	302
October	158	152	257	280
November	117	111	168	203
December	143	175	285	434
January	179	89	235	110
February	87	200	196	424
March	197	159	561	266
April	242	292	354	382
<b>Total</b>	<b>1,615</b>	<b>1,618</b>	<b>2,767</b>	<b>3,016</b>
		<i>% Change from Prior FY</i>		<i>9.0%</i>



**License Population by Status**

	<b>April 2016</b>	<b>April 2017</b>	<b>April 2018</b>
Active	224,257	225,344	226,151
Inactive	59,953	58,077	55,866
<b>Subtotal</b>	<b>284,210</b>	<b>283,421</b>	<b>282,017</b>
Other*	489,819	503,219	517,004
Expired	418,081	428,416	439,377
Expired % of Other	85.4%	85.1%	85.0%
<b>Grand Total</b>	<b>774,029</b>	<b>786,640</b>	<b>799,021</b>

\* Other - includes the following license status categories: cancelled, cancelled due to death, expired no longer renewable, revoked.

**HIS Registration Population by Status**

	<b>April 2016</b>	<b>April 2017</b>	<b>April 2018</b>
Active	14,563	17,062	17,308
Other*	69,630	72,229	76,936
<b>Total</b>	<b>84,193</b>	<b>89,291</b>	<b>94,244</b>

\* Other - includes the following license status categories: cancelled, cancelled due to death, expired no longer renewable, revoked.

**Complaints By Fiscal Year**

	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
Received	18,203	19,722	18,690	18,875
Reopened	786	820	819	971
Closed	18,875	20,016	19,745	19,390
Pending (As of June 30)	3,893	4,458	4,252	4,734

**CSLB Position Vacancies**

	<b>April 2017</b>	<b>April 2018</b>
Administration	1.0	1.0
Executive/Public Affairs	2.5	0.0
IT	2.0	4.0
Licensing/Testing	10.0	9.0
Enforcement	25.0	15.0
<b>Total</b>	<b>40.5</b>	<b>29.0</b>

## AGENDA ITEM H-5

# Registrar's Report

- a. CSLB Strategic Plan Process
- b. 2018 Sunset Review Report Before the California State Legislature
- c. 2018 Board Meeting Schedule





## AGENDA ITEM H-6

# Election of 2018-19 Board Officers





# AGENDA ITEM I

Adjournment





JUNE 7-8, 2018  
LAS VEGAS, NEVADA &  
SACRAMENTO, CALIFORNIA



CONTRACTORS STATE LICENSE BOARD

Quarterly Board Meeting  
DAY 2





## AGENDA ITEM A

# Call to Order, Roll Call, Establishment of Quorum and Chair's Introduction

Roll is called by the Board Chair or, in his/her absence, by the Board Vice Chair or, in his/her absence, by a Board member designated by the Board Chair.

Eight members constitute a quorum at a CSLB Board meeting, per Business and Professions Code section 7007.

### Board Member Roster

KEVIN J. ALBANESE

PASTOR HERRERA JR.

AGUSTIN BELTRAN

ED LANG

LINDA CLIFFORD

MIKE LAYTON

DAVID DE LA TORRE

MARLO RICHARDSON

DAVID DIAS

FRANK SCHETTER

SUSAN GRANZELLA

JOHNNY SIMPSON

JOAN HANCOCK

NANCY SPRINGER





## AGENDA ITEM B

# Public Comment Session - Items Not on the Agenda

(Note: Individuals may appear before the CSLB to discuss items not on the agenda; however, the CSLB can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)). Public comments will be taken on agenda items at the time the item is heard and prior to the CSLB taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Board Chair.

### BOARD AND COMMITTEE MEETING PROCEDURES

To maintain fairness and neutrality when performing its adjudicative function, the Board should not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending administrative or criminal action.

- (1) If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be requested to refrain from making such comments.
- (2) If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action:
  - (a) The Board may designate either its Registrar or a board employee to review whether the proper procedure or protocol was followed and to report back to the Board once the matter is no longer pending; or,
  - (b) If the matter involves complaints against the Registrar, once the matter is final or no longer pending, the Board may proceed to hear the complaint in accordance with the process and procedures set forth in Government Code section 11126(a).
- (3) If a person becomes disruptive at the Board meeting, the Chair will request that the person leave the meeting or be removed if the person refuses to cease the disruptive behavior.





## AGENDA ITEM C

# Joint Discussion with Nevada State Contractors Board (NSCB)





## AGENDA ITEM C-1

# Discussion Regarding CSLB and NSCB Operational and Structural Comparison

- a. Board Member Composition
- b. Budget
- c. License Population
- d. License Fee Schedule
- e. Criminal Background Checks
- f. Insurance Requirements
- g. Exam Waivers with Other States
- h. Consumer Restitution Programs





## Comparison of CSLB and NSCB Regulations / Operations

	California	Nevada
<b>Year Started</b>	1929	1941
<b># of Board Members</b>	15	7
<b>Board Member Makeup</b>	10 Public Members <ul style="list-style-type: none"> <li>• One Labor Representative</li> <li>• One Building Official</li> <li>• One Senior Citizen Organization</li> </ul> Five Contractor Members <ul style="list-style-type: none"> <li>• One "A" Engineering Contractor</li> <li>• Two "B" General Contractors</li> <li>• Two "C" Specialty Contractors</li> </ul>	1 Public Member 6 Contractor Members
<b>Board Member Appointing Authority</b>	Governor: 11 Members <ul style="list-style-type: none"> <li>• 6 Public, including labor, building, &amp; Senior</li> <li>• 5 Contractor</li> </ul> Senate Pro Tempore: 2 Public Members Assembly Speaker: 2 Public Members <i>All members serve four-year terms</i>	Governor: All 7 members  <i>All members serve three-year terms</i>
<b>Budget (fiscal year 2017-18)</b>	\$63,635,000	\$6,565,800
<b>Staff Size</b>	403	65
<b># of Licensees (As of May 1, 2018)</b>	Active: 226,151 Inactive: 55,866 Total: 282,017	Active: 15,335 Inactive: 753 Total: 16,088
<b># of New Applications (fiscal year 2016-17)</b>	20,067	1,632
<b>Develop / Administer Tests</b>	Yes 8 CSLB-run Test Centers	Yes Administered by PSI Exams
<b># of Renewal Applicants (fiscal year 2016-17)</b>	120,279	6,909
<b>Cost of Original Application / Exam / Initial License</b>	Application: \$330 Initial License: \$200	Application: \$300 Initial License: \$600
<b>Criminal Background Checks</b>	Yes	Yes
<b>Time Until License is Renewed</b>	Two Years	Two Years
<b>Cost of Renewal</b>	\$400	\$600
<b>Surety Bond</b>	Yes	Yes
<b>Workers' Compensation Ins.</b>	Yes	Yes
<b>General Liability Insurance</b>	No	No
<b>Handyman Exemption</b>	Yes Less Than \$500	Yes Less Than \$1,000
<b>Exam Waivers Availabilities</b>	Yes Arizona, Nevada, Utah	Yes Arizona, California, Utah
<b># of Complaints (fiscal year 2016-17)</b>	18,875	1,529 Licensed 1,143 Unlicensed
<b>Recovery Fund</b>	No	Yes Residential
<b>Amount of Restitution Recovery / Recovery Funds Awarded (fiscal year 2016-17)</b>	\$44,632,901	\$755,812
<b># of Licenses Revoked (fiscal year 2016-17)</b>	258	59



## AGENDA ITEM C-2

# Presentation by NSCB and Discussion Regarding the Occupational Licensing Consortium – Reducing Barriers to Licensure





## AGENDA ITEM C-3

# Discussion Regarding CSLB and NSCB Licensing and Exam Administration and National Licensing Exams

- a. CSLB Protocols
- b. NSCB Protocols
- c. National Association of State Contractors  
Licensing Agencies (NASCLA) Commercial  
General Builders Exam





## AGENDA ITEM C-4

# Discussion Regarding CSLB and NSCB Enforcement, Licensing, and Public Affairs Collaboration and Information Sharing Protocols and Achievements





## AGENDA ITEM C-5

# Discussion on Outreach, Educational, Media, and Enforcement Response to Natural Disasters







# CONTRACTORS STATE LICENSE BOARD

## RESPONSE TO NATURAL DISASTERS

### Protecting California's Disaster Survivors

As part of its role protecting California consumers by regulating California's construction industry, the Contractors State License Board (CSLB) is responsible for protecting those whose homes and property are directly affected by natural disasters. CSLB's post-disaster mission is to help ensure that home and business owners are not victimized a second time by unlicensed or unscrupulous contractors who might try to take advantage of them during the rebuilding process.

2017 will long be remembered as a year when natural disasters changed the face of several California communities. The year began with one of the wettest winters in almost 100 years, officially ending one of the worst droughts in the state's history. The rain was followed by flooding and fears of a potential catastrophic dam break. Summer and fall brought the most devastating string of wildfires in California history. Finally, in December more heavy rain led to deadly mudslides and debris flows.

By the end of the year, disasters were responsible for the deaths of at least 67 people, the destruction of at least 10,700 structures, and damage to another 1,750 structures. Heavy rains continued into the early part of 2018 and led to many evacuations as new storms took aim at the west coast.

### A Look Back at 2017 and Early 2018

After heavy rains and flooding in the winter and spring of 2017, the summer brought hot, dry weather to California, leading to more than 9,100 wildfires, blazes that burned more than 1.2 million acres of land. Forty-six of these wildfires destroyed 10,673 structures and damaged another 1,292 structures around the state.

In January 2018, heavy rains in a fire zone in Santa Barbara County led to a massive mudslide, destroying more than 100 homes and damaging an additional 300. A separate mudslide in Los Angeles County damaged more than 40 homes.

### CSLB Post-Disaster Efforts

The 2017 wildfires and 2018 mudslides prompted one of the largest coordinated disaster response efforts in CSLB's almost 90-year history. CSLB's effort was multi-pronged, with contributions from each division and unit. The sheer number of homes destroyed in Napa and Sonoma counties compelled a good deal of attention, however CSLB's response demonstrated its commitment to serving survivors in every effected county by dedicating staff to make sure adequate support was provided.





### **Assistance/Relief Centers**

CSLB staffed almost two dozen Local Assistance Centers (LAC) established by the Governor’s Office of Emergency Services, or Disaster Relief Centers (DRC) established by the Federal Emergency Management Agency (FEMA), in 15 different counties (Butte, Lake, Los Angeles, Mariposa, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Santa Clara, Sonoma, Trinity, Ventura, and Yuba).

These centers provide a single facility at which individuals, families, and businesses can access a variety of disaster assistance programs and services. In some instances (Butte, Los Angeles, and Mariposa counties) multiple disasters during the year necessitated the opening of multiple centers. While most CSLB staff on-duty at these centers came from the Enforcement division, staff from Licensing and Administration also assisted.

CSLB Public Affairs staff compiled and dispersed supplies, including more than 50,000 pages of educational information for distribution to the public.

### **“Boots on the Ground” Outreach Program**

CSLB staff also conducted a “boots on the ground” outreach program.



This program consisted of placing hundreds of warning signs in affected disaster areas, as well distributing educational materials. Some signs cautioned consumers to hire only licensed contractors; while others warned that contracting without a license in a disaster area could lead to felony charges, which includes state prison time and/or a fine of up to \$10,000. Joint sweep operations were also conducted, and plans were developed to conduct sting operations, as needed.

### **Media Outreach**

To reach survivors of the various wildfires CSLB conducted an extensive media outreach campaign, which included press events, proactive press releases, responding to media inquiries, and live appearances on both television and radio. Interviews were also given to multiple print media outlets. Future press events will be conducted to connect to enforcement operations or other outreach opportunities.



### Additional Outreach

CSLB also distributed materials to dozens of congressional offices, state legislator offices, building departments, and chambers of commerce in the affected areas.

### Outreach Partnerships

CSLB leveraged its post-disaster work by establishing or expanding upon existing partnerships with, among others, the Governor’s Office of Emergency Services (OES), and the California Department of Insurance (CDI). An OES website, [www.WildfireRecovery.org](http://www.WildfireRecovery.org), includes CSLB information about rebuilding and CSLB worked closely with CDI’s press office on two press events and to relay one another’s outreach message during media interviews.

CSLB also became just the second California state agency to establish a partnership with NextDoor, a social networking service for neighborhoods. NextDoor allows CSLB to target outreach messages to specific neighborhoods, based upon their zip code.



### CSLB Website – Disaster Help Center and New “Find My Licensed Contractor” Feature

CSLB provides disaster survivors with a wealth of information online through its “Disaster Help Center” page. Information includes press releases, consumer tips, and a 22-minute video, “Rebuilding After a Natural Disaster.”

In early January 2018, CSLB launched a “Find My Licensed Contractor” feature on its website. This newly designed search tool allows consumers to search for licensed contractors by classification within the geographic area of their choice based on city or zip code, and links them to current CSLB licensing information. All search results are displayed in a random order, which changes with each search conducted. Consumers can then download a .pdf or Excel file of the search results for future reference.

### Toll-Free Disaster Hotline

CSLB maintains a toll-free hotline, serviced by Licensing Information Center staff Monday through Friday from 8 a.m. to 5 p.m. The hotline is promoted in various publications, as well as on disaster signs posted throughout the fire zone.

### Wildfire Workshops

CSLB has been conducting two distinct wildfire rebuilding workshops in the various fire areas: one for fire survivors and one for contractors who plan to work on the rebuilding effort. Licensing and Enforcement staff join Public Affairs staff to present at these workshops. CSLB is also assisted by partner agencies, including the California Department of Insurance, the California Architects Board, the State Compensation Insurance Fund, and FEMA.

The fire survivor workshop includes essential consumer protection tips, information about contractor licensing and other requirements, insurance issues, how to work with an architect, and an update on the local rebuild provided by the local building department.

The contractor workshop includes a building department update on the local rebuild, and any special rules established for plan approvals and inspections. Licensing requirements are also covered, as are bonds and insurance, how to obtain a workers’ compensation policy, contract requirements, how to prevent complaints, and how the selection of building materials and choice of building methods can help prevent future disasters.





## Debris Removal Operations

In early May 2018, California, federal and local officials announced completion of major debris removal operations on more than 4,500 parcels across four counties in the North Bay (Lake, Mendocino, Napa, and Sonoma) – the largest disaster debris removal operation since the 1906 San Francisco earthquake.

The California Governor’s Office of Emergency Services (Cal OES), City of Santa Rosa, County of Sonoma, Federal Emergency Management Agency (FEMA), United States Army Corps of Engineers (USACE), the U.S. Environmental Protection Agency (EPA), and CalRecycle conducted a two-phase debris removal process.

Phase I involved removal of Household Hazardous Waste (HHW) by the Environmental Protection Agency (EPA) in Sonoma and Napa counties and by the California Department of Toxic Substance Control (DTSC) in Lake and Mendocino counties.

Phase II involved removal of other fire-related debris from structures destroyed by the fire and was managed by USACE under the direction of FEMA.

As of May 10, 2018, USACE had cleared 4,514 parcels across the four counties. More than 2.2 million tons of debris has been removed from county properties. In Sonoma County – the hardest hit of the four counties – USACE cleared 1.9 million tons of debris alone. More than 175,000 tons of debris was removed from Napa County.





## AGENDA ITEM C-6

# Discussion Regarding Changes in Construction Industry and Enforcement Trends

- a. Solar Construction Industry and  
Consumer Complaints
- b. Transient Criminal Activity and  
Enforcement Strategies





## AGENDA ITEM C-7

# Proactive Enforcement

- a. Multi-State Stings
- b. Cross-Border Sting and Video







**May 24, 2018**

**CSLB #18-15**

***MEDIA RESOURCES***

1. [Link to Download Sting Operation Video \(B-Roll\)](#)
2. [Link to Download Sting Operation Stills](#)
3. [Link to NSCB Newsroom Page](#)

**CSLB and NSCB Media Contacts**

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**California & Nevada Contractors Boards Team Up to Go after  
 Unlicensed Contractors in Lake Tahoe Area**

*Joint sting operations catch 16 people breaking licensing, advertising & insurance laws*

**SACRAMENTO** – When it comes to licensing home improvement contractors, the states of California and Nevada have some of the strongest consumer protection laws in the nation. This past week, 16 unlicensed contractors learned that the hard way.

The [California Contractors State License Board \(CSLB\)](#) teamed with the [Nevada State Contractors Board \(NSCB\)](#) to conduct two undercover sting operations, as well as a sweep of job sites in the South Lake Tahoe area.

NCSB staff were on-site at CSLB’s sting in South Lake Tahoe on Wednesday, May 16, 2018. CSLB staff joined NCSB for their sting the following day in Zephyr Cove, Nevada. Investigators posed as a homeowner and solicited home improvement bids from alleged unlicensed contractors.

In the California sting, ten people were caught and now face a misdemeanor charge of contracting without a state license ([Business and Professions Code \(BPC\) section \(§\) 7028](#)). Bids ranged from \$1,100 for tile to \$20,000 for installation of concrete pavers. It is against California law to contract for home improvement or construction jobs valued at \$500 or more for labor and materials combined without a state-issued contractor license. Penalties for first-time unlicensed contracting convictions include up to six months in jail and/or up to \$5,000 in fines.

Eight of the 10 suspects were also given a Notice to Appear in court for illegal advertising. California contracting law requires unlicensed contractors to state in all advertising that they are not licensed ([BPC §7027.1](#)).

Three of the 10 brought workers with them to the sting house and were given stop orders ([BPC §7127](#)) and cited for not having workers' compensation insurance ([Labor Code §3700.5](#)) for those workers; two of the 10 could face charge for requesting an illegally large down payment ([BPC §7159.5\(a\)3](#)). In California, down payments for home improvement jobs cannot total more than \$1,000 or 10% of the contract price, whichever amount is less.

Investigators also swept through 31 jobs sites in the South Lake Tahoe area. The sweep will result in three cases being referred to the El Dorado County District Attorney's Office. Two will be referred for contracting without a license; the third for a worker's compensation insurance violation. Three stop orders and one administrative citation also were issued.

"Enforcement operations like this are just one way our two Boards work closely together throughout the year," said CSLB Registrar David R. Fogt. "Our staffs are constantly talking, working investigations together, and passing along information to each other regarding suspected criminals moving back and forth between California and Nevada."

"These joint sting operations demonstrate Nevada's and California's shared commitment to protecting homeowners from unlicensed individuals," NSCB Executive Officer Margi Grein said. "When they hire unlicensed contractors, property owners are stripped of the protections and recourses available via the Board's full authority and resources."

Six people were caught in the Nevada sting. Four were cited for contracting without a license; two of those were also cited for advertising without a license. Two others were cited only for advertising without a license.

A Nevada state contractor's license is needed for all home improvement jobs that exceed \$1000 in labor and material, require a building permit, involve plumbing, electrical, heating or air conditioning, or changes the aesthetic appearance or structural components of a building or property grounds.

The two states also have a reciprocity agreement, making it easier for a contractor licensed in one state, to get a contractor's license in the other.

The suspects listed below, who were caught in the California sting, are scheduled to appear on July 18, 2018, in El Dorado County Superior Court in South Lake Tahoe. ([MAP](#))

**NOTE: All suspects are presumed innocent until their case is resolved.**

*California Sting Operation*

Suspect Name City of Residence	License Classification	Alleged Violation(s)
Andrew James Davis Carson City, Nevada	C-15 Flooring Contractor	Contracting w/o a License Illegal Advertising
Symon Cleonvernie Sears Carson City, Nevada	C-15 Flooring Contractor	Contracting w/o a License Illegal Advertising
Eduardo Martinez-Medina Sparks, Nevada	C-54 Tile Contractor	Contracting w/o a License Illegal Advertising
Carlos Romero Sun Valley, Nevada	C-61/D-6 Concrete Related Services Contractor	Contracting w/o a License Illegal Advertising
Frank Anthony Euronis Reno, Nevada	C-13 Fencing Contractor	Contracting w/o a License No Workers' Compensation Insurance
Shawn Brown South Lake Tahoe, California	C-13 Fencing Contractor	Contracting w/o a License
Alberto Ruiz-Lopez Carson City, Nevada	C-61/D-6 Concrete Related Services Contractor	Contracting w/o a License Illegal Advertising Illegally Large Down Payment No Workers' Compensation Insurance
James Raymond Williams III South Lake Tahoe, California	C-33 Painting Contractor	Contracting w/o a License Illegal Advertising No Workers' Compensation Insurance
Steven Anthony Nichols South Lake Tahoe, California	C-61/D-49 Tree Service Contractor	Contracting w/o a License Illegal Advertising
Leo James Pasquarello Sparks, Nevada	C-61/D-6 Concrete Related Services Contractor	Contracting w/o a License Illegal Advertising Illegally Large Down Payment

*Nevada Sting Operation*

Suspect Name City of Residence	Work Class	Alleged Violation(s)
Alberto Ruiz-Lopez Carson City, Nevada	Multiple	Advertising w/o a License
Rigoberto Gonzalez Incline Village, Nevada	Painting	Contracting w/o a License
Javier Tinoco Incline Village, Nevada	Painting	Contracting w/o a License
Elmer Vazquez Sparks, Nevada	Painting	Contracting w/o a License Advertising w/o a License

<b>Steven Rose</b> <b>Carson City, Nevada</b>	Painting	Advertising w/o a License
<b>Gershon BenChaim</b> <b>Reno/Sparks, Nevada</b>	Garage Door	Contracting w/o a License Advertising w/o a License

CSLB urges consumers to follow these tips when dealing with a building contractor:

- Only hire contractors who have an “active” CSLB license, and ask to see the contractor’s plastic pocket license
- Don't hire the first contractor who comes along
- Don't rush into repairs, no matter how badly they're needed
- Verify the contractor's license at [www.cslb.ca.gov](http://www.cslb.ca.gov) or 1-800-321-CSLB (2752)
- Don't pay more than 10 percent or \$1,000, whichever is less, as a down payment
- Don't sign over any insurance checks to a contractor
- Don't pay cash, and don't let the payments get ahead of the work
- Get three bids, check references, and get a written contract
- Contact CSLB if you have a complaint against a contractor, or if you've been solicited by someone who isn't licensed

The Contractors State License Board operates under the umbrella of the [California Department of Consumer Affairs](#). CSLB licenses and regulates almost 290,000 contractors in California and is regarded as one of the leading consumer protection agencies in the United States. In fiscal year 2016-17, CSLB helped recover about \$47 million in ordered restitution for consumers.

###



# NSCB News Release



## FOR IMMEDIATE RELEASE

**CONTACT:** Jennifer Lewis  
Public Information Officer  
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Scott Smith  
Public Information Specialist  
(702) 486-1165

## **NEVADA, CALIFORNIA FIGHT ILLEGAL CONTRACTORS IN ANNUAL “BORDER BLITZ” OPERATION**

**ZEPHYR COVE, Nev.** – Combining efforts and resources to combat unlicensed contractors, investigators from the Nevada State Contractors Board and California Contractors State License Board conducted a joint “Border Blitz” sting near Lake Tahoe. The Nevada sting in Zephyr Cove on May 17 cited 6 alleged unlicensed individuals; California’s undercover operation in South Lake Tahoe on May 16 nabbed 10 suspects, including seven who live in Nevada.

“These joint sting operations demonstrate Nevada’s and California’s shared commitment to protecting homeowners from unlicensed individuals,” NSCB Executive Officer Margi Grein said. “Unlicensed contractors pose a continued and significant threat to homeowners statewide when work is not completed or substandard, or if they should get injured on the job; Property owners are stripped of the protections and recourses available via the Board’s full authority and resources when they hire unlicensed contractors.”

Suspects were cited for advertising without a license, a violation of Nevada Revised Statute 624.720 or – if they delivered a written estimate during the encounter at the sting house – for violating NRS 624.700, contracting without a license. In Nevada, licenses are required for any work that exceeds \$1000 in labor and material, requires a building permit, or changes the aesthetic appeal or structural and mechanical components of a building or property grounds.

(more)

Four unlicensed workers came to the Zephyr Cove home to offer painting services. Rigoberto Gonzalez (\$16,900) and Javier Tinoco (\$9,875) both of Incline Village, presented bids well in excess of Nevada's \$1,000 threshold. They were ticketed for contracting without a license. Elmer Vazquez of Sparks, doing business as KAJ Painting, did not offer a bid at the sting house, but later submitted a text offer of \$14,715. He was cited for contracting without a license and illegal advertising. Steven Rose of Carson City did not offer a bid and was cited for advertising without a license.

Gershon BenChaim did not appear at the sting house, but later provided a bid for a garage door. He was cited for contracting without a license and illegal advertising.

Carson City's Alberto Ruiz, who was scheduled to visit Nevada's sting house on Thursday, instead appeared at California's sting on Wednesday, where he received citations from both states.

Those cited must appear in court to answer the charges:

<b>SUSPECT, RESIDENCE</b>	<b>WORK CLASS</b>	<b>ALLEGED VIOLATIONS</b>
Alberto Ruiz-Lopez, Carson City	Multiple	Advertising without a license
Rigoberto Gonzalez, Incline Village	Painting	Contracting without a license
Javier Tinoco, Incline Village	Painting	Contracting without a license
Elmer Vazquez/KAJ Painting, Sparks	Painting	Contracting without a License Advertising without a license
Steven Rose/Rose Painting, Carson City	Painting	Advertising without a license
Gershon BenChaim, Reno/Sparks	Garage Door	Contracting without a License Advertising without a license

In California, projects valued at \$500 or more must be conducted by companies or people with state-issued licenses. Unlicensed individuals can advertise for jobs for less than \$500, but must note in the advertisement that they are not licensed. All seven Nevada suspects caught in the California sting were ticketed for contracting without a license and at least one other offense:

(more)

- Andrew Davis, Carson City (illegal advertising)
- Symon Sears, Carson City (illegal advertising)
- Eduardo Martinez-Medina, Sparks (illegal advertising)
- Carlos Romero, Sun Valley (illegal advertising)
- Frank Euronis, Reno (failure to carry workers compensation insurance)
- Alberto Ruiz-Lopes (illegal advertising, illegally large down payment, no workers comp)
- Leo Pasquarello, Sparks (illegal advertising, illegally large down payment)

“Enforcement operations like this are just one way our two Boards work closely together throughout the year,” said CSLB Registrar David R. Fogt. “Our staffs are constantly talking, working investigations together, and passing along information to each other regarding suspected criminals moving back and forth between California and Nevada.”

The Contractors Board urges anyone who comes across unlicensed contracting activities to report the information to **NSCB’s Unlicensed Contractor Hotline: (702) 486-1160 or (775) 850-7838.**

**Disclaimer – Suspects are presumed innocent until proven guilty by a court of law.**

# # #

Visit our website: [www.nscb.nv.gov](http://www.nscb.nv.gov)

Join our social media network to receive current industry updates:





## AGENDA ITEM C-8

# Discussion Regarding Contracting Online for Home Improvement – Online Marketplace







The Contractors State License Board, which operates under the umbrella of the California Department of Consumer Affairs, licenses and regulates California's 285,000 contractors, and is regarded as one of the leading consumer protection agencies in the United States.

## California License and Contracting Requirements for Online Home Improvement Marketplace Companies

Online marketplaces that provide home improvement product or service information are becoming increasingly popular.

The Contractors State License Board (CSLB) has compiled the following information to help clarify when a California contractor license is required for home improvement jobs and the state laws governing home improvement projects.

### California Contractor License Requirements

California Business and Professions Code (BPC) § [7026](#) defines a contractor as a "builder" which includes any person who undertakes, offers to undertake, or purports to have the capacity to undertake, or submits a bid for, construction or demolition of any building, home improvement, or project. The definition includes those who do construction or demolition work themselves or "by or through others."

Therefore, persons engaged in the business of home improvement must be licensed in the appropriate trade before advertising and/or submitting bids for construction and construction-related services.

As outlined in BPC § [7048](#), a CSLB-issued contractor license is not required for minor work if the aggregate contract price, *including* labor, materials and all other items, is less than \$500.

In the state of California, engaging in the business of, or acting in the capacity of a contractor without a CSLB-issued license for jobs that total \$500 or more is a criminal misdemeanor. (BPC § [7028](#) & [7028.7](#)). In addition, a citation and fine may be issued by the Registrar that includes a civil penalty of not less than \$200 nor more than \$15,000 per offense.

### Contractor Referral Services and Salesperson Requirements

Contractor referral services are legal in California, but within limits. It's important to remember that a referral service cannot solicit or negotiate contracts on behalf of a contractor, **or offer to undertake to**, or purport to have the capacity to undertake itself or through others a construction project (BPC § [7026](#)).

A referral service may serve as a repository for licensed contractors and provide contractor contact information to prospective customers. However, to avoid allegations of unlicensed activity, the prospective customer should enter into a contract directly with the licensed contractor and make payments directly to that licensed contractor.

In addition, with limited exceptions, pursuant to BPC § [7152](#) and [7154](#), a CSLB-issued home improvement salesperson registration is required for any person who is engaged in the business of soliciting, selling, negotiating, or executing contracts on behalf of a licensee for home improvements.

9821 Business Park Drive  
Sacramento  
California  
95827

•  
P.O. Box 26000  
Sacramento  
California  
95826-0026

•  
800.321.CSLB (2752)

[www.cslb.ca.gov](http://www.cslb.ca.gov)

[CheckTheLicenseFirst.com](http://CheckTheLicenseFirst.com)

### Advertising Requirements

It is a criminal misdemeanor (BPC § [7027.1](#)) for any person to advertise for construction or work of improvement unless that person holds a valid license in the classification so advertised. There is an exception that allows both “A” General Engineering and “B” General Building contractors to advertise as a general contractor as outlined in BPC § [7057](#).

That law also defines advertising as including, but not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave or any electronic transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, with or without any limiting qualifications.

BPC § [7030.5](#) requires inclusion of a license number in all forms of advertising for construction requiring a contractor’s license. Advertising includes but is not limited to the following: any card, contract proposal, sign, billboard, lettering on vehicles registered in this or any other state, brochure, pamphlet, circular, newspaper, magazine, airwave or any electronic transmission, and any form of directory under any listing denoting “Contractor” or any word or words of a similar import or meaning requesting any work for which a license is required by the Contractors State License Law. (16 CCR § 861.)

Unlicensed operators are allowed to advertise, but only for jobs valued at less than \$500, and the ad must state that he or she is not licensed (BPC § [7027.2](#)).

Additionally, BPC § [7117.6](#) makes it a violation and cause for discipline for a licensed contractor to advertise and contract for construction work outside of the classification for which they are licensed. For example, a C-29 Masonry contractor who advertises to do electrical work can be disciplined unless he or she also has a C-10 Electrical contractor license.

Violations of laws are punishable by a fine up to \$5,000 per offense for engaging in the business of, or acting in the capacity of, a contractor without being properly licensed. This is in addition to any other civil or criminal penalties imposed for a violation of advertising laws. (BPC § 7028, 7099.)

### Home Improvement Contract Requirements

California law also spells out specific requirements for what needs to be in all home improvement contracts. The requirements, in BPC § [7159](#) are for contracts that involve repairing, remodeling, altering, converting or modernizing of, or adding to, residential property and includes, but is not limited to, the construction, erection, replacement, or improvement of driveways, swimming pools, including spas and hot tubs, terraces, patios, awnings, storm windows, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house. “Home improvement” also includes the installation of home improvement goods or the furnishing of home improvement services. Violations of contract requirement laws may result in a citation and a fine of up to \$5,000.

**Electrician Certification Requirements**

C-10 electrical contractors are required to make sure that all employees who perform work as electricians are certified through the Department of Industrial Relations-Division of Apprenticeship Standards (DAS).

Subsections within [Labor Code §108 & §108.2](#) states that electrical work for a C-10 contractor must be performed by a certified electrician or an approved apprentice, if the apprentice is supervised by a state-certified electrician.

Under Labor Code § 108, electricians requiring certification are defined as persons who engage in the connection of electrical devices for C-10 contractors.

**Additional Information**

Learn more about these topics in the CSLB Publication, "[Contracting for Success](#)" or by visiting CSLB's website: [www.cslb.ca.gov](http://www.cslb.ca.gov).

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## AGENDA ITEM D

# Staff Guided Tour of the United Brotherhood of Carpenters International Training Center





# AGENDA ITEM E

Adjournment

