

# **BACKGROUND PAPER FOR THE Contractors State License Board**

**(Joint Oversight Hearing, February 26, 2019, Senate Committee on  
Business, Professions and Economic Development and the Assembly  
Committee on Business and Professions)**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE CONTRACTORS STATE LICENSE BOARD**

### **History and Function of the Board**

The Contractors State License Board, commonly referred to as the CSLB, is responsible for the implementation and enforcement of the Contractors' State License Law (the laws and regulations related to the licensure, practice and discipline of the construction industry in California). All businesses and individuals who construct or alter, or offer to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost, including both labor and materials, of one or more contracts on the project is \$500 or more.

The CSLB began in 1929 as the Contractors' License Bureau under the Department of Professional and Vocational Standards. In 1935, that agency's duties moved under the direction of a seven-member board. Beginning in 1938, examinations for contractor license applicants were required and subsequently authority granted to establish the experience requirements, standards for practice, and the classifications of contractors consistent with the practices of the construction industry.

Today, the CSLB operates within the Department of Consumer Affairs (DCA). The CSLB licenses and regulates approximately 285,000 licensees in 44 licensing classifications and 2 certifications and registers approximately 18,000 Home Improvement Salespersons. Each licensing classification specifies the type of contracting work permitted in that classification. A summary of each licensure category and construction work allowed is as follows:

- "A"—General Engineering Contractor – A general engineering contractor's principal contracting business is in connection with *fixed works* requiring specialized engineering knowledge and skill. Examples of *fixed works* projects include irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants, similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects,

excavating, grading, trenching, paving and surfacing work, along with cement and concrete work in connection with the above mentioned fixed works. (Business and Professions Code (BPC) § 7056)

- “B”—General Building Contractor – A general building contractor is a contractor whose principal contracting business is in connection with any structure built or being built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind and requiring in that construction the use of at least two unrelated building trades or crafts. (BPC § 7057)
  
- “C”—Specialty Contractor – A specialty contractor’s operations involve the performance of construction work requiring special skill and involving the use of specialized building trades or crafts. In the “C” category there are 42 specialties and two certifications. The specialties are as follows:
  - C-2 - Insulation and Acoustical Contractor
  - C-4 - Boiler, Hot Water Heating and Steam Fitting Contractor
  - C-5 - Framing and Rough Carpentry Contractor
  - C-6 - Cabinet, Millwork and Finish Carpentry Contractor
  - C-7 - Low Voltage Systems Contractor
  - C-8 - Concrete Contractor
  - C-9 - Drywall Contractor
  - C10 - Electrical Contractor
  - C11 - Elevator Contractor
  - C12 - Earthwork and Paving Contractors
  - C13 - Fencing Contractor
  - C15 - Flooring and Floor Covering Contractors
  - C16 - Fire Protection Contractor
  - C17 - Glazing Contractor
  - C20 - Warm-Air Heating, Ventilating and Air-Conditioning Contractor
  - C21 - Building Moving/Demolition Contractor
  - C22 - Asbestos Abatement Contractor
  - C23 - Ornamental Metal Contractor
  - C27 - Landscaping Contractor
  - C28 - Lock and Security Equipment Contractor
  - C29 - Masonry Contractor
  - C31 - Construction Zone Traffic Control Contractor
  - C32 - Parking and Highway Improvement Contractor
  - C33 - Painting and Decorating Contractor
  - C34 - Pipeline Contractor
  - C35 - Lathing and Plastering Contractor
  - C36 - Plumbing Contractor
  - C38 - Refrigeration Contractor
  - C39 - Roofing Contractor
  - C42 - Sanitation System Contractor
  - C43 - Sheet Metal Contractor
  - C45 - Sign Contractor
  - C46 - Solar Contractor
  - C47 - General Manufactured Housing Contractor
  - C50 - Reinforcing Steel Contractor
  - C51 - Structural Steel Contractor
  - C53 - Swimming Pool Contractor

- C54 - Ceramic and Mosaic Tile Contractor
  - C55 - Water Conditioning Contractor
  - C57 - Well Drilling Contractor
  - C60 - Welding Contractor
  - C-61 - Limited Specialty
  - ASB - Asbestos Certification
  - HAZ - Hazardous Substance Removal Certification
- Home Improvement Salesperson—A person who is employed by a licensed contractor to solicit, sell, negotiate or execute contracts for which home improvements may be performed, a swimming pool, hot tub or spa constructed, or home improvement goods or services installed or furnished is a Home Improvement Salesperson. A Home Improvement Salesperson may not perform contracting duties without a license to do so.

Contractors are licensed as “A”, “B” or “C” contractors and are only authorized to perform the duties specified for each specialty as identified in BPC §§ 7056, 7057, and 7058. To help alleviate confusion for licensees, consumers, and regulators about the work that can be performed under each licensing classification, the CSLB has a *Building Official Information Guide*, available on its internet website, to help navigate each respective licensure category.

[www.cslb.ca.gov/About\\_Us/FAQs/Building\\_Official\\_Information\\_Guide.aspx](http://www.cslb.ca.gov/About_Us/FAQs/Building_Official_Information_Guide.aspx)

**Mission of the CSLB**

The mission of the CSLB, as stated in its 2019-2021 Strategic Plan, is as follows:

***“CSLB protects consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction.”***

**Board Membership and Committees**

The Board is comprised of 15 members; seven are construction industry professionals and eight are public members. The Governor appoints 11 members and the Assembly Speaker and the Senate Rules Committee each appoint two public members. The *professional* members consist of one “A” General Engineering contractor, two “B” General Building contractors, two “C” Specialty contractors, one representative of a labor organization, and one local building official. As part of the eight public member appointees, one appointee must represent a statewide senior citizen organization. Board members receive a \$100-a-day per diem.

The CSLB is required to meet quarterly per BPC § 7006, and is authorized to call special meetings as necessary. All meetings are subject to the Bagley-Keene Open Meetings Act. The following is a listing of the current Board members and a brief summary of their background:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority
<b>Marlo Richardson, Chair, Public Member</b> Ms. Richardson spent 20 years in law enforcement and was a lieutenant. She has an extensive background in the entertainment industry and as a business entrepreneur with experience in the restaurant, real estate, home health care, import/export, and financial services industries. Ms.	5/21/15	6/01/20	Governor

Richardson is a board member for the YMCA, has chaired the Public Safety Board for Los Angeles County Empowerment Congress, and was a member of the Ethics Board for the State Bar of California.			
<b>Johnny Simpson, Vice Chair, Public Member</b> Mr. Simpson is the International Representative of the International Brotherhood of Electrical Workers (IBEW), 9th District, and formerly was Business Manager/Financial Secretary of IBEW Local 569, which represents over 3,100 electrical workers in San Diego and Imperial Counties. A third generation IBEW wireman, Mr. Simpson graduated from the IBEW California Apprenticeship Program in 1981. He is highly involved in his community and has spent over 20 years volunteering alongside IBEW 569 members to fix electrical systems in the homes of San Diego's low-income seniors, disabled veterans, and families. He is also a past trustee and president of the San Diego Electrical Training Center; president of the San Diego County Building and Construction Trades Council; and vice president of the San Diego County Building Trades Family Housing Corporation, which provides affordable housing for low and moderate income working families.	2/25/15	6/01/19	Senate
<b>Linda Clifford, Secretary, Professional Member ("A" License)</b> Ms. Clifford was chief financial officer at C.C. Myers Inc. from 1986 to 2016. She also held multiple accounting positions at Continental Heller-Tecon Pacific from 1972-1986. She is a commissioner for the California Uniform Construction Cost Accounting Commission, serving as chair from 2015-2017. Ms. Clifford is an active member of the Associated General Contractors of California.	7/12/13	6/01/22	Governor
<b>Kevin J. Albanese, Professional Member ("B" License)</b> Mr. Albanese serves as President and CEO of Joseph J. Albanese, Inc. Previously he served as Chief Operating Officer and in a multitude of other management positions throughout the organization. In addition, Mr. Albanese graduated magna cum laude from the Santa Clara University School of Law and remains an active member of the State Bar. Mr. Albanese is a longtime member and past President of United Contractors and serves as a management Trustee for the Operating Engineers Local 3 Trust Funds.	7/12/13	6/01/21	Governor
<b>Agustin Beltran, Public Member</b> Mr. Beltran served in the United States Marine Corps Reserve from 1985-1993. Since beginning his career as a carpenter apprentice in 1989, Mr. Beltran has worked in various facets of the construction industry. Mr. Beltran has served on several government boards since 1997, including the Lathrop City Council from 2000-2004, and the Delta Protection Commission from 2002-2004. He currently serves as the President and Director of Public and Governmental Relations for the Northern California Carpenters Regional Council.	1/18/14	6/01/21	Senate
<b>David De La Torre, Public Member</b> Mr. De La Torre is secretary-treasurer of Laborers Union Local 261, representing 5,000 members in San Francisco, San Mateo, and Marin counties. Mr. De La Torre is a third-generation laborer who has worked for a variety of local and regional contractors. Mr. De La Torre also serves as board president for the San Francisco chapter of the A. Philip Randolph Institute (APRI). He was appointed as a national board member for that group in 2017 and as its State President in 2018. Mr. De La Torre is also a representative on San Francisco's 100% Renewable Energy Task Force.	5/06/2015	6/01/2020	Assembly
<b>David Dias, Public Member (Labor Representative)</b> Mr. Dias has been a business representative for Sheet Metal Workers' Local Union No. 104 since 2005, and previously worked as an apprentice instructor at Foothill Community College from 1998 to 2005,	4/01/2011	6/01/2020	Governor

<p>a field supervisor at Therma Inc. from 1997 to 2005, and a sheet metal worker foreman at RH Tinney from 1990 to 1997, after serving as an apprentice from 1986 to 1990. He is a trustee of the Bay Area Industry Training Fund, a member of the U.S. Green Building Council, and a member of the Joint Committee for Energy and Environmental Policy. He also serves on the Proposition 39 Citizens Oversight Committee and the IAPMO UMC Technical Committee, as well as committees for ASHRAE and EECC.</p>			
<p><b>Susan Granzella, Public Member</b> Ms. Granzella held several positions at Visa Inc. from 1996 until her retirement in 2014, including senior director and vice president for technical documentation, and audit and compliance for global development. In the former role, she managed Visa’s technical writing and publishing efforts, distributing content internationally to banks and processors, and managed staff and contractors in the United States, Singapore and India. She also served on the Board of Directors for the Sacramento Chapter of the National Council on Alcoholism and Drug Dependence until February 2018.</p>	10/13/2014	6/01/2020	Governor
<p><b>Joan Hancock, Professional Member (“B” License)</b> Ms. Hancock has owned Her Land Enterprises, a general contracting firm since 1983. In 2012, she started “Insights” Construction consulting. Ms. Hancock earned a California State Teaching Credential in 1979, a Juris Doctorate degree in 1982, and is a Certified Mediator.</p>	11/14/2007	6/01/2019	Governor
<p><b>Michael Layton, Public Member</b> Mr. Layton is the Business Manager and Financial Secretary-Treasurer for the Southern California Pipe Trades. Prior, he served as Executive Director of the Apprentice and Journeyman Trust Fund of Southern California.</p>	9/16/2016	6/01/2020	Assembly
<p><b>Frank Schetter, Professional Member (“C” License)</b> Mr. Schetter is the CEO of Schetter Electric and was its president from 1983 to 2005. He served as president and is currently the governor of the Sacramento chapter of the National Electrical Contractors Association (NECA), as trustee of the statewide International Brotherhood of Electrical Workers (IBEW) NECA, Labor Management Cooperation Committee (LMCC), and as trustee of the IBEW/NECA Joint Apprenticeship Training Program. He has also served as a member of the National Joint Apprenticeship and Training Committee, Sacramento County Code Appeals Board, City of Sacramento Electrical Code Advisory Board, and president of the Sacramento chapter of the Associated Subcontractor's Alliance.</p>	8/12/2011	6/01/2019	Governor
<p><b>Nancy Springer, Public Member (Building Official)</b> Ms. Springer, of Browns Valley, obtained an Associate of Science degree in Building Inspection Technology from Butte College and has more than 29 years of experience in working with building codes, having served in the positions of Building Inspector, Plans Examiner, Assistant Building Official, and as the Building Official for Butte County, City of Gridley, and City of Biggs. She currently serves as the Chief Building Official for Sacramento County.</p>	9/19/2013	6/01/2021	Governor

BPC § 7008 authorizes the CSLB to appoint committees as necessary to fulfill its consumer protection mandate. Currently, the CSLB has five standing committees: Enforcement, Executive, Legislative, Licensing, and Public Affairs. Committees are formed as needed and the board chair appoints members. Each committee discusses various policy matters pertaining to that committee’s

jurisdiction and makes recommendations for consideration by the full board. The CSLB reports that there have not been any meetings canceled due to a lack of a quorum in the last four years.

### **Fiscal and Fund Condition**

As a special fund agency, the CSLB receives no General Fund support, relying solely on fees set by statute and collected from licensing and renewal fees. The CSLB has not loaned money to the General Fund since FY 2008-2009, that loan was repaid with interest in FY 2011-2012.

As a result of SB 1039, (Hill, Chapter, 799 Statutes of 2016), the CSLB implemented a fee increase in July 2017, for all but two licensing categories (the additional classification and the re-examination fee). All active contractor licenses expire two years from the last day of the month in which the issuance of the license occurs and renewals of inactive licenses occur every four years. The majority of licensing and renewal fees are not at their statutory cap. The table below identifies the current licensing, application and renewal fees charged by the CSLB.

**Table 1: Fee Schedule**

<b>Transaction</b>	<b>Current Fee Amount</b>	<b>Statutory Limit</b>
Original Application	\$330	\$375
Initial License Fee (active & inactive)	\$200	\$225
Additional Personnel/Officer	\$100	\$115
Additional Class (with waiver original application)	\$75	\$85
Additional Class (existing license)	\$150	\$175
Replacing the Qualifier (existing license)	\$150	\$175
Original Home Improvement Salesperson (HIS)	\$ 83	\$ 95
Application	\$83	\$95
HIS Renewal	\$83	\$95
Asbestos Certification Application	\$83	\$95
Hazardous Substance Removal Application	\$83	\$95
Reactivate Inactive License	\$400	\$450
Active Renewal (2 year cycle)	\$400	\$450
Inactive Renewal (4 year cycle)	\$200	\$225
Exam Rescheduling Fee	\$60	\$70
Delinquency Fee (Active contractor renewal)	\$200	\$225
Delinquency Fee (Inactive contractor renewal)	\$100	\$112.50
Delinquency Fee (HIS Renewal)	\$41.50	\$47.50
Duplicate License/Certificate	\$12	\$14

*Note: This table is from the CSLB's Sunset Review Report 2018.*

**Table 2: Revenue (Dollars in Thousands)**

<b>REVENUE</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18*</b>	<b>% OF TOTAL REVENUE</b>
Duplicate License/ Certification Fees	\$105	\$116	\$116	\$136	0.2%
Application Examination/License Fees	\$10,985	\$11,624	\$12,590	\$14,513	22.1%
Renewal Fees	\$41,170	\$39,697	\$42,432	\$46,002	70.1%
Delinquency Fees	\$2,793	\$2,484	\$2,510	\$2,676	4.1%

Fines & Penalties	\$1,861	\$1,933	\$2,176	\$2,067	3.1%
Other	\$143	\$127	\$137	\$127	0.2%
Interest	\$63	\$49	\$117	\$116	0.2%
<b>TOTALS</b>	<b>\$57,120</b>	<b>\$56,030</b>	<b>\$60,078</b>	<b>\$65,637</b>	

Note: This table is from the CSLB's Sunset Review Report 2018.

BPC § 7138.1 prohibits the CSLB from maintaining a reserve fund level of more than six-months. As of December 18, 2018, the CSLB reported its reserve level is approximately \$15 million or 2.6 months and projects its reserve level to drop to \$9 million or 1.9 months in FY 2019-2020. Since FY 2014-2015, the CSLB's reserve levels have decreased 35% (from 4.7 months to 2.6 months). Although reserve levels are declining, the CSLB does not project any budgetary issues and does not have any planned fee increases. The CSLB reports an increase in revenue (although reserves are declining). Between FYs 2014-2015 and 2017-2018, revenue has increased 15 % and the CSLB projects an additional increase of 3% between FYs 2017-2018 and 2019-2020. CSLB attributes the decline in reserve levels to increases in onetime expenditures including personnel costs, statewide pro rata, enforcement, and disaster response.

**Table 3: Fund Condition (Dollars in Thousands)**

FUND CONDITION	ACTUAL				PROJECTED	
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18*	FY 2018-19	FY 2019-20
Adjusted Beginning Balance	\$26,944	\$24,051	\$18,971	\$16,182	\$15,431	\$13,067
Revenues and Transfers	\$57,120	\$56,030	\$60,078	\$65,637	\$67,884	\$67,507
<b>Total Revenue</b>	<b>\$84,064</b>	<b>\$80,081</b>	<b>\$79,049</b>	<b>\$81,819</b>	<b>\$83,315</b>	<b>\$80,574</b>
Budget Authority <sup>1</sup>	\$62,858	\$64,965	\$63,635	\$66,363	\$65,665	\$66,978
Expenditures <sup>2</sup>	\$60,265	\$61,041	\$62,867	\$66,388	\$70,248	\$70,576
Loans to General Fund						
Accrued Interest, Loans to General Fund						
Loans Repaid from General Fund						
<b>Fund Balance</b>	<b>\$23,799</b>	<b>\$19,040</b>	<b>\$16,182</b>	<b>\$15,431</b>	<b>\$13,067</b>	<b>\$9,998</b>
<b>Months in Reserve</b>	<b>4.7</b>	<b>3.6</b>	<b>2.9</b>	<b>2.6</b>	<b>2.2</b>	<b>1.9</b>

Note: This table is from the CSLB's Sunset Review Report 2018.

\*FY 2017-18 revenue and expenditure totals current through fiscal month 12.

**Expenditures by Program Component:** For the last four FYs, the CSLB has expended approximately 55% on enforcement, 6% on examinations, 15% on licensing, 13% on administration, and 11% on DCA pro rata. BPC § 7136 prohibits the director of the DCA from collecting a sum more than 10% of the total income of the CSLB each FY for the CSLB's share of the administrative costs of the department.

The CSLB is authorized to seek cost recovery under BPC § 125.3. As part of a disciplinary action, the CSLB may request a licensee or non-licensee found in violation of the law to pay a sum not to exceed to the reasonable costs of the investigation and enforcement of the case. The CSLB ordered \$1,623,148 in cost recovery in FY 2017-2018.

If the CSLB orders an individual to pay cost recovery and the person does not pay, the CSLB may utilize the Franchise Tax Board's (FTB) intercept program. The FTB has typically required a Social

Security Number (SSN) to identify taxpayers with outstanding penalties. Unlicensed individuals do not have a SSN on file with the CSLB. In the past, not having a SSN has made non-licensees ineligible for the FTB's free program. This has limited the CSLB's ability to collect penalties for cost recovery cases involving non-licensed contractors. To address the issue of unlicensed contractors, the CSLB utilized a private collection agency to recover unpaid civil penalties from non-licensees. Recently, the FTB began accepting referrals to intercept program for individuals without a SSN if the CSLB pays a fee to the FTB to research the individual's identification number. The CSLB began utilizing this service in October of 2018 for non-licensees and now utilizes the FTB for both licensed and unlicensed cost recovery.

## **Staffing**

The CSLB is managed by the Registrar who is responsible for carrying out the administrative duties required under the contractors' license law and the enforcement authority provided in BPC § 7091(f). The Registrar reviews all proposed administrative law judge (ALJ) decisions and makes all final enforcement decisions. The Registrar acts as both the executive officer and secretary and is appointed by board members and approved by the director of the DCA. The current Registrar, David Fogt, has served as Registrar since May 2, 2017.

The CSLB is currently authorized for up to 407 personnel positions. Staff are divided amongst multiple departments within the CSLB including the office of information technology (25 positions); licensing divisions (97.5 positions); testing (25.5 positions); enforcement (215 positions); executive (15 positions); and, administration (29 positions). The CSLB notes that prior to July of 2018, the approximate staff-vacancy rate was 40 positions or roughly 10%. Since July of 2018, it has reduced its staff-vacancy rate to roughly 28 positions or 7%.

## **Licensing Division**

The CSLB has a large licensee population with over 285,000 licensed contractors in 44 different classifications and 2 certifications, and approximately 18,000 registered home improvement salespersons. The CSLB's licensing division provides a multitude of services including application review and processing; examination development and administration; and updating licensee and registrant information, including address changes and replacing the qualified individuals on a license.

Below are specific programs within the licensing division:

- **Testing**: Administers all licensing examinations at eight test centers throughout the state. Develops and updates examinations when required and performs the occupational analysis for each examination every five-to-seven years.
- **License Information Center**: Provides call center services where staff answer questions from consumers, licensees, and applicants and assist in navigating several transactions, including filing complaints and completing applications.
- **Veterans Application Assistance**: Provides assistance with expedited application processing to veteran applicants. Staff evaluates military experience, training and education to meet experience requirements for licensure.



- **Judgments:** Processes all outstanding judgments, bond payment of claims, and outstanding liabilities reported to CSLB by licensees, consumers, attorneys, credit recovery firms, bonding companies, CSLB’s enforcement division, and other governmental agencies. The CSLB reported that in 2017, it recovered more than \$20 million in final judgments, \$23 million in outstanding liabilities, and nearly \$9 million in payment of bond claims.

## Application Processing

During the past four years, the CSLB reports issuing between 12,000 and 15,000 new licenses annually, and renewing between 117,000 and 120,000 licenses. Annually the CSLB issues approximately 5,000 home improvement salesperson registrations and processes between 2,000 and 3,000 home improvement salesperson renewals.

Pursuant to Title 16, § 827 of the California Code of Regulations, the CSLB is required to inform an applicant within 60 days of receipt of an application if the application is complete or deficient. The CSLB must notify an applicant (with a complete application and passage of the required examinations) whether or not the applicant meets the qualifications for licensure within 115 days.

As demonstrated in the following table, the average processing time for original application approvals was similar for FYs 2016-2017 and 2017-2018, a slight decrease from longer processing times in FY 2015-2016. Although the processing times appear relatively consistent over the last four FYs, they are slightly higher than the processing timeframes reported in the CSLB’s last sunset review report in 2014. Overall, the number of applications received by the CSLB has increased.

CSLB reports that deficient applications are a problem for the CSLB because they slow down application processing times. If an application is not complete (missing information), licensing staff must return the application for corrections thereby extending the process. In an effort to alleviate this problem, the CSLB implemented an online-fillable PDF application to make the process of completing applications easier. The intent is to ensure all the information is complete before an applicant submits the application to reduce the number of applications returned for correction. Currently, the CSLB is in the process of developing an online original application, which will include electronic signatures and payment options to allow for automated submission, with a target completion date of December 2019. With a fully automated online application, an applicant will not be able to complete the application process without all of the required information including payment of fees and the electronic signature, thereby reducing delays due to incomplete applications.

<b>TOTAL LICENSING DATA</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
<b>Initial Licensing Data:</b>				
Original Applications Received	19,077	20,778	22,075	23,857
Home Improvement Salesperson Applications Received	12,557	12,421	9,780	9,371
<b>Total</b>	<b>31,634</b>	<b>33,199</b>	<b>31,855</b>	<b>33,228</b>
<b>Initial License/Initial Exam Pending Application Data:</b>				
Pending Original Applications (total at close of FY)	964	1,185	1,392	683
Pending Home Improvement Salesperson Applications	1,571	176	273	52
<b>Total</b>	<b>1,598</b>	<b>1,361</b>	<b>1,665</b>	<b>735</b>

Pending Original Applications (outside of board control)*	n/a	n/a	n/a	n/a
Pending Home Improvement Salesperson Applications (outside of board control)*	n/a	n/a	n/a	n/a
Pending Original Applications (within board control)*	n/a	n/a	n/a	n/a
Pending Home Improvement Salesperson Applications (within board control)*	n/a	n/a	n/a	n/a
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):</b>				
Average Days to Original Application Approval (All – Complete/Incomplete)	132	141	135	135
Average Days to Home Improvement Salesperson Application Approval (All – Complete/Incomplete)	51	42	33	33
<b>Total</b>	<b>92</b>	<b>92</b>	<b>84</b>	<b>84</b>
Average Days to Application Approval (incomplete applications)*	n/a	n/a	n/a	n/a
Average Days to Home Improvement Salesperson Application Approval (incomplete applications)*	n/a	n/a	n/a	n/a
Average Days to Original Application Approval (complete applications)*	n/a	n/a	n/a	n/a
Average Days to Home Improvement Salesperson Application Approval (complete applications)*	n/a	n/a	n/a	n/a
<b>License Renewal Data:</b>				
Contractor License Renewed	120,246	118,387	120,259	117,377
Home Improvement Salesperson Registration Renewed	1,929	2,068	3,457	3,962
<b>Total</b>	<b>122,175</b>	<b>120,455</b>	<b>123,716</b>	<b>121,339</b>

\*Note: This table is from the CSLB's 2018 Sunset Review Report

Since January 1, 2005, all individuals listed as personnel of record on an original application, an application to add a classification to an existing license, an application to replace the qualifier, an application to report new officers, or an application for registration as a home improvement salesperson are required to submit fingerprints to CSLB. Current law does not require licensees who obtained licensure prior to 2005, to submit fingerprints for criminal offender record inquiries. As noted by the CSLB, the number of licenses issued prior to 2005 has been declining, reducing the number of licensees who do not have a fingerprint record on file. As of July 1, 2018, 54% of CSLB's licensing population has a fingerprint submission on file.

### Licensing Qualifications and Process

CSLB's licensing program provides public protection by ensuring licenses or registrations are issued to those applicants who meet the minimum requirements of current statutes and regulations and who have not committed acts that would be grounds for denial.

To qualify for a contractor license, an individual must be at least 18 years old, have the experience and skills to manage the daily activities of a construction business (including field supervision) or represented by someone else with the knowledge, experience, and skills who serve as the qualifying individual, or the "qualifier." The qualifier must have at least four full years of experience as a

journeyman, foreman, supervising employee, or contractor in the classification for which he or she is applying within the past ten years before filing the application.

The experience listed on the application must be verifiable. Individuals with knowledge of that experience must certify the accuracy of the information provided to CSLB on the “Certification of Work Experience” form. Someone other than the applicant, such as an employer, fellow employee, other journeyman, contractor, union representative, building inspector, architect, engineer, business associate, or homeowner or client, must verify all experience claims. This verification occurs whether the applicant is employed by a contractor, another party, or is self-employed.

The CSLB issues licenses to contract in particular *trades* or fields of construction. Each trade is recognized as a “classification.” At least four years of verifiable experience as a journeyman, foreman, supervising employee, or contractor is required for each classification for which the application is submitted. The CSLB issues licenses to five types of business entities: sole owner, partnership, corporation, joint venture, and a limited liability company. In addition to verifying experience requirements, the CSLB also consults the Secretary of State to verify ownership of a contractor company when applicable.

Applicants are required to take and pass both a trade and a Law and Business examination. Applicants must also comply with additional licensing requirements including proof of workers compensation, unless exempted, and a surety bond.

Prior to 2016, BPC § 7067.5 required that all initial applicants and renewal applicants provide evidence of financial solvency by demonstrating that his or her operating capital exceeded \$2,500. In 2016, SB 467 (Hill, Chapter 656, Statutes of 2018) eliminated that requirement as a condition to obtain a CSLB license and instead increased the contractor bond amount from \$12,500 to \$15,000 (BPC §7071.6).

Since the enactment of SB 467, in lieu of the \$2,500 capital requirement, contractors are required to demonstrate their financial solvency to CSLB by obtaining and maintaining a \$15,000 surety bond through an admitted surety insurer. In the instance of a contractor using an alternative to bonds, the contractor is required to place the entire \$15,000 on deposit with the CSLB and maintain it through the life of the license period.

All applications for licensure include questions pertaining to an applicant’s prior criminal history and disciplinary actions. As noted in the CSLB’s 2018 Sunset Review Report, only 1% of applicants who had a criminal history were denied based on that criminal history, which amounts to 0.4% of total applications received in FY 2017-2018. A few examples of denials based on criminal convictions included denials for violent felonies (15) and sexually related crimes (19). The CSLB notes that failure to disclose a criminal conviction is not automatically grounds for denial (although the conviction may be); the CSLB allows an applicant the opportunity to amend their original application if necessary.

AB 2138 (Chiu, Chapter 995, Statutes of 2018), which sought to reduce the barriers to licensure for individuals with prior criminal convictions, affects a regulatory board's discretion to deny a new license application in those cases where the applicant has been formally convicted of a substantially related crime or subject to formal discipline by a licensing board. Certain offenses older than seven

years are no longer eligible for license denial, with several enumerated exemptions. The CSLB reports that it is still reviewing its criteria and procedures to ensure compliance.

## **Examinations**

There is no education component required for contractors in California. However, to obtain licensure as an “A”, “B”, or “C” contractor, an applicant is required to pass both a trade related and a law and business examination as part of the licensure process (BPC §§ 7065 and 7068) unless they qualify for an examination waiver under specified circumstances (BPC §§ 7065 through 7065.4). The CSLB currently administers 46 different examinations including the Asbestos Certification and Hazardous Substance Removal Certification. The CSLB develops and administers the computer-generated examinations for all 46 examinations. Examinations are available at eight test centers throughout California (Berkeley, Fresno, Norwalk, Oxnard, Sacramento, San Bernardino, San Diego, and San Jose).

Under the licensing division, examination specialists ensure that the examinations meet psychometric standards for licensure examinations. The CSLB reports that it conducts routine occupational analyses every five to seven years. The CSLB has its own internal Examination Development Unit and does not rely on the DCA’s Office of Professional Exam Services for examination development or occupational analyses. The CSLB currently has 4.5 examination specialists responsible for conducting the occupational analyses for each examination. When conducting an occupational analysis, in addition to utilizing subject matter experts, the CSLB sends questionnaires to its licensing population in order for the examinations to cover the breadth of the trade as currently practiced.

Recently enacted legislation AB 2371, (Carrillo, Chapter 867, Statutes of 2018) required the CSLB, before it revises the landscaping contractor examination, to confer with specified entities to determine if any updates or revisions to the examination are needed in order to reflect new and emerging landscape irrigation efficiency practices (BPC §§ 7065.06 and 7195.5). Although the CSLB utilizes subject matter experts and other industry experts in that classification area, this requirement imposed by AB 2371 is unique only to the landscape contractor examination.

On page 59, Table 8, in the CSLB’s 2018 Sunset Review Report, there is a breakdown for each examination administered for first-time candidates, repeat candidates (those who failed passage the first time), and the combined total of both during the last four FYs. In FYs 2016-2017 and 2017-2018, across all 46 classifications, the CSLB reports a passage rate for first-time test takers of 69% for all of its examinations, down 5% from FY 2014-2015, when 74% of first-time test takers passed the examinations. The total number of examinations scheduled has significantly increased from FY 2014-2015 to 2017-2018 by roughly 47%). Although 69% is the average passage rate for all examinations in FY 2017-2018 for first-time test takers, there are some notable low passage rates for a number of the contractor classifications: “General B”, 60%; C-2 37%; C-6 57%; C-9 48%; C-13 51%; C-28 39%; C-35 54%; C-42 44%; and, 48% for asbestos certification, to name a few.

There is no national examination used by all states with licensed contractors. However, the National Association of State Contractor Licensing Agencies (NASCLA) has developed a “Commercial General Building” examination administered in five states and the U.S. Virgin Islands, and accepted by 14 other states. California does not accept this examination in place of the current “General B” examination; however, as noted below, the CSLB is currently reviewing this option for reciprocity purposes.

Examinations in a foreign language are not available for any of the current 46 examinations administered by the CSLB. An applicant may request to use a translator for his or her examination. CSLB must review and approve the translator before the examination is scheduled. In FY 2017-2018, only 3.5% of examination takers requested a translator.

## **Reciprocity**

Efforts to promote cross-border practice has led the CSLB to develop limited reciprocity agreements with Arizona (August of 2018), Louisiana, Nevada, and Utah. The reciprocity agreements allow eligible applicants to waive California's required trade examination for specific classifications; however, applicants must still take and pass the California Law and Business examination. The CSLB is currently pursuing reciprocity agreements with other states including North Carolina, Alabama, Georgia, and Oregon.

## **Enforcement Division**

CSLB's enforcement staff investigate complaints against licensees, registrants, non-licensees and unregistered home improvement salespersons. The CSLB receives an average of approximately 17,000 complaints annually. FY 2017-2018 recorded a record high number of complaints with just over 19,600 complaints reported.

Complaints come from a variety of sources including, but not limited to, consumers, homeowners, other contractors, subcontractors and employees or other public agencies. The CSLB notes that consumers (homeowners and other members of the public) make the majority of the complaints. Out of the 19,000 complaints received in FY 2017-2018, over 16,000 were from the public.

The CSLB prioritizes complaints based on order of receipt, the nature and seriousness of the allegations, and the availability of resources including budget and staffing. The CSLB has two complaint intake centers, which review all incoming complaints, handle complaint settlements, and refer cases to field investigation units. The CSLB notes its goal in complaint intake centers is to settle 30% of complaints against licensees that do not involve serious violations of the law. The CSLB reported during the past four FYs, it has been able to settle an average of 44% of its cases through its initial complaint intake center.

The five most common violations for which licensees receive citations are: 1) abandonment; 2) poor workmanship; 3) violation of building laws; 4) workers' compensation; and 5) requirements for home improvement contracts. The five most common citations for non-licensed persons are: 1) advertising violations; 2) contracting without a license; 3) unregistered home improvement salesperson; 3) acceptance of excessive down payment; 4) failure to secure workers' compensation.

The CSLB has eight investigation centers and four satellite offices throughout California to address more severe cases or cases that cannot be resolved through the initial complaint intake process.

BPC § 7011.7 specifies the length of time for the CSLB to complete a complaint investigation. The statutory goal is 180 days or six months from receipt of a complaint to completion of the investigation; for cases that are more complex the statutory goal is one year.

The table below illustrates the timeframes for the last four years for investigations and formal discipline. The table reflects that the CSLB closes the majority of cases within its established timeframes. However, the CSLB notes that enforcement cases exceeding 270 days has increased since FY 2014-2015. In FY 2017-2018, the CSLB reported that 119 cases exceed the 270 days. The CSLB attributes aging cases to an increase in complaints received, an increase in accusations filed, and an increase in the number of citations issued.

## Enforcement Statistics

Enforcement Statistics	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
<b>INVESTIGATIONS</b>				
First Assigned	19,722	18,690	18,875	20,674
Closed	20,016	19,745	19,390	21,584
Average days to close	77.2	88.2	81.5	83.7
Pending (close of FY)	4,343	4,071	4,601	4,638
<b>Desk Investigations</b>				
Closed	7,326	7,078	6,832	8,948
Average days to close	47.0	51.1	42.0	40.6
Pending (close of FY)	1,570	1,326	1,694	1,656
<b>Non-Sworn Investigation</b>				
Closed	12,120	12,101	12,006	12,028
Average days to close	94.7	108.9	103.1	114.2
Pending (close of FY)	2,571	2,620	2,662	2,763
<b>Sworn Investigation</b>				
Closed	570	566	552	608
Average days to close	149.5	185.5	186.8	213.9
Pending (close of FY)	202	125	245	219
<b>COMPLIANCE ACTION</b>				
ISO & TRO Issued	NDA	NDA	NDA	NDA
PC 23 Orders Requested	42	55	76	23
Other Suspension Orders	NDA	NDA	NDA	NDA
Public Letter of Reprimand	0	0	3	1
Cease & Desist/Warning*	1,741	1,823	1,625	2,822
Referred for Diversion	NDA	NDA	NDA	NDA
Compel Examination	NDA	NDA	NDA	NDA
<b>CITATION AND FINE</b>				
Citations Issued	2,260	2,191	2,005	2,271
Average Days to Complete	159.8	172.8	168.8	157.4
Amount of Fines Assessed	\$4,295,210	\$3,957,801	\$4,286,600	\$5,440,922
Reduced, Withdrawn, Dismissed	643	794	546	506
Amount Collected	\$1,868,104	\$2,067,344	\$2,167,110	\$2,061,985
<b>CRIMINAL ACTION</b>				
Referred for Criminal Prosecution	1,365	1,394	1,688	1,686

\*Note: This table is from the CSLB's 2018 Sunset Review Report

The table below identifies the timeframes for cases referred to the Attorney General.

Enforcement Aging	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Cases Closed	Average %
<b>ATTORNEY GENERAL CASES (AVERAGE %)</b>						
Closed Within:						
0 - 1 Year	172	167	185	235	759	48%
1 - 2 Years	160	124	176	134	594	38%
2 - 3 Years	54	43	42	35	174	11%
3 - 4 Years	10	9	10	6	35	2%
Over 4 Years	7	7	4	1	19	1%
Total Attorney General Cases Closed	403	350	417	411	1,581	
<b>INVESTIGATIONS (AVERAGE %)</b>						
Closed Within:						
90 Days	14,591	13,174	13,723	15,593	57,081	71%
91 - 180 Days	2,721	3,296	2,829	2,455	11,301	14%
181 - 1 Year	2,587	3,128	2,687	3,368	11,770	15%
1 - 2 Years	116	145	142	161	564	1%
2 - 3 Years	1	0	5	2	8	0%
Over 3 Years	0	2	4	5	11	0%
Total Investigation Cases Closed	20,016	19,745	19,390	21,584	80,735	

\*Note: This table is from the CSLB's 2018 Sunset Review Report

In FY 2017-2018, the CSLB revoked 681 licenses and suspended 366 licenses. These totals include instances in which revocation occurred through an accusation and instances when a licensee did not comply with an arbitration award or citation. In the instance of an arbitration case where the licensee has not paid as required, the license is suspended and if the licensee fails to comply with the order within 90 days, the license is revoked. The CSLB reports that the number of administrative legal disciplinary actions has remained relatively stable since the last sunset review, as the 1,047 disciplinary actions in FY 2017-2018, is almost identical to the number taken in FY 2013-2014 (which was 1,042).

As part of its enforcement program, the CSLB utilizes a variety of tools for disciplinary issues, outlined below. All disciplinary actions are available on the CSLB's website, with the exception of the advisory notice and the outcome of an arbitration decision.

*Advisory Notice:* The notice informs the licensee that CSLB is aware of the violation, provides a review of how to comply with the particular provisions of law at issue, and notes that a future occurrence of the same violation may result in actions that are more stringent.

*Letters of Admonishment:* The letter of admonishment is an intermediate level of corrective action between an advisory notice and a citation that CSLB began issuing July 1, 2018, because of SB 486 (Monning, Chapter 308, Statutes of 2017).

Recipients may appeal a letter of admonishment (which are handled internally by CSLB) without a formal hearing.

*Citation:* When the outcome of an investigation finds that a licensee has committed any act or omission that does not justify denial, suspension, or revocation of the license, CSLB has the authority to issue a citation (BPC §7099). Although not considered formal discipline, a citation can include a civil penalty assessment of up to \$5,000, and may include an order of restitution to the financially injured party. A licensee can appeal a citation.

*Informal Citation Conferences:* SB 1042 (Monning, Chapter 110, Statutes of 2018) authorized the CSLB to establish an Informal Citation Conference. The informal citation conference is a mechanism to allow licensees who have received an administrative citation to attend an informal administrative review of the citation. The conference is conducted in-house by the CSLB, saving the CSLB costs associated with the Attorney General’s office. This replaces the previous mandatory settlement conference, which were conducted before an administrative law judge. Any appealed citation not resolved at the settlement conference may be heard before an administrative law judge.

*Accusations:* Reserved for the most egregious violations of the contractors’ license law, which outcomes may result in a formal suspension or revocation of a license. Accusations are provided to the Attorney General’s office for review and conference of the accusation. Additionally, the CSLB reports that it does refer issues to local authorities including cities and district attorneys who collaborate in criminal investigations.

## **Arbitration Program**

The CSLB administers two arbitration programs to facilitate the settlement of consumer-contractor and contractor-contractor related disputes. Disputes pertaining to contracts that are \$15,000 or less may be referred to the Mandatory Arbitration Program and disputes pertaining to contracts greater than \$15,000 but less than \$50,000 may be referred to the Voluntary Arbitration Program with agreement from both parties. BPC § 7085 specifies the criteria that must be met in order for a case to proceed in arbitration. Only licensees in good standing with the CSLB are eligible to participate in the program. Licensees with past enforcement actions are ineligible.

Arbitration decisions are binding and the parties have limited ability to challenge the arbitrator’s decision in court. In binding arbitration, parties who refuse to comply with the arbitrator’s decision can be taken to court, where the award can be confirmed and turned into a civil judgement, which would then be disclosed on the CSLB’s website. Outcomes of the CSLB’s arbitration program are confidential and not disclosed on the CSLB’s website. However, if the arbitrator issues a monetary award and the contractor fails to pay the award within 90 days, the CSLB can suspend the contractor’s license and the suspension is available on its internet website. Arbitration only resolves workmanship and contract issues. Disciplinary issues, such as lack of workers’ compensation insurance or civil remedies are not within the arbitration program’s jurisdiction.

<b>ARBITRATION 2014 – 2017 (BY CALENDAR YEAR)</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Cases Initiated	401	455	784	759
Decisions Received	307	343	585	567



Revoked/Non-Compliant	22	26	42	105
Mandatory Cases Heard	312	345	592	506
Voluntary Cases Heard	59	56	93	77
Monetary Awards	\$1,317,812	\$1,523,348	\$2,585,827	\$3,150,804

Concerns regarding the arbitration program and the awarding of attorney’s fees was as an issue raised during the CSLB’s prior sunset review. Common practice at the CSLB is that attorney fees are not awarded as part of any arbitration outcome. Apparently, at that time, contractors awarded monetary outcomes during arbitration programs were using the award as a basis to pursue civil action to recover attorney’s fees. BPC § 7085.3 specifies that counsel may be obtained at each party’s expense. At that time, the Committee staff recommended that the CSLB discuss this issue and provide any recommendations for changes. Ultimately, the CSLB determined that a statutory change would not be necessary and instead now requires both parties (consumer and contractor) prior to arbitration to initial a form provided by the CSLB stating, *“I understand that attorney fees will not be awarded in this CSLB arbitration. Further, pursuant to Business and Professions Code §7085.3 and the intent of CSLB’s arbitration program, each party shall bear their own attorney fees, which may not be recovered in civil proceedings.”*

**Advertising Requirements**

There are strict requirements for licensees who advertise for contracting services. BPC § 7030.5 requires licensees to include their license number in all construction contracts, all subcontracts, calls for a bid and any other forms of advertising. An advertisement may include a business card, marketing sign, lettering on trucks or billboards, brochure, anything with a logo as specified in BPC § 7027.1(b)). Licensed contractors are also required to provide certain licensing information on their vehicles, in specific font sizes. All licensees must include their business name and contractor license number on all commercially registered vehicles. C-36, C-45, and C-57 licensees are also required to include their permanent business address in addition to other required information on their vehicle.

Licensees cannot advertise for services for which they do not have a license. An individual who advertises for contracting services and who does not hold a license for that service is subject to disciplinary action by the CSLB. Persons not licensed by the CSLB may advertise for construction work if the aggregate contract price for labor, material, and all other items on a project is less than \$500 and the individuals states in the advertisement that they are not licensed (BPC § 7027.2). To assist consumers and licensees regarding advertisement requirements for licensees and non-licensees, the CSLB issues a fast facts information sheet, which is available on its website. The CSLB notes that one of its biggest challenges is from internet bulletin boards, which allow individuals to advertise for services regardless of license status. The CSLB notes that many of the internet bulletin boards do not require a license number, (although licensees are required to use it, and non-licensees are subject to penalty for advertising for services they are unauthorized to perform).

**Public Information and Outreach**

The CSLB’s website provides a variety of consumer information and resources. The CSLB maintains a “Board Meetings” page on its website that publicizes agendas and background materials for all committee and board meetings. The CSLB webcasts all board and committee meetings unless technical difficulties arise or if the meetings are emergency meetings. Additionally, the CSLB’s

website has a “newsroom” page that includes links to all news releases, consumer alerts, industry bulletins, licensee newsletters, and any CSLB-produced videos.

The CSLB posts accusation and disciplinary actions on its website. In addition, the CSLB provides a toll-free number for use by the public to obtain general license information about a contractor. License status, information about workers compensation insurance, contractors’ bond status, and a list of past and pending legal actions against a licensee are available for consumers to review.

The CSLB discloses “pending legal actions” and “past legal actions” excluding arbitration outcomes (unless the licensee fails to comply with payment of an award). Pending legal actions are only disclosed when the CSLB investigative staff have substantiated a complaint and legal action has been requested. Past legal actions include citations previously issued against any licensee resulting in probation, suspension, or revocation of a license.

<b>CSLB COMPLAINT DISCLOSURE POLICY</b>		
<b>Information</b>	<b>Publicly Disclosed</b>	<b>Not Disclosed</b>
Complaint Filed		X
Arbitration Decision		X
Advisory Notice		X
Letter of Admonishment	X (one year)	
Citation	X (five years)	
Fine	X (five years)	
Stayed Accusation	X (seven years)	
Pending Investigation	Depends on allegation/ status	
Investigation Completed	Depends on allegation/ status	
Referred to Attorney General’s Office Pre-Accusation	X	
Referred to Attorney General’s Office Post-Accusation	X	
Settlement Decision	X	
Disciplinary Action Taken	X	
Civil Judgment	X	
Malpractice Decision		N/A
Criminal Violation: Felony Coordinate with District Attorney Misdemeanor	X	

Additional consumer and licensee resources can be found on the CSLB’s website including: licensee information; list of registered home improvement salespersons; workers’ compensation compliance; personnel list; licensee classifications and scopes of practice; licensing requirements; application status; fees; newsletters; press releases; among other relevant consumer and licensee information.

## PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

In December 2018, the CSLB submitted its required sunset report to the Senate Business, Professions and Economic Development and the Assembly Committee on Business and Professions (Committees). In that report, the CSLB described actions it has taken to address the recommendations of the Committees in 2015, during its prior sunset review. Issues requiring additional oversight or still of concern are addressed under “Current Sunset Review Issues.”

According to the CSLB, the following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes, which address issues raised in 2015:

- Issue: *CSLB has historically paid sums of money to DCA for administrative services but has many services in-house, leading to the question of whether or not the board is paying DCA for duplicative services.*

Outcome: In October 2017, DCA formed a pro rata workgroup, in which CSLB participates, that meets bi-monthly to collaborate on pro rata costs and related services. The workgroup is currently on going.

- Issue: *Despite the implementation of SB 30 (Figueroa, Chapter 566 Statutes of 2004) in 2004, CSLB reports that the Home Improvement Contract Law remains unclear to both contractors and consumers.*

Outcome: CSLB has produced publications for consumers and contractors to explain home improvement contractor laws in an easier to understand format. *Contracting for Success: A Contractor’s Guide to Home Improvement Contracts and Terms of Agreement: A Consumer Guide to Home Improvement Contracts* are distributed widely at public events to contractors and consumers and are available on CSLB’s website. (They are included in the attachments.) For contractor compliance, and in an attempt to present the salient requirements of BPC § 7159 in a simplified fashion, CSLB included in *Contracting for Success* a generic sample construction contract that identifies 14 key provisions of which both the contractor and consumer must be aware.

- Issue: *CSLB has raised concerns that BPC §7031 facilitates “unjust enrichment” to public agencies, prime contractors, and/or commercial/industrial project owners.*

Outcome: The passage of AB 1793 (Holden, Chapter 244, Statutes of 2016) modified the requirements of BPC § 7031 to permit the court to determine at an evidentiary hearing if a contractor subject to its provisions, because of a lawsuit or threatened civil action, substantially complied with licensure requirements and if he or she acted promptly and in good faith to remedy the failure to comply with licensure requirements upon learning of that failure. AB 1793 also deleted the requirement that contractors provide evidence that they did not know or should not have known that they were not duly licensed when they began work on the contract, thus reducing the burden on contractors to prove compliance. As a result of stakeholder meetings, CSLB has included a recommendation on its website that licensees routinely monitor

their license status to confirm that it is “active” and in good standing. CSLB plans to continue meeting with stakeholders on this issue.

- Issue: *CSLB may share a licensee’s Social Security number with the Franchise Tax Board to see whether there are any outstanding tax liabilities. However, the board is not allowed to share it with any other state agencies, like Employment Development Department that may be of use in its enforcement efforts.*

Outcome: In calendar year 2017, CSLB and the Franchise Tax Board collaborated to identify 36 licensees who failed to accurately report state payroll taxes and owed more than \$12 million, and collected more than \$7 million for the State of California. Also, in calendar year 2017, CSLB and the Employment Development Department identified 286 licensees with more than \$32 million in outstanding liabilities, which led to the collection of \$14 million. CSLB believes that the current system of information sharing allows the board to achieve its goals and has no recommendations for improvement.

- Issue: *Despite the implementation of the two, one-call centers, most contractors do not call these centers prior to excavating. How does CSLB plan to require contractors to call these centers beforehand?*
- Outcome: SB 661 (Hill, Chapter, 809, Statutes of 2016) enacted the “Dig Safe Act of 2016,” which revised the existing dig alert and excavation requirements of Government Code section 4216. As required by this new law, CSLB is working closely with the newly formed California Underground Facilities Safe Excavation Board (“Dig Safe Board”) within the office of the State Fire Marshal. The Dig Safe Board will investigate alleged violations relating to the protection of underground infrastructure and will transmit their findings to CSLB for possible action against contractors who violate these specific laws. CSLB expects to begin receiving these cases in January 2019, as the Dig Safe Board is still in the process of hiring staff.

### **Recent notable actions of the CSLB**

- **Disaster Response:** In the aftermath of the wildfires and mudslides of 2017 and 2018, the CSLB sent staff to more than two dozen local assistance centers and disaster relief centers to conduct enforcement actions and perform media and public outreach, and the CSLB established a two-part workshop program for homeowners and contractors.
- **Report to Legislature on Construction Settlements:** SB 465 (Hill, Chapter 372, Statutes of 2016) required a study of judgments, arbitration awards, and settlements resulting from claims for construction defects for rental residential units to the Legislature. On December 15, 2017, the CSLB presented its study that concluded that in order to enhance the CSLB’s ability to protect the public, licensees should be required to report judgments, arbitration awards, or settlement payments of construction defect claims for rental residential units.
- **Veterans Assistance:** CSLB offers a veterans application assistance Program for those transitioning from military service to civilian employment. In fiscal year 2017-18, CSLB expedited 885 applications under this program.
- **“Find My Licensed Contractor”:** AB 2486 (Baker, Chapter 270 Statutes of 2016),

In January 2018, CSLB launched a new “Find My Licensed Contractor” online tool. This feature allows users to search for licensed contractors by classification within a specific geographic area using either a city or zip code.

- **Licensing Workshops:** CSLB launched monthly licensing workshops, in both English and Spanish, at CSLB’s Sacramento headquarters in November 2017, and in the Norwalk field office beginning in January 2018.
- **Online Smart Forms and Workers’ Compensation Recertification:** Since 2016, CSLB has launched 21 “smart forms,” including the original license application, which can be filled-out online. CSLB also created a fully automated online submission option for workers’ compensation certificates, which immediately updates the license record.
- **Creation of Solar Task Force:** In 2015, CSLB created the Solar Task Force to address the growing number of solar-related consumer complaints.
- **Consumer Education:** In fiscal year 2017-18, CSLB conducted 90 Senior Scam Stoppers and 67 other outreach events.
- **New C-22 Asbestos Abatement License Classification:** In 2015, CSLB began to offer a new Asbestos Abatement (C-22) license to perform abatement and disposal work involving construction that contains specified levels of asbestos. As of July 1, 2018, there were 269 Asbestos Abatement licensees.

## **CURRENT SUNSET REVIEW ISSUES FOR THE CONTRACTORS STATE LICENSE BOARD**

The following are unresolved issues pertaining to the CSLB, new issues not previously addressed by the Committees, new issues raised by the CSLB, and other areas of interest for the Committees to consider. Committee staff have made recommendations regarding various issues or problem areas which may need further action.

### **ADMINISTRATIVE ISSUES**

**ISSUE #1: (STAFFING) What are the operational impacts of the CSLB’s reported staffing challenges?**

**Background:** During the CSLB’s prior sunset review, the CSLB identified staffing levels as an issue of concern. At that time, the CSLB reported 354 authorized positions with a vacancy rate around 40 positions, and the CSLB was concerned that the workflow would increase as the economy rebounded and more contractors were licensed, increasing both application processing needs and enforcement-related issues. Ultimately, the CSLB was concerned that it would not have sufficient staff to meet potentially growing needs. Since 2015, the CSLB has seen its authorized position count grow (currently authorized for 407 positions) and has reduced vacancy rates. Again, the CSLB has

identified staffing as an issue in two specific areas: workload for complaints and the CSLB’s role in disaster situations, such as the recent fires.

#### *Complaint Workload*

According to the CSLB, over the last year, the CSLB saw significant growth in the number of consumer-filed complaints. According to the CSLB, for fiscal year 2017-2018, CSLB enforcement division staff operated at higher-than-optimum workloads. The target maximum number of complaints per enforcement representative is 35, but as of July 2018, staff averaged 39 cases per representative. An analysis of consumer complaints received during the last four fiscal years shows an increase of 1,872 complaints in fiscal year 2017-2018, as compared to fiscal year 2016-2017. This equates to approximately 150 more complaints per month, or a 10 percent increase.

#### *Disaster Response*

According to the CSLB, in 2017, CSLB personnel worked at approximately two dozen local assistance centers (established by the Governor’s Office of Emergency Services) and federal disaster relief centers (established by FEMA) in 20 different counties. Although staffing for these events requires contributions from many units within CSLB, the majority of staff assigned to these centers came from the enforcement division. In 2017, 52 CSLB employees worked a total of almost 3,600 hours at the relief centers—the equivalent of 90 work weeks. The CSLB further reports, “This total does not include the extensive post-disaster enforcement efforts conducted by CSLB during community rebuilding. With thousands of staff hours redirected to the disaster areas, the impact on the Enforcement Division has been substantial, and has led to a decrease in the timely handling of complaints. Unfortunately, all indications are that 2017 was not an anomaly. It appears that the frequency and severity of wildfires in California will continue to outpace historical averages and continue to adversely affect CSLB’s routine operations.”

The CSLB reports that it has submitted five budget change proposals over the four FYs, and has received six permanent and two limited staff positions to address staffing needs based on recently enacted legislation. For FY 2019-2020, the CSLB is requesting a staffing augmentation of 2.0 permanent positions (1.0 Enforcement Representative II (ER II) and 1.0 Office Technician Typing (OT)) and \$217,000 in 2019-20 and \$201,000 in 2020-21 and ongoing to address the additional workload and implement the mandates associated with SB 1465 (Hill, Chapter 514, Statutes of 2018). The current BCP is under consideration through the annual budget process.

***Staff Recommendation:*** *The CSLB should advise the Committees on its current staffing issues and future concerns. The CSLB should advise the Committees on processes for cross-training staff and managing workloads based on departmental needs and changes.*

### **ISSUE #2: (BOARD MEMBER VACANCIES) Do vacancies affect the CSLB’s ability to meet and undertake its important work?**

**Background:** The CSLB's 15-member board is statutorily constructed and has a vital role in the overall operation of the CSLB. Board members are responsible for appointing the Registrar, and setting the administrative and legislative policy for overall operations. As required in BPC § 7002, board members are comprised of 7 industry members including five contractor members, one labor representative and one local building official. The remaining eight public members include one

representative of a statewide senior citizen organization. As of January 1, 2018, the CSLB had three vacancies on its board. On January 4, 2019, former Governor Brown appointed a public member to fill one of the three vacancies. There are currently two vacancies both are Governor appointees, a "C" contractor member; and a public member from a statewide senior citizen organization. CSLB does not note any issues with achieving a quorum because of the vacancies. Although there was one recent appointment, the positions had been vacant since mid-2018. In the CSLB's 2015 sunset review, it was reported that the CSLB had two vacancies then as well.

**Staff Recommendation:** *The Board should advise the Committees about any issues with the current board member vacancies. Does the CSLB anticipate any quorum issues at future meetings? How is the CSLB working with the Governor's office to encourage the appointments of the two remaining vacancies?*

**ISSUE #3: (IMPLEMENTATION OF RECENT LEGISLATION)** Numerous measures have been enacted since the prior review affecting the Board's operations and licensees. How does CSLB effectively implement so many changes?

**Background:** Since 2015, there have been 28 measures chaptered into law, which effect a multitude of operations at the CSLB including its regulatory authority, licensees, applicants and the industry of which it regulates. Much of the chaptered legislation requires the CSLB to change or alter existing practices, provide reports, convene stakeholder groups, update examinations, and change application or licensure requirements, along with altering enforcement capabilities. Roughly, 35% of the recent legislation was sponsored by the CSLB; however, industry-related organizations or members of the Legislature sponsored the remaining 65%.

Statutory changes have serious impacts on the regulatory population of the CSLB. While many licensees and members of the public follow legislative activities affecting the CSLB, many do not and rely solely on the CSLB to provide updates on issues. As noted above, the CSLB does maintain a useful website, but there may be other mechanisms the CSLB could utilize to inform licensees, consumers, industry representatives, local building officials and others about changes to the contractors' license law.

**Staff Recommendation:** *The CSLB should advise the Committees on how it adapts to numerous legislative changes and requirements. Further, the CSLB should advise the Committees on any budget, operations, or staff-related issues resulting from the recent changes to the contractors' license law.*

## **BUDGET ISSUES**

**ISSUE #4: (FUND CONDITION).** Boards under the DCA are typically expected to maintain a fund reserve of 6 months. CSLB's expenditures are increasing and reserve funds are decreasing. What accounts for this trend and is CSLB concerned?

**Background:** According to the CSLB’s 2018 Sunset Review Report, the CSLB’s projected months in reserve is 1.9 months down from 4.7 months (a 58% drop) since FY 2014-2015. The Expenditures have remained relatively consistent since FY 2014-2015; annual expenditure totals have remained between \$60,773 in FY 2014-15 and \$62,200 in FY 2017-18 (2.3% annual increase).

**Staff Recommendation:** *The CSLB should advise the Committees on its current fiscal situation, and the current trend of declining reserves, including what steps CSLB is taking to ensure a healthy fund.*

**ISSUE #5: (PRO RATA). CSLB is prohibited from paying over 10 percent of its total income to DCA pro rata. Is CSLB and DCA in compliance with this statutory limit?**

**Background:** Like many other DCA entities, the CSLB is required to pay a share of its revenue to the DCA for services provided. DCA is 99% funded by a portion of the licensing fees paid by California’s state-regulated professionals in the form of “pro rata.” Pro rata funds DCA’s two divisions, the Consumer and Client Services Division (CCSD) and the Department of Investigations (DOI). Service areas under the CCSD include the Administrative and Information Services Division which includes the Executive Office, Legislation, Budgets, Human Resources, Business Services Office, Fiscal Operations, Office of Information Services, Equal Employment Office, Legal, Internal Audits, and SOLID training services), the Communications Division (Public Affairs, Publications Design and Editing, and Digital Print Services), and the Division of Program and Policy Review (Policy Review Committee, Office of Professional Examination Services, and Consumer Information Center. Pro rata is primarily apportioned based on the number of authorized staff at each board, regardless of how much of DCA’s services the boards say they use. DCA also charges boards based on actual use for some services, such as the Office of Information Services, the Consumer Information Center, the Office of Professional Examination Services, and DOI. Based on DCA’s own figures, actual pro rata, costs for every board have increased since FY 2012-2013.

BPC § 7136 prohibits the DCA from taking more than 10% of the CSLB’s total income for the CSLB’s share of the cost of administration. According to the CSLB, the percentage paid in DCA pro rata during the last four FYs is as follows: FYs 2014-2015 10.8%; FY 2015-16 11.55%; FY 2016-2017 11.5%; and, FY 2017-2018 10%. The CSLB projects spending 10% for pro rata in FY 2018-2019 as well. Although the CSLB’s pro rata is fairly close to the statutory allotment, in three of the last four FYs years, the CSLB has provided more than the statutory authority.

**Staff Recommendation:** *The CSLB should explain to the Committees if the current statutory cap has any impact on the CSLB’s ability to perform its oversight functions. What steps does the CSLB take to ensure that only the maximum authorized in statute is provided for administrative purposes?*



## LICENSING ISSUES

### **ISSUE #6: (EXAMINATION PASSAGE RATES) Why are some examination passage rates so low?**

**Background:** In order to obtain any contractor's license, an applicant must take and pass both a trade examination and a California Law and Business examination unless they have qualified for a waiver of the examination. In Table 8, on page 59, in the CSLB's 2018 sunset review report, there is a list of each examination administered by the CSLB, the passage rate of each examination for both first-time and repeat test-takers (those who failed passage the first time), and the combined total of both during the last four FYs. Across all 46 classifications, the CSLB reports a passage rate of 69% for all of its examinations, down 5% from FY 2014-2015 when 74% of first-time test takers passed the examinations (the total number of test takers has significantly increased from FY 2014-2015 to 2017-2018 by roughly 35%). Although 69% is the average passage rate for all examinations in FY 2017-2018 for first-time test takers, there are some notable lower passage rates for a number of the contractor classifications: "General B", 60%; C-2 37%; C-6 57%; C-9 48%; C-13 51%; C-28 39%; C-35 54%; C-42 44%; and, 48% for asbestos certification, to name a few. The CSLB develops its licensing examinations with the aid of industry experts, and each examination goes through an occupational analysis approximately every five to seven years.

**Staff Recommendation:** *The CSLB should advise the Committees on efforts to improve examination passage rates. The CSLB should advise the Committees on why some examinations have lower passage rates than others.*

### **ISSUE #7. (LICENSING AND CERTIFICATIONS) Are there any certification and licensing requirements that CSLB needs to update?**

**Background:** The CSLB licenses and regulates approximately 285,000 licensees in 44 licensing classifications and 2 certifications and registers approximately 18,000 Home Improvement Salespersons. Each licensing classification specifies the type of contracting work permitted in that classification. To obtain licensure in each classification, applicants are required to take and pass both a trade examination and a Law and Business examination. If an individual seeks licensure in two separate classifications (e.g., C-10 Electrical and C-39 Roofing), the individual must take and pass both trade examinations. Licensees may not perform work outside of a classification without having the appropriate license to do so, unless they are a "B" general contractor who is able to take a prime contract or subcontract for projects involving other trades as long as framing and carpentry (i.e., the C-5 trade) is not counted among those other trades.

Although the examination, experience, workers' compensation, and bonding requirements are consistent amongst the different classifications, there are instances where certain contracting classifications are required to have additional certifications or meet other requirements based on the work performed within that classification.

For example, LC § 108.2(a) requires persons who perform work as electricians to become certified and prohibits uncertified persons from performing electrical work for which certification is required and

specifies that certification is only required for persons who perform work as electricians for contractors licensed as class C-10 electrical contractors. Specifically, each person who performs work as an electrician must obtain the certification. C-10 license holders are not required to obtain the separate certification; however, the employees that work under the C-10 contractor's license are required to obtain certification.

Additionally, a general building contractor may not contract for any project that includes the "C-16" Fire Protection classification as provided for in BPC § 7026.12 or the "C-57" Well Drilling classification as provided for in Section 13750.5 of the Water Code, unless the general building contractor holds the appropriate license classification, or subcontracts with the appropriately licensed contractor. (BPC §7057).

It is unclear how often, or if at all, the CSLB reviews its licensing classifications to determine if additional certifications or other requirements should be included for its licensing population.

***Staff Recommendation:*** *The CSLB should explain to the Committees its processes for reviewing and revising new work or certification requirements for its various licensing classifications. Are there any updates needed?*

## **ENFORCEMENT ISSUES**

### **ISSUE #8: (ENFORCEMENT PRIORITIES) Do CSLB's enforcement priorities continue to prioritize consumer safety and public protection?**

**Background:** The CSLB's mission "is to protect consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction." Two of the ways in which CSLB accomplishes its missions is by enforcing the laws, regulations, and standards governing construction in a fair and uniform manner and providing resolution for disputes that arise from construction activities. CSLB's enforcement staff have authorization under the contractors' license law to investigate complaints against licensees, non-licensees acting as contractors, and unregistered home improvement salespeople. In addition, the CSLB may refer cases involving criminal activity to district attorneys who may prosecute cases under the BPC and other applicable codes.

As noted in issue number 1) above, the CSLB identified enforcement staffing as an issue for enforcement operations. According to the CSLB, complaints have increased and enforcement division staff are "operating at higher-than-optimum caseloads." The CSLB reports that enforcement management is working with the CSLB, and the DCA human resources department to fill job vacancies as quickly as possible.

As part of its enforcement unit, the CSLB also takes actions against unlicensed individuals who may be providing services for which a license is required. The CSLB notes that unlicensed activity and the underground economy continues to be a problem for the CSLB. Unlicensed contractors avoid the legal

requirements to comply with the law, which may include avoiding the workers compensation requirement law or obtaining the appropriate construction-related permits.

As part of its efforts to address the underground economy, the CSLB established the Statewide Investigative Fraud Team, which is a statewide program that focuses on underground economy and unlicensed operators. When participating in the activities of the Joint Enforcement Strike Force on the Underground Economy pursuant to Section 329 of the Unemployment Insurance Code, the enforcement division has the authority to visit any construction site with labor present ask contractors to produce proof of licensure in good standing, citing those who are not properly licensed.

The CSLB reports that it is mostly meeting its internal and statutory timeframes for enforcement workload, however, it was noted in its 2018 Sunset Review Report that enforcement cases exceeding 270 days has increased since FY 2014-2015. In FY 2017-2018, the CSLB reported that 119 cases exceed the Board's goal of completing investigations within 270 days of receipt. The CSLB attributes aging cases to the redirection of enforcement staff to disaster response, an increase in complaints received, an increase in accusations filed, and an increase in the number of citations issued. Increased workload amount can affect the functions of the CSLB's enforcement operations.

CSLB's enforcement program extends beyond complaint investigations and those involving the underground economy. The CSLB's enforcement extends to various compliance issues including, workers compensation requirements, the electrical certification requirements, advertising requirements, and newly enacted mandatory settlement reporting requirements, among others. As part of its application review process, the CSLB reviews all applications for previous disciplinary actions and criminal history. As part of that review, the licensing unit and enforcement unit are coordinated in efforts to ensure that applicants for licensure are accurately reflecting any past disciplinary outcomes as well as criminal convictions.

How the CSLB determines its enforcement priorities has been an issue identified during prior sunset reviews of the CSLB. The CSLB notes in its responses to issues identified during the last sunset review that enforcement staff across the state typically focus on consumer filed complaints, the majority of which are against licensed contractors. Issues identified from previous reports, were critical of the CSLB' attention to unlicensed contractors rather than focused enforcement of current licensees. Given that the CSLB reports that most of its enforcement efforts now address current licensees, it would be helpful to understand how the CSLB addresses enforcement needs and determines enforcement priorities.

**Staff Recommendation:** *The CSLB should advise the Committees on it enforcement priorities. How does the CSLB determine the focus of enforcement pertaining to licensed and unlicensed populations? Is the CSLB aware of any consequences when the focus shifts too far in one direction?*

**ISSUE #9: (WORKFORCE DEVELOPMENT AND DISASTER RESPONSE) California has faced a series of devastating natural disasters, the recovery from which typically includes a role for contractors. What steps has CSLB taken to coordinate with various agencies to ensure consumers in these situations are provided quality services and fraud is prevented?**

**Background:** The CSLB partners with other state and federal agencies in response to natural disasters to help those whose homes, businesses, and/or property were damaged or destroyed. According to the CSLB, they provided staff for more than two dozen local assistance centers established by the Governor’s Office of Emergency Services and disaster relief centers established by FEMA. The centers, which were open from one day to one month, provided a single location for disaster survivors to receive services and information. The CSLB notes that its response to the disasters placed a significant workload strain on CSLB. From fall 2017 through June 2018, CSLB employees, mostly from its enforcement division, worked almost 3,600 hours at the relief centers—the equivalent of 90 work weeks (not including enforcement sweeps and sting operations in the various fire zones, or the time involved in investigating leads provided by survivors, industry groups, local building departments, and others). CSLB reports that the increased workload has led to a decrease in the number of closed complaints.

**Staff Recommendation:** *The CSLB should advise the Committees on its disaster response systems. What processes does the CSLB have in place to quickly transition staff to assist in disaster response situations when needed? The CSLB should update the Committees on how it helps to ensure a licensed workforce is available to meet the needs for rebuilding and other clean-up efforts. Does the CSLB forecast any workforce shortages or concerns?*

**ISSUE #10: (WORKERS’ COMPENSATION) Should the CSLB be authorized to mandate that additional license classifications have workers’ compensation insurance?**

**Background:** Licensees are required to obtain workers’ compensation insurance or have a workers compensation exemption on file with the CSLB if they qualify. Those licensees with employees must file with the CSLB either a Certificate of Workers’ Compensation Insurance or a Certificate of Self-Insurance (issued by the Department of Industrial Relations). Licensees without employees are required to file a workers’ compensation exemption with the CSLB (BPC § 7125). Licensees with a workers’ compensation exemption are required to recertify on their renewal application that they do not have employees each time they renew a license. According to the CSLB, 55% of its licensing population maintains an exemption from workers’ compensation, meaning that licensees report having no employees. If a contractor files a false workers’ compensation exemption, they may be subject to disciplinary action, including the suspension of a license.

Concerned about the potential of fraudulent workers’ compensation exemptions, the CSLB conducted a pilot project in Sacramento County during the first quarter of 2017. Through that program, the CSLB contacted a sample of contractors in four targeted classifications that perform outdoor construction (likely to require multiple employees): C-8 (Concrete), C-12 (Earthwork/Paving), C-27 (Landscaping), and D-49 (Tree Trimming). According to the CSLB, the results of the survey found that a minimum of 59% of the contractors investigated had filed false workers’ compensation exemptions with the CSLB.

In 2018, the CSLB discussed a statutory change to mandate workers' compensation insurance for specific license classifications likely to employ workers (as required for C-39 roofing), and preclude licensees from filing a new workers' compensation exemption with CSLB for one year if they are found to have employed workers without a workers' compensation policy.

The legislative proposal to consider mandating workers' compensation insurance for specified license classifications received full support from CSLB board members at its September 2018 meeting, and subsequently adopted as a 2019-21 strategic plan objective. The additional licensing classifications that would be required to have workers' compensation insurance, regardless of employee status is as follows: : C-8 (Concrete) D-49 (Tree Service) and C-16 (Fire Protection).

***Staff Recommendation:*** *The CSLB should inform the Committees of any other options to ensure compliance with workers' compensation requirements. Does the CSLB inspect or attempt to verify if a workers' compensation exemption form is valid? Can the CSLB explain how it identified the specialty licenses, which would be subject to this requirement?*

#### **ISSUE #11: (TREE WORKER SAFETY) Should the CSLB have expanded enforcement authority for contractors who perform tree work?**

***Background:*** According to information provided by the CSLB, since August 2017, CSLB staff has met several times with members of the tree care industry regarding the proper CSLB license classifications to perform tree care. Members of the industry expressed concern about accidents, injuries, and fatalities among workers in this occupation. Two CSLB license classifications may perform stand-alone tree work: C-27 (Landscaping) and C-61/D-49 (Tree Service). Additional license classifications may perform tree work as part of a larger contract in specified circumstances.

At the CSLB's April 2018, meeting, the board directed staff to meet with representatives from the Department of Industrial Relations' Division of Occupational Safety and Health (DOSH) and hold informational meetings with various stakeholders to identify possible solutions to the concerns raised regarding safety. In these meetings, DOSH confirmed that existing safety regulations require specific training and equipment for tree workers and that it may issue a citation to employers for failing to meet these requirements. However, BPC §7109.5 requires that, before CSLB can discipline a license, a contractor's violation of a safety provision must result in the death of or serious injury to an employee. The CSLB would like to see increased oversight beyond death or serious injury.

At its September 20, 2018 meeting, board members directed staff to prepare a legislative proposal for consideration by the Legislative Committee and, ultimately, the full Board. The proposal would expand BPC §7109.5 to provide CSLB authority to initiate disciplinary action against a licensee upon receipt of a DOSH finding that a licensee violated tree worker safety requirements and require that DOSH forward findings of such violations to CSLB.

***Staff Recommendation:*** *The CSLB should advise the Committees on the number of additional enforcement actions that would have resulted from this change. The CSLB should advise the Committees on what its anticipated enforcement penalties for a violation would be.*

## **TECHNOLOGY ISSUES**

### **ISSUE #12: (BreEZe) What is the status of the CSLB's technology system upgrade? Does the CSLB need a new IT system?**

**Background:** DCA has been working since 2009 to replace multiple antiquated standalone IT systems with one fully integrated system used consistently across all regulatory entities. That project, commonly referred to as BreEZe, was planned to be implemented in three releases, or phases. The CSLB was slated to be a part of the third release. Unfortunately, due to numerous cost overruns, technical delays, and product inefficiencies, in 2015 the DCA-led technology upgrade was stopped, effectively canceling the BreEZe system for those entities in the third release. Special Project Report 3.1 outlined the changing scope and cost of the BreEZe project and removed all Release 3 entities from the project entirely.

As a result, numerous regulatory entities, including the CSLB, did not transition to the new IT system. Payment for the entire technology upgrade was the responsibility of the boards, bureaus and commissions under the DCA umbrella. Presumably, the decision to include all entities regardless of need was to spread the costs of the system across the entire regulatory landscape. However, the remaining boards and bureaus that never transitioned to the BreEZe system were still required to pay the costs associated with the project. As of FY 2017-2018, the CSLB's contributions to the BreEZe project has been \$4,255,555, a hefty figure for an IT project it will not, and has not received any benefit. The CSLB reports that beginning in FY 2018-2019, it will no longer contribute to the BreEZe system. Any costs already contributed to the system will not be paid back to the CSLB, even as the CSLB is facing a depleted reserve level of 1.9 months for FY 2019-2020.

Prior to 2009, when the BreEZe project began, the CSLB had and continues to utilize, its own Information Technology (IT) system and department. The CSLB's IT division supports all of its licensing and enforcement programs along with its website, public outreach and all other routine functions of the CSLB. CSLB's IT division has approximately 25 personnel. The CSLB notes that its IT system is effective and efficient; however, the CSLB notes that it continues to seek upgrades to its own system including an upgrade to application processing to help reduce the number of deficient applications it receives. According to CSLB, in FY 2018-2019, it spent approximately \$2.9 million on its IT division staff and operations.

In the CSLB's sunset report, it notes that release 3 boards and bureaus, which include the CSLB, are individually, and in collaboration with DCA, assessing their specific business needs to determine the best course of action for a replacement for the BreEZe project. DCA currently has no formal plan to expand BreEZe to the 19 boards originally included in Release 3. Instead, DCA first intends to conduct a cost-benefit analysis for Release 3 boards and then make a decision about whether programs previously slated for Release 3 of the project will come onto BreEZe and, if so, how it will be implemented. It is not clear whether the system has been evaluated to determine if it will meet the needs of Release 3 entities like the CSLB or whether or not a transition to the new upgraded system is valuable or even necessary, especially for the CSLB which currently has its own unique IT infrastructure.

AB 97 (Ting, Chapter 14, Statutes of 2017) and SB 547 (Hill, Chapter 428, Statutes of 2017) required the DCA to provide specified reports to the Legislature on the status of the DCA's technology projects. Both bills required the director of the DCA to report progress on Release 3 entities' transition to a new licensing technology platform to the Legislature by December 31 of each year. Information included in the progress report is to include updated plans and timelines for completing: business process documentation; cost-benefit analyses of IT options; IT system development and implementation; and, any other relevant steps needed to meet the IT needs of release 3 entities along with any other information requested by the Legislature.

Because the CSLB is included in the release 3 entities, it is required to be a part of the director's annual report. The director's report noted the following with respect to the CSLB in DCA's report to the Legislature on the status of its technology projects:

Summary of Business Activities

*Level of Effort:*

*During the 2018 reporting period, the board and OCM staff held 10 exclusively for business activities, which includes process documentation, review, approval, discussions, business use case and functional requirements gathering. The team is in the midst of the process and continues to work towards completion.*

Deliverables during Business Activities

*Process Workflow Documentation Listing:*

*Business activities for the Contractor State Licensing Board are underway. To date, the board and OCM have completed the workflow documentation for the following processes.*

The information provided in the director's report regarding the CSLB's technology modernization does not fully explain the CSLB's current technology system and its need or desires to move to new IT system.

**Staff Recommendation:** *The CSLB should update the Committees about its current information technology system and how a new DCA-wide platform would be beneficial or any concerns moving to a new system.*

**OTHER ISSUES**

**ISSUE #13: (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE LAW ADMINISTERED BY CSLB.)** There are amendments to the various practice acts that are technical in nature but may improve CSLB operations and the enforcement of those laws.

**Background:** There may be a number of non-substantive and technical changes to the contractors' license law, which may improve efficiencies. Since the CSLB's last sunset review in 2015, the CSLB

has sponsored or been impacted by more than 20 pieces of legislation which address all or parts of the CSLB's duties, oversight authority, licensing requirements and examination standards, among others. As a result, there may be a number of non-substantive and technical changes to the contractors' law, which should be made to correct deficiencies or other inconsistencies in the law.

Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The CSLB's sunset review is an appropriate time to review, recommend and make necessary statutory changes. For example, AB 1070 (Gonzalez-Fletcher, Chapter, Statutes of 2017) amended BPC § 7169 by requiring the CSLB to develop a "solar energy disclosure document". In BPC § 7169 (c), there is an incorrect reference to the "disclosure document" as a "disclose document". A technical correction is recommended. Any changes to the CSLB during the sunset review and subsequent legislation would be an appropriate place to update any technical deficiencies similar to the above noted.

**Staff Recommendation:** *The CSLB should recommend any technical and non-substantive clean-up amendments for BPC § 7000 et seq. to the Committees.*

**ISSUE #14: (LLCs). Do timeframes outlined for compliance with LLC filing requirements need to be updated to better reflect how long the process can take?**

**LLC Liability Policy:** BPC § 7071.19 requires a license holder as a limited liability company (LLC) to maintain a general liability insurance policy at all times as a condition of licensure. The number of persons on the personnel of record will determine the amount of insurance the LLC must maintain. BPC § 7071.19(f) requires the applicant or license holder renewing an application to provide the required insurance information to the CSLB. Additionally, insurer companies are required to report to the registrar including the name, license number, policy number, dates that coverage is scheduled to commence and lapse, date and amount of any payment of claims, and cancellation date if applicable. The CSLB raised an issue that it is having difficulty securing the required information from the insurance companies in a timely manner. If the CSLB does not have the information on record, it will suspend the license. The CSLB reports that insurance providers are not always timely in submitting the required information to the CSLB. In some cases, the licensee may have submitted the required insurance documents, but the insurance provider has not. If the CSLB does not have both records of insurance on file, the CSLB reports that the license must be suspended.

In its Sunset Review Report 2018, the CSLB proposed a statutory modification regarding BPC § 7071.19 to allow the insurance provider and applicants 45 days to provide the required insurance documents. The CSLB notes that a licensee would still be required to submit the certificate of insurance compliance without a break in general liability insurance coverage or the suspension would still apply. Under current law, the CSLB reports that if the CSLB gets a report that a workers' compensation policy has lapsed, the licensee has 45 days to take corrective actions.

**Secretary of State Filing of Information:** In addition to a liability insurance policy, license holders who are LLCs or corporations are required to register with, and be in good standing with, the Secretary of State. Any failure to register or be in good standing as identified by the Secretary of State can result



in the automatic suspension of a license 30 days from the date of the Secretary of State’s notice of noncompliance. The CSLB contends that it can take more than 30 days for a licensee to reconcile with the Secretary of State when filing its “statement of information and would instead request that the license suspension be effective 60-days from the date of notice from the Secretary of State. The CSLB reports that it can take longer than 30 days to resolve registration issues with the Secretary of State. It is not clear why processing these registrations is delayed at the Secretary of State’s office nor is it clear how the Secretary of State notifies the CSLB if an individual is not in compliance with filing the required statement of information.

**Staff Recommendation:** *The CSLB should advise the Committees on outreach efforts to licensees to encourage the timely filing of required documentation for licensure and renewal. Additionally, the CSLB should advise the Committees on its communications with outside entities to encourage the timely distribution of required information for CSLB licensees and applicants. How will the additional time ensure compliance?*

**ISSUE #15: (UNSATISFIED JUDGMENTS) What steps can the CSLB take to ensure that licensees facing construction related judgements are prevented from continuing to operate until the judgement is satisfied?**

**Background:** CSLB has authority to suspend a license if it learns of an unsatisfied construction-related judgment imposed on the licensee, as specified in BPC § 7071.17. When the CSLB suspends a license for failure to pay an outstanding judgement, any qualifying individual or personnel on the license record is automatically prohibited from serving in those capacities on another license until the judgment is satisfied. This prohibition also causes suspension of the license of any other license entity with any of these same personnel as the license subject to the judgment (until those members disassociate from the license or the judgment is satisfied). Therefore, when a judgment is imposed on a license, the suspension extends to individuals associated with the judgment debtor license and other licenses.

However, the reverse is not true: If a judgment is entered against an individual without naming the licensed entity, the statutory language does not authorize CSLB to suspend the license on which the individual appears. As a result, an individual named on a construction-related judgment can remain on a license. The proposed clarifying change to BPC section 7071.17 would preclude license applicants, if they were subject to an unsatisfied final judgment, from becoming licensed until that judgment is satisfied. Additionally, it would preclude an individual named in an unsatisfied judgment from appearing on an active license until the judgment is satisfied.

**Staff Recommendation:** *The CSLB should advise the Committees on the extent of this issue and explain how changing current law would enhance consumer protection.*

**ISSUE #16: (C-10 LICENSE CATEGORY FEE COLLECTION) The CSLB is authorized to collect fees from certain licensure categories, but does not require these fees to be assessed. Should the CSLB be required to collect fees to verify certification?**

**Background:** BPC § 7137 authorizes the CSLB to charge a fee, not to exceed \$20, for C-10 (Electrician) and C-7 (Low Voltage Systems) licensees for enforcement of the electrician certification requirement as specified in Labor Code (LC) §108.2. LC § 108.2(a) requires persons who perform work as electricians to become certified and prohibits uncertified persons from performing electrical work for which certification is required and specifies that certification is only required for persons who perform work as electricians for contractors licensed as class C-10 electrical contractors.

Specifically, each person who performs work as an electrician must obtain the certification. C-10 license holders are not required to obtain the separate certification; however, the employees that work under the C-10 contractor's license are required to obtain certification. In addition, if a licensed C-10 contractor is working under another C-10 license holder as an employee, then he or she is subject to the certification law and must be certified. If a C-10 contractor is in violation of the certification law, he or she is subject to discipline by the CSLB.

The certification is not required for persons performing work for contractors licensed as C-7 low voltage systems or C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license. The CSLB is responsible for ensuring that the C-10 employees meet the certification requirements. According to the CSLB, there are approximately 30,500 active C-10 contractors and if they use employees as prescribed in LC § 108.2, the CSLB must ensure that those employees are certified. The CSLB reports that it does not have sufficient staff resources allotted to ensure compliance with the LC requirement. As a result, the CSLB acknowledges that it does not effectively enforce this requirement. The CSLB has the statutory authority to charge the fee, but would need regulations to implement its authority; however, the regulatory process is currently under review, as it may take multiple years for the appropriate issuance of new regulations. The CSLB would like to request a statutory change to require the CSLB collect the \$20 payment to increase enforcement efforts of the electrician certification.

Under current law, the Labor Commissioner is required to have a memorandum of understanding with the Registrar and maintain a process for referring cases to the CSLB when it determines that a violation has likely occurred. Upon receipt of a complaint from the Labor Commissioner alleging that a violation has occurred, the CSLB is required to open an investigation, and any disciplinary action against the licensee must be initiated within 60 days of receipt of the referral. Additionally, the Registrar may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Labor Commissioner alleging a violation.

CSLB's proposal would change the permissive language to a requirement that the CSLB collect the \$20 fee and would additionally would strike the reference to C-7 (Low Voltage Systems) contractors as they are currently exempt under LC § 108.2 electrician certification requirements.

**Staff Recommendation:** *The CSLB should explain how the additional revenue would increase compliance given the CSLB's concerns with sufficient staffing.*

## **CONTINUED REGULATION OF CONTRACTORS BY THE CURRENT BOARD**

**ISSUE #17: (SHOULD THE CSLB BE CONTINUED?) Should the licensing and regulation of contractors be continued and be regulated by the CSLB?**

**Background:** The safety and welfare of consumers persists under the presence of a strong licensing and regulatory structure to oversee the contractor profession. The CSLB's focus is consumer protection, to that end, has demonstrated its commitment to ensuring a robust contractor market place. Although, there are places where the CSLB can improve, including fiscal prudence, strengthening its licensing and enforcement objectives and those respective programmatic units, and identifying legislative priorities sooner, the CSLB should continue with a four-year extension so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

**Staff Recommendation:** *Recommend that the licensing and regulation of contractors and home improvement salespersons continue under the CSLB's regulatory authority in order to protect the interests and safety of the public. The CSLB should continue to improve upon its administrative processes to ensure the regulatory functions of the CSLB meet its consumer protection mandate. The CSLB should continue to develop staff management policies to ensure it has well-trained and cross-trained staff to alleviate pressures when disaster response is necessary. Further, the recommendation is for the CSLB to be reviewed by the appropriate policy committees of the Legislature once again in four years.*