



### Legislative Committee Summary Report

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

Legislative Committee Chair Agustin "Augie" Beltran called the November 7, 2019 meeting of the Contractors State License Board (CSLB) Legislative Committee to order at 10:24 a.m. in the John C. Hall Hearing Room at the Contractors State License Board, 9821 Business Park Drive, Sacramento, CA 95827. A quorum was established.

##### Committee Members Present

Agustin "Augie" Beltran, Chair  
Kevin Albanese  
David De La Torre  
David Dias

##### Committee Member Absent

Marlo Richardson

##### CSLB Staff Present

David Fogt, Registrar  
Tonya Corcoran, Chief Deputy Registrar  
Michael Jamnetski, Chief of Legislation  
Kristy Schieldge, Department of Consumer Affairs (DCA) Legal Counsel  
Phyliz Jones, Executive Staff

##### Public Visitors

Justin Barrington, Collins Electric  
Eddie Bernacchi, National Electrical  
Contractors Association (NECA)  
Cindi Christenson  
Bernadette Del Chiaro, California  
Solar & Storage Association  
(CalSSA)  
Tom Enslow, ABJC  
Jeremy Flanders, Cupertino Electric  
Matt Freeze, Rosendin  
Jeff Garzotto, Collins Electric

Brad Heavner, CalSSA  
Venessa Ingalls, International  
Brotherhood of Electrical Workers  
(IBEW) #440  
Steve Larsen, Collins Electric  
Richard Markuson, Pacific Advocacy  
Ed Murray, CalSSA  
Halston Rowe, Rosendin  
Terry Seabury, Western Electrical  
Contractors Association (WECA)  
Mark Smith, IBEW



**B. Public Comment Session for Items not on the Agenda and Future Agenda Item Requests**

There were no comments from the public.

**C. Review, Discussion, and Possible Action to Replace Copies of Legislative Bill Text with a Reference to a Website Link in Future Legislative Committee and Board Packets**

Legislative Chief Jamnetski explained that at the September 2019 Board meeting, the Board discussed ways to reduce the amount of paper used and the cost of mailing meeting packets. He explained that the bill text included in the meeting packet is never the latest text and does not reflect any legislative action that may have occurred since the printing of the meeting materials. Staff thus recommend including a website link to the bill text rather than including hundreds of pages in the packet. Committee Chair Beltran asked for a QR code as well that goes directly to the appropriate webpage. Legislative Chief Jamnetski said that he would check with CSLB's IT staff about including a QR code.

Staff Comment

Legal Counsel Kristy Schieldge said that Board members will need to look up the bills and read them online since the full text will no longer be included in the meeting packets. It will be a workload issue that Board members will need to manage in order to be prepared for meetings.

Board Member Comments

Committee Chair Beltran asked Legislative Chief Jamnetski if he could email the bills to the Board members. Legislative Chief Jamnetski agreed and said that staff would also continue providing bill analyses and summaries.

**MOTION:** To replace copies of legislative bill text with a reference to a website link in future Legislative Committee and Board packets.

**David Dias moved; David De La Torre seconded. The motion carried unanimously, 4-0.**

**YEA:** Augie Beltran, Kevin Albanese, David De La Torre, David Dias

**NAY:** None

**ABSENT:** Marlo Richardson

**D. Review, Discussion, and Possible Action to Pursue Legislation to Amend Business and Professions Code Section 7067.6 to Authorize the Registrar to Accept a License Renewal with the Signature of a Qualifier Only**



Committee Chair Beltran said that this legislative proposal would modify the signature requirement for license renewals to allow any license qualifier to sign a renewal on behalf of a licensed entity.

Legislative Chief Jamnetski said that current provisions of law require multiple signatures depending on the structure of the entity, that many license renewals are rejected, and licenses expire because of problems with signatures on renewals. This proposal would require one signature, that of the qualifier, who is 100 percent accountable for the activities of the license, and the signature may be accepted electronically as well.

Legislative Chief Jamnetski said that contrary to how the proposal is currently, paragraph (b)(2) will not be struck out of the text of Business and Professions Code section 7067.6 when the proposal is next introduced.

#### Staff Comment

Legal Counsel Schieldge said that the proposal is just to change the signature requirement and explained that the struck provision was included in that section some years previously to make it easier for the Board to adopt electronic signatures. She agrees with the recommendation to leave that paragraph (b)(2) in the language and finds the rest of the proposal acceptable.

#### Board Member Comment

Board Member Kevin Albanese asked what would happen under this proposal if a license renewal has multiple qualifiers. Legislative Chief Jamnetski indicated that the proposal is written to allow that only one signature would be required from any one of the qualifiers. Board Member Albanese said that he would have a problem with that because if all the qualifiers on a license are not active enough in a business to sign a renewal application every two years, then they should not be on the license. He asked how big of a problem it is in relation to rejected license renewals.

#### Staff Comment

Registrar David Fogt said that one of the reasons for changing to one signature is in preparation for the Board's move toward online renewals. He said that the current process involves a paper copy of the renewal with a check, but this would allow the Board to accept it electronically with a credit card payment. Chief Deputy Registrar Tonya Corcoran said that from an IT perspective it is very difficult to do a transaction online when there are multiple signatures because the system has to know where to send it next after each signature. She said that the one signature requirement would make it quicker and easier for CSLB to make online license renewals available.



Board Member Comments

Board Member Albanese said that he understands the online renewal aspect, but he still has concerns because there are personal liabilities for the qualifier relating to them being actively involved with the business. He said that at least every two years they are reaffirming their obligation to their responsibilities with the business and he does not want to lose that. Board Member Albanese said that the Board has talked about rental qualifiers who do not know what is going on with the business, and the idea of giving them the opportunity or excuse for some other qualifier within the business to sign the renewal form on their behalf causes him some concern.

Board Member David Dias agreed and asked if this change is really needed right now or should it be vetted more first. Board Member Albanese said that he would like to see it studied further to see a cost-benefit consideration of whether the advantage of being able to renew online would outweigh the other concerns about having just one signature on the renewal.

Staff Comment

Chief Deputy Registrar Corcoran said that staff is currently considering online renewals for sole owner licensees because they will require just one signature. Further study of the issue will simply delay online renewals for other license types that require multiple signatures, but it is not a problem to study it more and provide more data.

Board Member Comment

Committee Chair Beltran asked if it could be brought back to the next Legislative Committee meeting. Legislative Chief Jamnetski agreed.

**E. Review, Discussion, and Possible Action to Pursue Legislation to Amend Business and Professions Code Section 7071.19 to Provide 45 Days' Notice Period Prior to Suspending the License and Address Retroactive Policy Renewals**

Committee Chair Beltran said that he was pleased to learn, subsequent to this posting of this agenda, that the Licensing Division's electronic transmission of limited liability insurance policies may have resolved the need for legislation. He recommended no action be taken on this item to provide time to determine the success of the electronic filing process. He asked staff to update the Committee on the success of the electronic filing process at a future Legislative Committee meeting.

**F. Review, Discussion, and Possible Action to Pursue Legislation to Amend Business and Professions Code Section 7076.2 to Increase from 30 Days to 60 Days for Licensees to Provide Proof of Proper Registration and Good Standing with the Secretary of State prior to License Suspension**



Committee Chair Beltran said that this legislative proposal would modify the law to provide 60 days instead of 30 for a licensee to comply with Secretary of State requirements before CSLB automatically suspends a license for issues with Secretary of State standing. He said that the Board approved the concept for this proposal in September 2018 as part of the CSLB Sunset Review process.

Legislative Chief Jamnetski said that this is another reason that licenses get held up. He said that there are several issues an entity can experience with the Secretary of State that causes a delay; staff have found that it usually takes more than 30 days before those items are resolved. He said that the Secretary of State itself provides entities 60 days to resolve certain issues with statements of information, so this change would match their provisions and would make it easier for licensees to get back into business without a suspension.

**MOTION:** That the Legislative Committee recommend to the full Board to pursue this legislative proposal to modify the law to provide 60 days instead of 30 days for a licensee to comply with Secretary of State requirements before CSLB automatically suspends a license.

**Kevin Albanese moved; David Dias seconded. The motion carried unanimously, 4-0.**

**YEA:** Augie Beltran, Kevin Albanese, David De La Torre, David Dias

**NAY:** None

**ABSENT:** Marlo Richardson

**G. Update, Discussion, and Possible Action to Amend 2019-21 Legislative Strategic Plan Objectives**

Committee Chair Beltran asked Legislative Chief Jamnetski to discuss this item. Legislative Chief Jamnetski said there is no need to update the Board at this time.

**H. Review, Discussion, and Possible Action to Rescind the Motion Adopted at the August 6, 2019 Legislative Committee Meeting Relating to Staff's Study and Preparation of Regulatory Language to Permit the C-46 Solar Contractor Classification to Install Battery Energy Storage Systems (ESS) on Specified Residential Units with Restrictions**

Committee Chair Beltran said that there is no content in the packet for this agenda item or the next agenda item. Staff have been researching the appropriate classification to install a battery energy storage system at the Board's direction since early 2018 and, in March 2019, staff published and distributed an 81-page ESS report and received hours of public testimony on the proper classification to install ESS. He thanked staff for all of their work and legal expertise on this matter.



Committee Chair Beltran said that, in addition to the hundreds of written letters staff received and reviewed, CSLB has heard and/or received over 300 incidents of individual testimony provided from either side of the C-46 or C-10 industry in a variety of public forums since early 2018. A timeline of staff's efforts detailing at least half-a-dozen industry meetings held on this matter, half of which were joint meetings, are on the back table as a handout for the Committee's review.

He said that, at its August 6th meeting, the Committee heard hours of testimony from over 80 people, including testimony from invited experts on all sides of the issue, on the topic of the proper classification to install energy storage systems. At that meeting the Committee passed the following motion:

- Recommend directing staff to prepare regulatory language to permit the C-46 Solar Contractor classification to install battery energy storage systems (ESS) on specified residential units with restrictions, with the further recommendation that staff study ESS size, complexity, voltage, and risk, and bring back to this committee.

Committee Chair Beltran said that, after the August 6th meeting, staff held subsequent meetings with industry leaders and he personally met with the DCA Executive Office and their legal counsel, who provided their insights and recommendations. He has given this issue further consideration after these meetings and discussion with the Board's own counsel.

The recommendation is that the Committee consider recommending to the full Board that staff hire one or two consultants to review this issue because, after the numerous public meetings that afforded the opportunity for more than 300 people to testify, it is evident that CSLB should conduct further study of this issue.

Committee Chair Beltran said that, regarding economic issues, both industries have submitted economic impact reports that are available at the back of the room. The solar industry report states the economic impact on restricting the C-46 classification from installing commercial battery systems may be \$90 million or more, and the economic impact report received from the C-10 electrical industry indicates there will be no economic impact.

He said that, regarding public safety issues, numerous solar industry representatives have testified that battery installation is routine and does not pose a safety threat, while electrical industry representatives have testified that battery installation requires electrical knowledge and that the electrician certification training requirement is vital to protecting public safety.

Committee Chair Beltran said that, while he appreciates staff's study and efforts to achieve a resolution to this matter over the months, an outside consultant will be helpful in reviewing all the information received and/or any need for possible



additional information in a report that will result in an independent analysis before Board consideration of these issues. In order for the Board to make a sound and fair decision, the best course of action is for an independent, neutral third-party or parties to research this issue and come back with a recommendation for the Board's consideration.

He said that Government Code section 11349 requires the record of any potential rulemaking by an agency to demonstrate by "substantial evidence" the need for any proposed changes to regulations; this would include any proposed changes to the existing C-46 Solar contractor classification or any other classifications. According to this legal standard, "evidence" includes, but is not limited to, facts, studies, and expert opinion.

Committee Chair Beltran said that if this committee recommends to the full Board the hiring of an independent expert or consultant and the associated expense of doing so, the Board will need to provide final approval.

He said that, based on the foregoing, the recommendation is that the Legislative Committee action from August 6, 2019 not go forward so that CSLB may further study this issue and that two new motions be made – one to rescind that motion and the second to secure approval to seek a qualified expert or experts to assist CSLB in its study of the issues and information received on battery energy storage system installation.

#### Board Member Comments

Board Member Dias said that the motion being discussed was his motion and it seems that the Board has been discussing this issue now for many years. He does not want expert opinion, but rather facts that will be part of a report on factors such as the risks, size, type, and occupancy of the ESS. He inquired – at what point ESS installations are no longer incidental to photovoltaic (PV) solar systems and are outside the scope of a C-46 license. As an expert looks at the issue, they need to look at evidence regarding technology, state and national standards, and economic impact analysis. The thresholds should be based on verifiable information, not speculation or hearsay. Board Member Dias emphasized the difference between licensing and training; that the type of license an owner has does not mean all the employees have certain training unless that training is required by law. C-10 licensees must have certified electricians, which he supports. He said that he wants to make sure that the research is done and documented and then, hopefully, they will be done with this issue, whether it is a Legislative or Licensing Committee issue.

Board Member Albanese said further study is recommended with this issue because there has been a lot of confusion about it, even in relation to the prior motion. He has concerns about limiting the scope to just residential and that should be part of the study so that there is better understanding of the issue. Board Member Albanese



said that maybe occupancy is a better factor to consider. The Committee has heard all of the arguments on both sides, but they need to get down to the substantial evidence because litigation is likely regardless of the decision, so they need facts rather than hyperbole, as well as documented instances of harm that they are trying to solve for the consumer. Staff has done a great job, but this is such a delicate issue that an independent arbiter is needed to figure out and present the facts to the Board so that they can make a decision.

Board Member Dias asked if two Board members could work with staff if a consultant is hired to conduct the research. Committee Chair Beltran said that this discussion is only about rescinding the motion; the next agenda item is about directing staff and that would be an appropriate time to bring up that issue.

**MOTION:** To rescind the motion adopted at the August 6, 2019, Legislative Committee meeting relating to staff's study and preparation of regulatory language to permit the C-46 solar contractor classification to install battery energy storage systems on specified residential units with restrictions.

**Kevin Albanese moved; David Dias seconded. The motion carried, 3-1.**

**YEA:** Augie Beltran, Kevin Albanese, David Dias

**NAY:** David De La Torre

**ABSENT:** Marlo Richardson

**I. Review, Discussion, and Possible Action to Direct Staff to Identify and Retain an Outside Consultant or Expert to Study Energy Storage System (ESS) Information Received and ESS Installation Issues Including Safety Concerns and Appropriate Contractor Classifications to Install ESS**

Committee Chair Beltran said that, as explained in the previous agenda item, there is a need to refer the study of this issue to a qualified expert to ensure that CSLB meets its mandate in ensuring public protection, its mission of regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction, and that it complies with the law by supporting with "substantial evidence" the need for any proposed changes to regulations.

Board Member Comment

Board Member Dias said he wants to make sure that whatever motion is presented includes risk, size, and type of occupancy relating to the ESS and that the research includes supporting documents, state and national standards and codes, and economic impact analysis.



### Staff Comment

Legal Counsel Schieldge said that the contracting process involves sending the matter out to bid if the Board authorizes it. The expert will determine how to conduct the study, but the Board will have a scope of work that the expert will need to answer; that information will be included in the bidding process. CSLB staff will work with the DCA Contracts Unit and the Department of General Services to secure an expert who will study the issue. Committee Chair Beltran said that any motion made on this matter will go before the full Board, so they will be advised of this process.

### Public Comments

Eddie Bernacchi, NECA, appreciates the time that CSLB has spent on this issue. Since these discussions began in 2015, they have believed the C-46 classification, as written, is not eligible to do ESS work based on the current license description. The Board has determined that C-46s do the work under the incidental and supplemental provisions of the license law and a recent opinion in Santa Clarita clarified this decision. While they support the Board looking at this, they would like it to focus on the question of, "at what point does this work become no longer incidental and supplemental?" The system's size, scope, energy output, and ability to store, and when they become their own systems should all be important components of whatever study may take place and be presented to the full Board.

Scott Wetch, California Coalition of Utility Employers and State Association of Electrical Workers, thanked CSLB staff, Board members, and counsel for their patience and diligence throughout this entire process and for the chronology of the work to date that was provided at this meeting. They have no problem with having a contracted expert do a study on this matter, but it is very important that they stay within the guideposts that Mr. Bernacchi just outlined about what exactly the issue is relative to existing licensing law and the issue of incidental and supplemental. It is also important that the scope of the study be very clearly defined by this Committee. The economic analysis needs to be based on verifiable governmental databases, not figures from industry supplied information.

Richard Markuson, Pacific Advocacy on behalf of plumbing, heating, cooling, fire sprinkler, and roofing contractors, said that the Board recently took action to increase fees because of potential deficits in the Board's budget, so other contractors who are not impacted by the issue are going to be frustrated and concerned since the Board has already spent two years of staff time and now there is talk about spending money to hire a consultant to produce another report to essentially justify some future action the Board may take. They would urge caution and would encourage an estimate of the amount that the study will cost or possibly having a "not to exceed" cap on the proposal.

Brad Heavner, CalSSA, said he was the primary author of the CalSSA cost impact analysis and that involved consulting with a lot of people. Some thought the figure



was too low, despite his trying to be in the middle ground with his estimate. He estimated \$13 million for the first year alone if it was limited to medium and large commercial only, which amounts to more than \$330 million between now and 2030. The Board does not need to spend a lot of money, not into six figures, on an independent consultant to determine that there will be cost impacts. The Committee could hear that there will be “no costs impacts,” and know that to be not realistic without hiring an expert. They support additional careful consideration of the matter and the hiring of an expert and pledge to work together collaboratively with the expert if the Committee chooses. The Committee should find someone who does not have preconceived opinions from the start, but who can find good evidence and use their best judgment in analyzing it.

Bernadette Del Chiaro, CalSSA, appreciates the previous motion to rescind the August 6, 2019 motion and all the work that staff has put into this issue since the February 23, 2018 initial meeting. No single incident of harm or problem has been brought to the Board in that period of time, despite the fact that C-46 licensees have been installing hundreds of solar and storage systems during that period. The events of the past three weeks<sup>1</sup> should give the Board enough pause to just put the issue to rest and not spend any more tax dollars on studying the issue because elderly citizens and people with medical needs are fully dependent on a reliable supply of electricity. A restriction of trade would increase the costs of the one solution that is going to come to the rescue of California consumers and it should be taken off the table completely.

Julius Cherry, retired Chief of Sacramento Fire Department, agrees with Board Member Dias that training is important. ESS that have been improperly installed do have a serious risk of fire, electrical shock, flash burns, explosions, and exposure to hazardous materials. They support the motion to have an independent consultant come in and study the issue. He would like to see serious focus on National Fire Protection Association 855. Someone at a previous meeting said that they were a member of the fire service and as long as the system has the Underwriters Laboratories (UL) approval, it is safe regardless of whether or not it was improperly installed or maintained, but that’s nonsense. It could still pose a risk if it were improperly installed or maintained. A size threshold for ESS at which point anything above it would not be considered incidental and supplemental to a PV system is ultimately where this issue should end up.

Tom Enslow, attorney for IBEW, said that if there is a study that goes forward, any economic analysis needs to be based on the existing regulatory baseline and how it currently works in the real world. C-46 contractors are authorized to do PV installations, but the regulation is silent on ESS, so that is what is trying to be resolved and whether ESS installations can be incidental and supplemental work.

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<sup>1</sup>Staff Note: This is a reference to planned Public Safety Power Shutoffs executed by Pacific Gas and Electric Company.



The Board has asked if there is a threshold where it should not fall under the C-46 license because the larger the ESS is, the more dangerous it is. When the report is done, do not reinvent the wheel, but instead look at existing industry standards and codes that uniformly set size thresholds above which they require installers and permit taking extra precautions because these systems become more dangerous. The expert could present those thresholds to the Board based on evidence and it will be up to the Board to decide which ones to choose based on what is already being used out there and at what point to set the threshold for incidental and supplemental work. The economic analysis must be based on the fact that not every ESS is installed by a C-46; the larger ones are generally being installed by C-10 contractors. Forty percent of C-46 contractors also have a C-10 license, so they will not be affected by this because they already have that extra level of precaution in place and could do the ESS installations independently as well because they have the expertise. There will only be a few hundred contractors affected by this regulation.

An unidentified solar and electrical worker would like to see another economic impact on this issue, one based on the ongoing indecision on the issue for a number of years. It is giving a black eye to solar energy storage and the new age of electrical contracting that pushes toward renewables because numerous articles have covered the internal struggle going on in the community. The mention of having three different people working independently on one project is not a good look. There is economic damage to that if a decision is not made soon. Factually speaking, there are over 33,000 C-10 contractors and about 900 C-46 contractors, of which about 40 percent also have a C-10 license, so only about 500 contractors would be impacted by a regulation on this issue. He conducted an independent report commissioned by NECA and IBEW where he researched code violations and found that both C-46s and C-10s had code violations and issues. There is evidence showing C-46 contractors did installs and had fires and explosions. There was one C-46 contractor in Murrieta that did not pull a permit for an install and when they went to dig to do the grounding, they hit a line that exploded and killed someone. There are real issues here and C-10s have various code issues as well; it just comes with the territory and there will always be some people who do not complete the work accurately. Safety is the number one priority and people need to be safe as we move toward global warming abatement and get this issue resolved properly.

Ed Murray, CalSSA, said that the contractor in Murrieta that was just mentioned was actually a B – General Building contractor, not a C-46 contractor. As a C-46 and a B contractor, he is installing ESS safely every day due to the fires. There is not a safety issue and he appreciates the Board working on this issue.

#### Board Member Comment



Board Member Dias said that he would like to have a couple of Board or Committee members working with staff because he wants to make sure that the scope of the consultant's work includes the items he previously identified.

Staff Comment

Legal Counsel Schieldge recommended that the Board and Committee members stay separate from the expert selection process. She highly recommends staff working with the control agencies to develop this information and they may need to consult with other experts on scope. To make sure that when the Board makes a decision that it is a fully independent report, without any perception of influence or bias to the expert, it should be left to the expert to determine what information they need to meet the scope of work that has been developed by staff in conjunction with the control agencies. Experts are typically selected without Board member involvement.

Board Member Comments

Board Member Dias said that he was not talking about being involved in the selection process, but in the development of the scope of where it would go.

Committee Chair Beltran said if this motion were to go through and pass, counsel is correct in that staff has listened to the comments and when the request for proposal (RFP) for a consultant is released, the consultant will take all of the evidence that has been provided today and since the time this issue was first introduced, as well as new testimony. The purpose of getting a consultant is so the Board has an arm's length from this controversial matter, so they can make a fair and impartial decision.

Board Member Albanese agrees they should move forward with an independent study and shares the frustration of the public because the Board has spent an inordinate amount of time on this issue. There are three branches of government – legislative, executive, and judiciary – and the Board as part of the executive branch has provided its interpretation of the C-46 regulation. If it is wrong, that is the role of the judiciary. If this were a political question, it would be a question for the Legislature. The Board is not a political body, it is an executive body. The Board needs evidence showing the harm it is going to fix by enacting a regulation, either existing harm or prospective harm. It needs to move forward with this process and either put it to bed or take action sooner rather than later. He suggested part of the motion include that staff will bring to the next Board meeting what the statement of work will look like for the consultant.

Staff Comment

Legal Counsel Schieldge said that it takes a long time to work through the process and the Board and DCA do not have control over that because a lot of it has to do with the Department of General Services. Staff should do that work and the Committee can provide input on the scope of work, but there are concerns about the



Board approving the scope of work now because it still has to go through the other control agencies to be approved, which could slow down the timeline.

#### Board Member Comments

Board Member Albanese asked that there be guidance that is brought with the motion to the full Board with general areas that the study will cover, such as evidence of harm (existing and prospective), safety issues, and economic impact, in a factual and objective manner. There should be a timeline so there is certainty that the issue will be addressed in a way that the C-46s, C-10s, and consumers deserve.

Board Member Dias inquired if Board members could comment or say anything about what the scope should be.

Committee Chair Beltran said all the concerns have been noted from this and other meetings and the public record is available in audio and video. The Registrar will work with legal counsel and they know the parameters needed to give the Board what is needed to make an appropriate decision and the hired expert will also gain all that information.

**MOTION:** That the Legislative Committee recommend to the full Board that staff be directed to identify and retain an outside consultant(s) or expert to consider energy storage system information received, perform additional fact finding as necessary, and provide an analysis regarding ESS installation issues including safety concerns and the appropriate contractor license classification or classifications to install battery energy storage systems, and that staff provide a timeline at the next meeting.

#### Public Comment

Mr. Bernacchi asked if staff will be bringing a scope of work for retaining a consultant to the next meeting.

#### Staff Comments

Legal Counsel Schieldge said that there would not be a scope of work at the December meeting because there is not enough time to get through all of the channels before it is approved. There will be concepts or issues that have been raised by stakeholders in the meetings over time to show the general areas that the expert would be studying, but it will not be the actual scope of work.

Registrar Fogt said that the plan would be to bring to the December 12, 2019 Board meeting the general areas that will be put out to bid, as well as a timeline that it will generally take to accomplish the study and the regulatory process if the Board chooses to go that direction.



### Public Comment

Mr. Bernacchi said the current position of the Board is that the C-46 licensee can perform this work at the same time they are installing a PV system. He asked if the Board will be providing broad declaration to some of the comments of today since there is confusion in the industry, like an industry bulletin.

### Staff Comment

Legal Counsel Schieldge said that could be on a future agenda item.

### Board Member Comment

Committee Chair Beltran said he will open the meeting up for general public comment after the motion and vote has been completed.

### Public Comments

Mr. Wetch said that he appreciates the Registrar's clarification, but he disagrees with counsel's suggestion that it is appropriate for a board to authorize the expenditure of a study without giving the scope. There is a difference between specs in an RFP and scope. The Committee should not be able to vote to spend money on this study if it is not very clear about what the scope is going to be and that is not the same as going through the Department of General Services' spec process to develop the RFP that complies with all requirements of the Public Contract Code and Government Code. They would continue to support the study if the Board is given the broad scoping of what the study will entail, as the Registrar clarified.

Mr. Heavner said that the scope of work is a contractual thing that requires back and forth before the very detailed scope is finalized for the contract, but that is not needed at this level. He fully supports the study based on a general guideline or outline of what it is that will be studied.

Mr. Enslow agrees with Mr. Wetch that he has not seen a board approve a study without a defined scope. Have an undefined scope will just continue the back and forth of the last two years. There has been two years of testimony so the Board should be able to narrow down the questions that it has and then look to the expert to provide that information. There have already been complaints about the money being spent unwisely in this process, so nothing would be more unwise than moving forward with a study without a defined scope, including specific questions being asked and information being looked at for the expert to address. Without that, this issue will not be moving forward and it would be a waste of money.

### Board Member Comments

Board Member Dias inquired about cost concerns with respect to the Committee's vote. Committee Chair Beltran said that cost is a concern and asked Registrar Fogt to explain how the bid process will work in relation to costs. Registrar Fogt said that



staff will present the general areas for study to the Board at their December 2019 meeting. Chief Deputy Registrar Corcoran has a lot of experience with these types of contracts and they will reach out to other boards and bureaus that have done similar studies to develop an estimate of how much such a study will likely cost, which will be presented to the Board on December 12.

Board Member David De La Torre said that there has been discussion about the scope of the study, and asked to confirm that the scope could simply be energy storage systems. Registrar Fogt said that there has been much discussion regarding the issue parameters and the large picture for consultant evaluation would include the economic impact, safety issues, code requirements, and size and complexity, all of which relate to the overall scope of the battery energy storage system classification review. The independent party will look at all of these items and provide recommendations that will be brought back to the board.

**Motion shown above:**

**Kevin Albanese moved; David De La Torre seconded. The motion carried unanimously, 4-0.**

**YEA:** Augie Beltran, Kevin Albanese, David De La Torre, David Dias

**NAY:** None

**ABSENT:** Marlo Richardson

Public Comments

Eddie Bernacchi said that, since this started in 2015, there has been a lot of confusion about what the Board's position is on when a C-46 contractor is authorized to install battery ESS and when they may need an additional license, C-10, A, or B. It would behoove the Board and industry in total to issue an industry bulletin to agencies and contractors on what the proper classification is now, as the Board has determined it for the past 15 years, to install these systems so that everyone knows the current playing field. This process has muddied the waters even more and there is quite a bit of confusion in the industry about what classification is needed and under what circumstances.

Mr. Markuson, on behalf of WECA, said that a couple of speakers brought up the issue of electrician certification and that they are in support of it, but it points out the current inconsistency in the electrician certification law that only applies to C-10 contractors. They believe that covered electrical work, irrespective of who the employer or contractor is, should be done by a certified electrician, for example, swimming pool contractors installing the energy for motors and lighting and C-46 contractors doing ESS. This is a long-held belief that WECA has been unsuccessful in expanding the certification requirement beyond the C-10. They think that would



ultimately resolve a lot of the questions about safety, qualifications, and the preparation to do that kind of work.

Ms. Del Chiaro was pleased to hear Mr. Bernacchi's request for an industry bulletin that would clarify that C-46 are allowed to do solar and storage concurrently today as they have for 40 years. They would support that clarification because there is a lot of disruption and confusion in the industry and the market right now. There is an existing problem of modifying an existing PV system with an energy storage device that has been an issue since December 2018. They contend it is something that C-46s have always done and the Board has always allowed it, and to restrict C-46s on those terms is already causing significant damage to the market. She knows of C-46 contractors who are being contacted by previous PV system customers who want to add a battery in light of the fires and the planned power outage events so that they can keep the lights on when the blackouts happen. C-46, A, and B contractors are now not able to service their customers to add a battery, thus modifying their own systems. This presents a serious consumer safety issue because contractors warranty their work unless another contractor comes in and works on the system, which voids the warranty. That puts the consumer in a tough situation where they either void the warranty on their existing PV system because they get a battery or they forego the ability to have reliable self-generating power during a blackout. The current interpretation of the problem by CSLB has caused the rebate program for consumers for solar systems and batteries to require only a C-10 contractor to do the retrofit work, so that impacts A, B, and C-46 contractors and their customers. It is a huge problem and they have been wanting to sit down with CSLB to get to the bottom of the problem. The C-46s have had the ability to modify PV systems and PV systems have always been inclusive of energy storage for 40 years.

## J. Adjournment

**MOTION:** That the Legislative Committee adjourn the meeting at 11:40 a.m.

**David De La Torre moved; David Dias seconded. The motion carried unanimously, 4-0.**

**YEA:** Augie Beltran, Kevin Albanese, David De La Torre, David Dias

**NAY:** None

**ABSENT:** Marlo Richardson