

JANUARY 18, 2012
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Licensing/Enforcement
Committee Meetings



**CONTRACTORS STATE LICENSE BOARD**

9821 Business Park Drive, Sacramento, California 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95826
800.321.CSLB (2752) | www.cslb.ca.gov | *CheckTheLicenseFirst.com*

STATE OF CALIFORNIA

Governor Edmund G. Brown Jr.

NOTICE OF LICENSING AND ENFORCEMENT COMMITTEE MEETINGS

The Contractors State License Board (CSLB) will hold two committee meetings on January 18, 2012 from 9:00 a.m. to 12:00 p.m. in the John C. Hall Hearing Room located at CSLB Headquarters, 9821 Business Park Drive, Sacramento, CA 95827; phone: (916) 255-4000, facsimile: (916) 364-0130.

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 255-4000 or access the Board's website at <http://www.cslb.ca.gov>. Action may be taken on any item listed on this agenda, including information-only items. Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meetings are open and the public is invited to attend. Meetings are accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by calling (916) 255-4000 or by sending a written request to the CSLB Executive Office, 9821 Business Park Drive, Sacramento, CA 95827. Providing your request at least five (5) business days prior to the meeting will help ensure availability of the requested accommodation.

Members of the Board who are not members of the Committee may attend the Committee meeting.

LICENSING COMMITTEE MEETING

9:00 a.m.

Licensing Committee Members

David Dias, Chair / Lisa Miller-Strunk / John O'Rourke / Bruce Rust / Frank Schetter

- A. Call to Order – Chair's Remarks
- B. Public Comment Session
- C. Licensing Program Update
- D. Testing Program Update
- E. Visit to Belectric Solar Farm
- F. Adjournment

ENFORCEMENT COMMITTEE MEETING
Immediately Following the Licensing Committee Meeting

Enforcement Committee Members

Matt Kelly, Chair / Pastor Herrera / Ed Lang / Jim Miller / John O'Rourke / Frank Schetter

- A. Call to Order – Chair's Remarks
- B. Public Comment Session
- C. Enforcement Program Update
- D. Discussion Regarding the Impact of the Underground Economy on Employers & Anticipating the Effects of Health Reform
- E. Review and Discussion on Proposed 2012 Proactive Enforcement Strategies
- F. Review and Approval of Enhanced Enforcement Representative Identification
- G. Adjournment

JANUARY 18, 2012
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Licensing Committee



AGENDA ITEM A

Call to Order – Chair’s Remarks

Roll is called by the Committee Chair.

LICENSING COMMITTEE MEMBERS:

DAVID DIAS, CHAIR

LISA MILLER-STRUNK

JOHN O’ROURKE

BRUCE RUST

FRANK SCHETTER

Committee Chair David Dias will review the scheduled Board actions and make appropriate announcements.



AGENDA ITEM B

Public Comment Session

Members of the public may address the committee at this time.
The Committee Chair may allow public participation
during other agenda items.



AGENDA ITEM C

Licensing Program Update





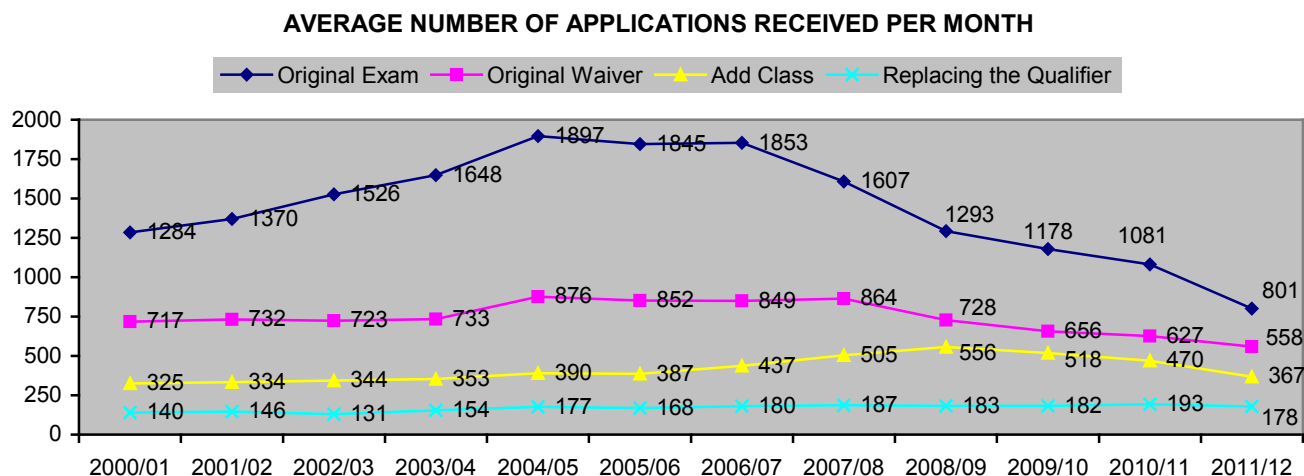
CONTRACTORS STATE LICENSE BOARD

LICENSING PROGRAM UPDATE

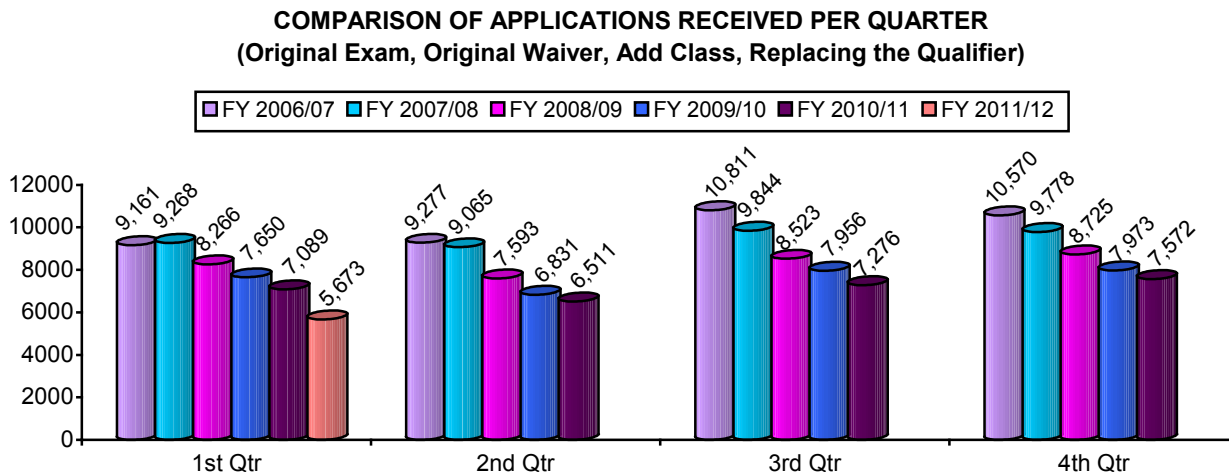
License Application Workload

The following chart shows the average number of applications received per month for the past 11 fiscal years (FY). Fingerprint requirements went into effect January 2005.

The number of applications received continues to decline due to the economic recession and housing downturn. The average number of original applications received per month for FY 2010-11 is down 30% from the overall average for the previous 10 years.



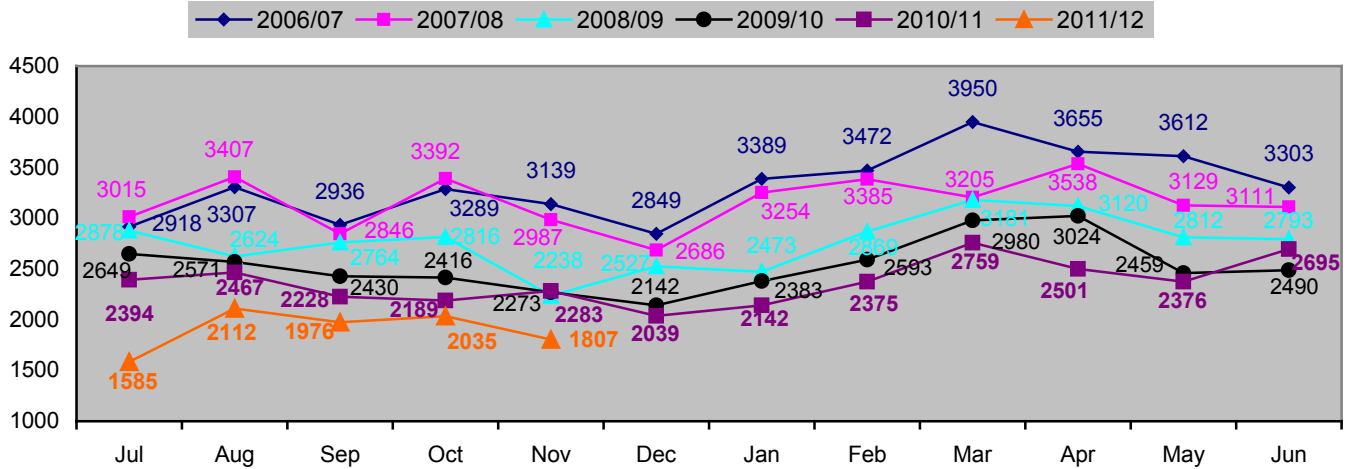
The following chart compares the total number of applications received by quarter for the past five FY.



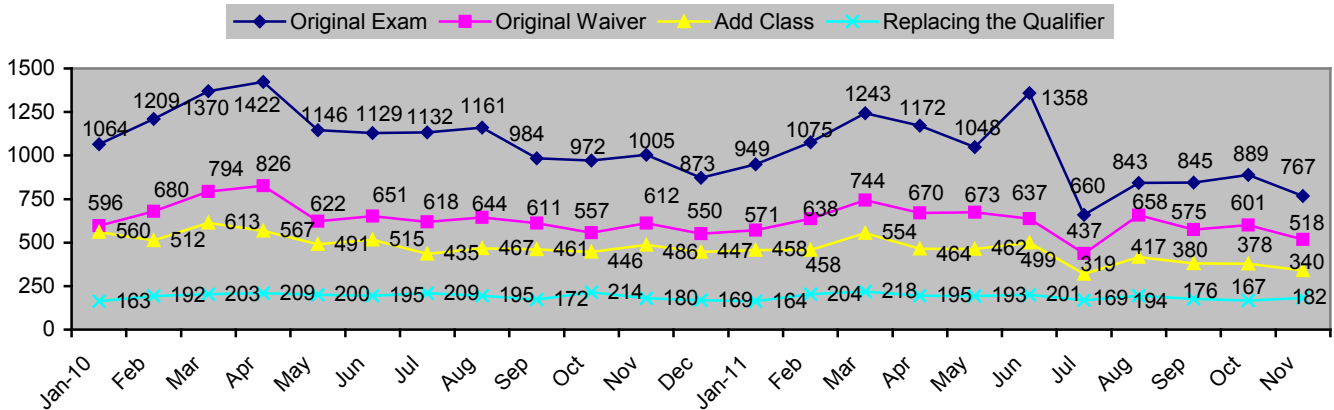
Decrease of 6.5% for total applications received for 2010-11 as compared to 2009-10



TOTAL NUMBER OF APPLICATIONS RECEIVED PER MONTH (Original Exam, Original Waiver, Add Class, Replacing the Qualifier)



NUMBER OF APPLICATIONS RECEIVED





Limited Liability Companies (LLCs)

The new LLC program has been implemented. The passage of Senate Bill 392 (Statutes of 2010, Chapter 698) authorizes CSLB to issue contractor licenses to limited liability companies (LLCs). The law required CSLB to begin processing LLC applications no later than January 1, 2012. The LLC applications were made available on the CSLB website on December 28, 2011.

In the bill, the Legislature noted that contractors have been allowed to operate as corporations, and to be designated as “S” or “C” corporations, for many years, with well-established case law regarding the ability to “pierce the corporate veil.”

It was the intent of the Legislature that this doctrine shall also apply to LLCs. Since there is not yet case law establishing this principle in California, an additional \$100,000 bond requirement for the benefit of workers relative to payment of wages and fringe benefits was established. That will ensure that workers are protected despite the absence of case law dealing with LLCs. This bond is in addition to the \$12,500 contractor bond.

LLCs will be qualified by responsible managing officers, responsible managing members, responsible managing managers, or responsible managing employees. All officers, members, managers, directors, and qualifiers of LLCs must be listed on the application as personnel of record.

LLCs will also be required to have \$1,000,000 in liability insurance when five or fewer persons are listed as personnel; with an additional \$100,000 required for each additional personnel, not to exceed \$5 million.

For the implementation of LLC licensing, CSLB staff created new applications, developed new application procedures, and put in place important Information Technology (IT) programming changes necessary for this new business entity. The implementation could not have been completed without full cooperation and assistance from CSLB’s IT division.

Fee Increases and Application Revisions

Regulations were recently changed to increase the application and licensure fees to their statutory limit, effective July 1, 2011.

In response to the fee increases, eight applications have been revised and are available both online and in hard copy form.

On the following page is a table that shows the previous and new fees:



2011 CSLB FEE INCREASES

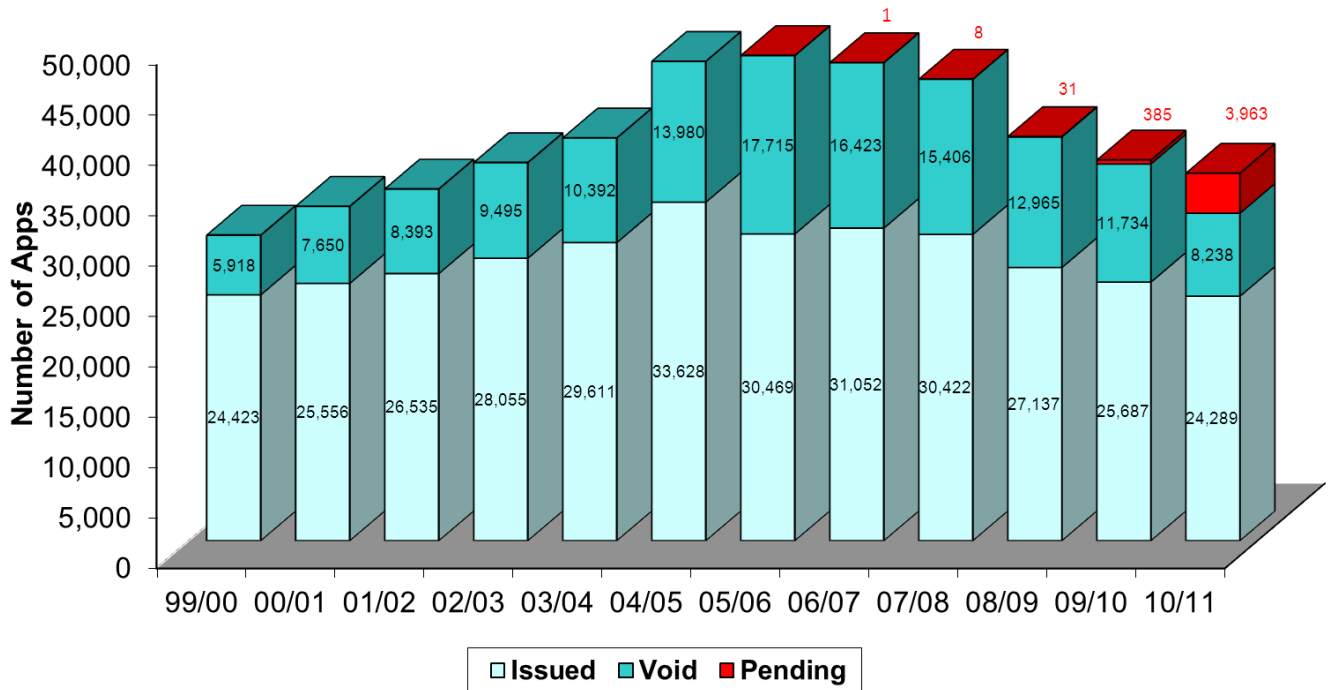
Fee	Previous Amount	New Amount	\$ Amount of Increase	% of Increase
Application for Original Contractor License	\$250.00	\$300.00	\$50.00	20%
Application to Add a Supplemental Classification or to Replace the Responsible Managing Officer or Employee on an Existing License	\$50.00	\$75.00	\$25.00	50%
Rescheduling an Examination	\$50.00	\$60.00	\$10.00	20%
Initial License Fee	\$150.00	\$180.00	\$30.00	20%
Renewal – Contractor License (Biennial)	\$300.00	\$360.00	\$60.00	20%
Renewal – 4-Year Inactive License	\$150.00	\$180.00	\$30.00	20%
Reactivate Contractor License	\$300.00	\$360.00	\$60.00	20%
Home Improvement Salesperson (HIS) Registration Fee	\$50.00	\$75.00	\$25.00	50%
Asbestos Certification Fee	\$50.00	\$75.00	\$25.00	50%
Hazardous Substance Removal Certificate	\$50.00	\$75.00	\$25.00	50%
Delinquent Fee Renewal – Contactor License ¹	\$150.00	\$180.00	\$30.00	20%
Delinquent Fee Renewal – 4-Year Inactive License ¹	\$75.00	\$90.00	\$15.00	20%
Delinquent Fee Renewal – HIS Registration ¹	\$25.00	\$37.50	\$12.50	50%

¹B&P Code Section 7137(f) sets the delinquency fee as a percentage of the applicable renewal fee: “The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.”



Disposition of Applications by Fiscal Year Teale Report S724: Run Date 12/01/2011

(Includes: Original, Add Class, Replacing the Qualifier, Home Improvement Salesperson, Officer Changes*)



License Transaction Processing Times

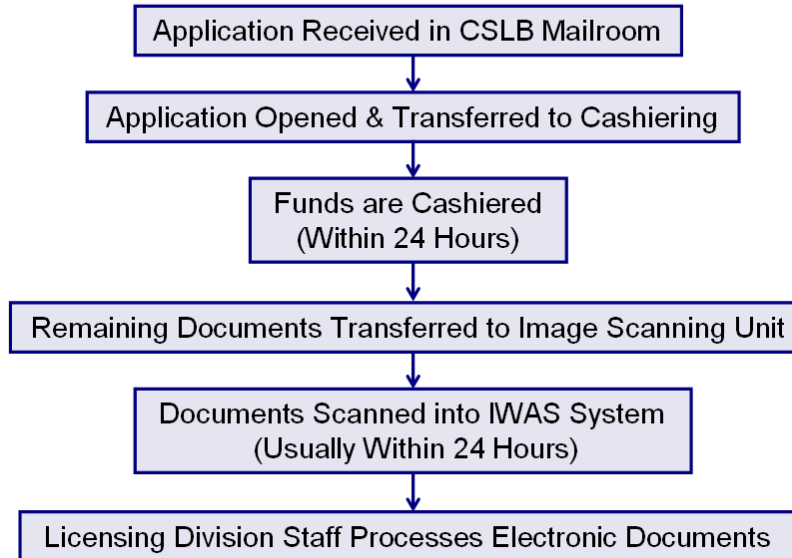
CSLB management continues to monitor processing times for the various units on a weekly and monthly basis. The charts on pages 13-16 track the “weeks to process” for the various application and license maintenance/transaction units.

The charts indicate the average number of weeks to process for that particular month. Processing times, or “weeks to process,” refers to the number of weeks after an application or document is received by CSLB before that application or document is initially pulled for processing by a technician.

When considering the weeks-to-process timelines, it is important to understand that CSLB’s application and renewal processing schedule automatically has approximately two days of backlog built in because cashiering and image-scanning tasks must be performed before the application or document can be pulled for processing.



CSLB Application Processing Route



Since FY 2008-09, the Licensing division has utilized a minimal amount of overtime in contrast to previous fiscal years when overtime was a regular occurrence. Despite the minimal amount of overtime and the 15% reductions in staff hours due to a past three-day-a-month furloughs, the Licensing division has maintained acceptable processing times. This can be attributed to the significant decrease in applications as shown on the first page of this program update.

Fingerprinting/Criminal Background Unit (CBU)

Since January 2005, all applicants for a CSLB license and each officer, partner, owner, and responsible managing employee, as well as all applicants to be home improvement salespersons, must be fingerprinted and undergo a criminal background check conducted by the California Department of Justice (DOJ). Individuals currently licensed by CSLB who do not apply for any changes to their license and applicants for a joint venture license are not required to be fingerprinted.

CBU staff begins processing Criminal Offender Record Information (CORI) on the same day it is received by conducting a triage and clearing those applicants who have minor, clearable convictions, provided the applicant was honest in disclosing this on the CSLB application. Applicants who did not disclose what would have been considered minor, clearable convictions on their application may be given the opportunity to withdraw the false application and submit a new application and fees on which they accurately disclose their conviction(s). These withdrawal offers are also processed as part of the triage.

Since the fingerprint program began, CSLB has received more than 249,000 transmittals from DOJ. These include clear codes and conviction information.

Of the applicants who were fingerprinted during that time period, CSLB's Criminal Background Unit (CBU) received CORI for more than 42,000 applicants. That means



that DOJ and/or the Federal Bureau of Investigation reported that the individual had a criminal conviction(s) on record.

As a result of CORI files received through November 2011, CBU denied 1,048 applications and issued 1,160 probationary licenses. Of the denied licenses, 511 applicants appealed their denials.

CBU has seen a reduction in the number of fingerprint submissions as a result of the decline in applications, as well as those adding classifications that have already undergone a background check.

Below is a breakdown of CBU statistics by fiscal year:

Criminal Background Unit Statistics									
	FY04-05	FY05-06	FY06-07	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12*	TOTALS
DOJ Records Received	9,524	58,007	46,735	39,361	35,220	27,330	24,730	8,715	249,622
CORI RAPP Received	949	8,410	8,057	6,484	6,253	5,254	5,201	1,832	42,440
Denials	224	219	237	88	76	63	108	33	1,048
Appeals	71	113	130	45	47	29	62	14	511
Probationary Licenses Issued	-	-	126	290	206	203	243	92	1,160

*Through November 30, 2011

Licensing Information Center (LIC)

Ongoing Vacancies

LIC has continued to experience a high number of staff vacancies due to attrition and the state’s hiring freeze. There are currently seven vacant positions, two of which are on hold due to the mandatory five percent budget reduction, and one position on loan to the Department of Consumer Affairs.

Additionally, the LIC has two long-time veteran staff members who retired at the end of August. Due to the limited staffing in LIC, call wait times have increased. The average call wait time was 10:31 in June, reflecting the highest wait time in over a year. That wait time was reduced to 7:39 in November.

With the recent end to the hiring freeze, recruitment of new staff is a top priority. A new Staff Services Manager I was hired in June and two new call center agents have also been hired. However, LIC will continue to face significant headwinds with the veteran staff retirements and being staffed at half-capacity, with only 8 of 16 positions filled.

***Automated Call Distribution (ACD)***

The ACD telephone system that was implemented in November 2010 has proven to be effective in managing call volume. The system has useful features such as simple “drag-and-drop” call transfer capability and storage of call history data. In addition, incoming callers no longer get busy signals because the capacity of incoming calls into ACD has been increased to 50 – a level that can accommodate all incoming traffic.

The Interaction Supervisor program available to managers and supervisors has been an effective call center managerial tool. Supervisors now have the ability to monitor all incoming calls, the number of all active agents on the system, number of callers waiting in the queue, and the average wait time and agent talk time. All of this information is available in real time and workflow can be adjusted accordingly to meet changing demand during the course of the day.

Silent Monitoring Program

The Interaction Supervisor program also has a silent monitoring feature that gives managers and supervisors the ability to listen in on calls for training purposes. This feature will be a valuable training tool to analyze the type of call received, the appropriate agent response, and the rapport between the agent and the caller. The program will increase the knowledge and skills of existing call center agents, will help cultivate new staff, and help gauge the quality of customer service.

Increased Training

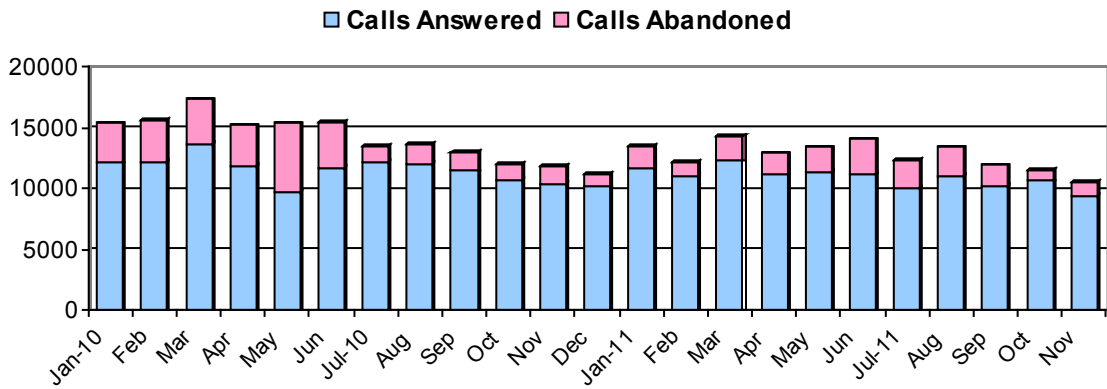
LIC continues to strive to provide timely, efficient, and professional services to its customers. In working toward this goal, LIC established a position to serve as a trainer and expert resource to other LIC staff. This position is responsible for updating internal call center policies, developing call center scripts for consistency, training new agents, and cross-training existing staff.

The training coordinator has developed introductory training materials based on direct feedback from current call center staff. The introductory training will be followed with a more in-depth

40-hour training course offered to all new CSLB employees and existing employees who wish to increase their knowledge base.



Licensing Information Center Call Data



	Oct 2010	Nov	Dec	Jan 2011	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov 2011
Calls Received	11,999	11,870	11,214	13,493	12,240	14,297	12,977	13,463	14,085	12,328	13,433	11,963	11,577	10,552
Calls Answered	10,790	10,459	10,160	11,712	11,044	12,297	11,164	11,423	11,214	10,047	11,090	10,203	10,629	9,465
Calls Abandoned	1,209	1,393	1,038	1,775	1,195	1,996	1,792	2,010	2,867	2,270	2,342	1,759	948	1,086
Longest Wait Time	16:10	11:18	13:42	14:25	20:26	24:25	17:26	19:36	22:09	27:18	20:39	20:49	1	12:25
Shortest Wait Time	1:17	0:40	0:15	1:16	0:59	1:02	1:19	2:28	3:07	4:16	3:39	3:10	0:30	1:34
Average Wait Time	5:08	3:28	4:28	6:46	4:58	6:44	6:57	7:41	10:31	10:01	9:43	9:16	8:07	7:39



Judgment Unit

Judgment Unit staff process all outstanding liabilities, judgments, and payment of claims reported to CSLB by licensees, consumers, attorneys, credit recovery firms, bonding companies, CSLB's Enforcement division, and other governmental agencies. In addition, the Judgment Unit processes all documentation and correspondence related to resolving these issues, such as satisfactions, payment plans, bankruptcies, accords, motions to vacate, etc.

Outstanding liabilities are reported to CSLB by:

- Employment Development Department
- Department of Industrial Relations
 - Division of Occupational Safety and Health
 - Division of Labor Standards Enforcement
- Franchise Tax Board
- CSLB Cashiering Unit

Unsatisfied judgments are reported to CSLB by:

- Contractors
- Consumers
- Attorneys

Payments of claims are reported to CSLB by:

- Bonding companies

When CSLB receives timely notification of an outstanding liability, judgment or payment of claim, an initial letter is sent to the licensee explaining options and a timeframe for complying, which are 90 days for judgments and payment of claims and 60 days for outstanding liabilities.

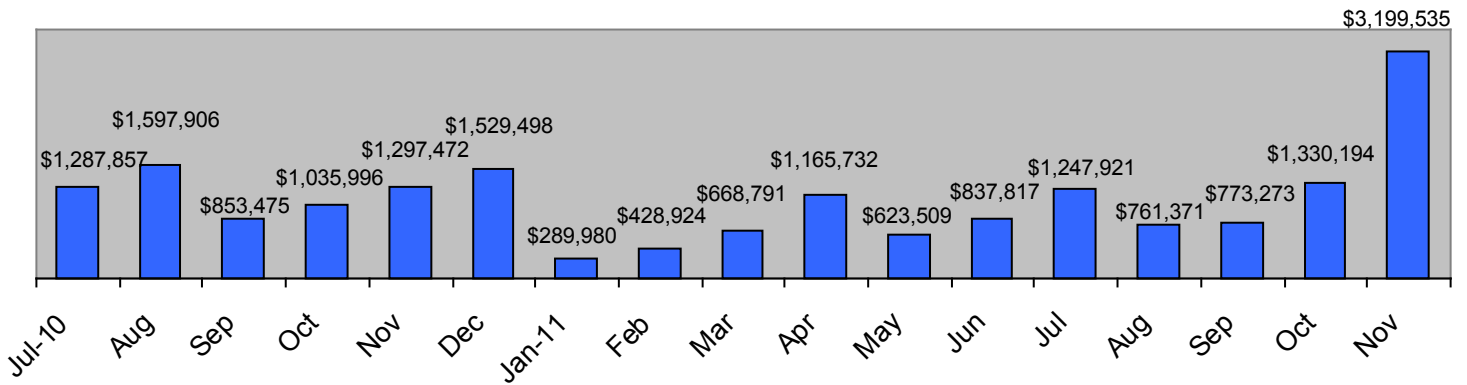
If compliance is not made within the allowed timeframe, the license is suspended and a suspend letter is sent to the contractor. A reinstatement letter is sent when compliance is met.



OUTSTANDING LIABILITIES

Letter Type Sent	Jul 2010	Aug	Sep	Oct	Nov	Dec	Jan 2011	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Initial	156	116	83	51	58	54	46	83	140	62	71	89	62	73	71	48	71
Suspend	113	59	75	92	68	88	54	52	50	30	104	56	36	57	56	64	42
Reinstate	142	64	38	31	37	31	15	40	91	70	84	59	28	38	52	41	32

SAVINGS TO THE PUBLIC

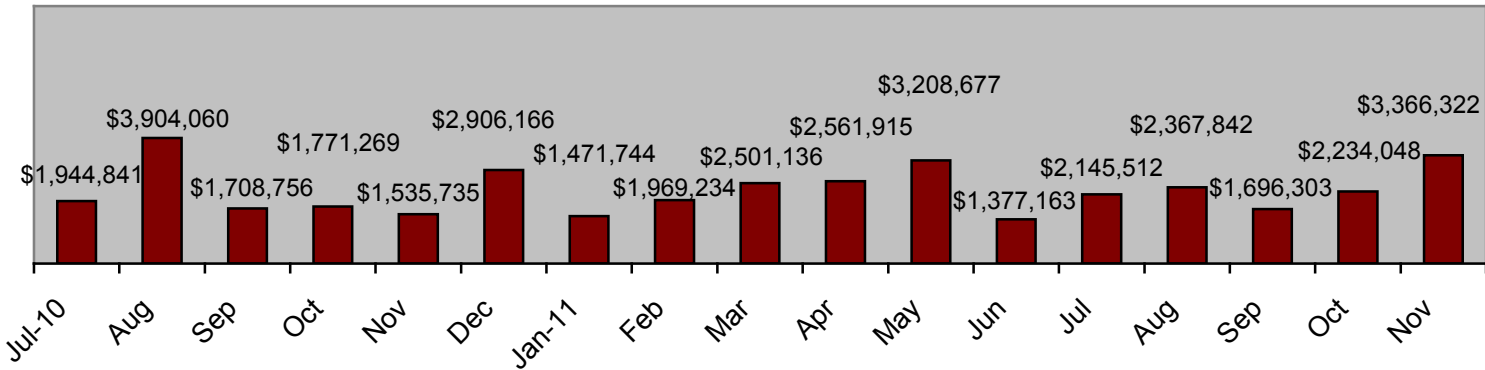


JUDGMENTS

Letter Type Sent	Jul 2010	Aug	Sep	Oct	Nov	Dec	Jan 2011	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Initial	350	248	208	224	240	239	183	208	224	212	220	227	222	205	225	219	170
Suspend	153	103	124	94	126	78	89	91	109	84	84	77	92	114	82	84	81
Reinstate	269	177	163	151	184	162	98	154	191	165	165	135	131	186	145	162	132



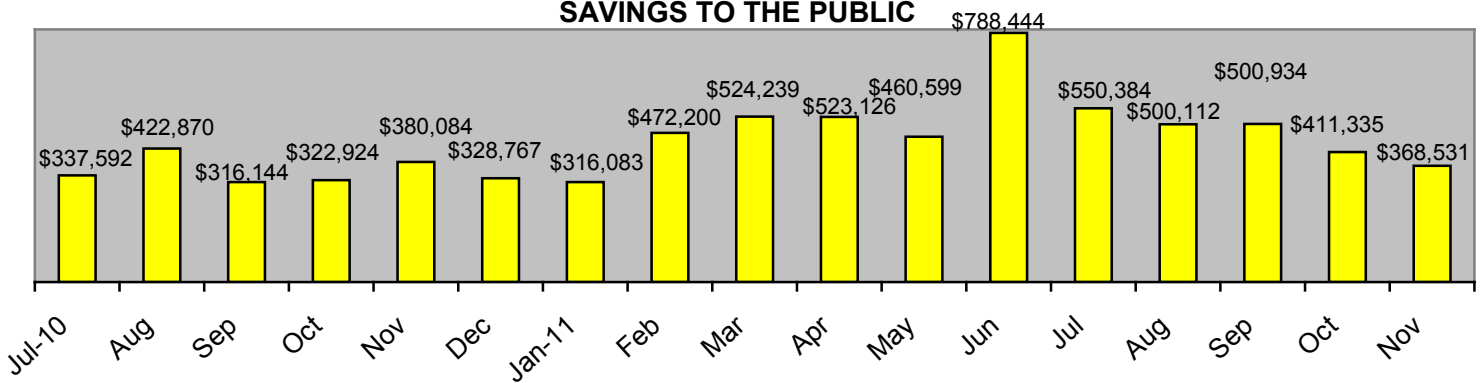
SAVINGS TO THE PUBLIC



PAYMENT OF CLAIMS

Letter Type Sent	Jul 2010	Aug	Sep	Oct	Nov	Dec	Jan 2011	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
Initial	204	189	114	93	149	310	218	205	251	220	213	234	188	177	120	224	155
Suspend	153	145	133	141	142	74	60	96	226	182	163	171	161	159	116	139	103
Reinstate	98	83	76	73	75	70	68	109	119	136	110	137	130	110	114	84	78

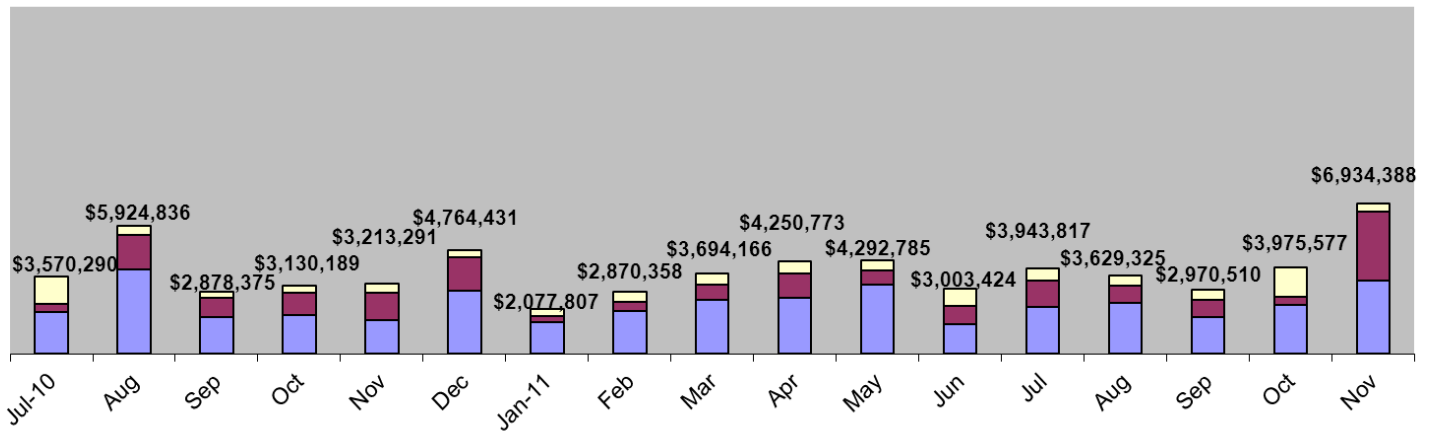
SAVINGS TO THE PUBLIC





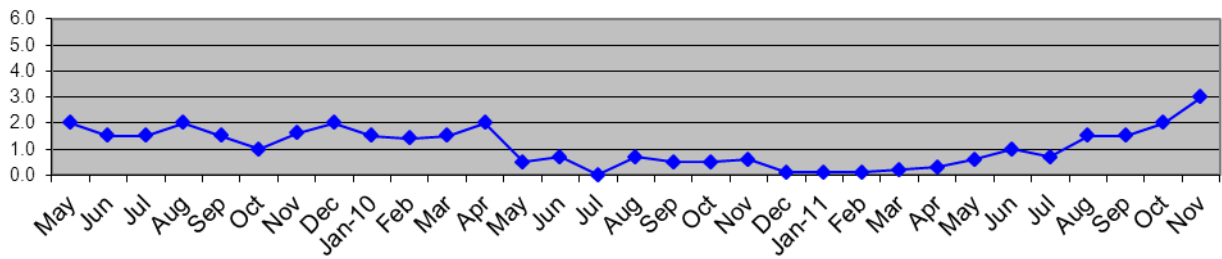
TOTAL SAVINGS TO PUBLIC

Judgments Outstanding Liabilities Payment of Claims

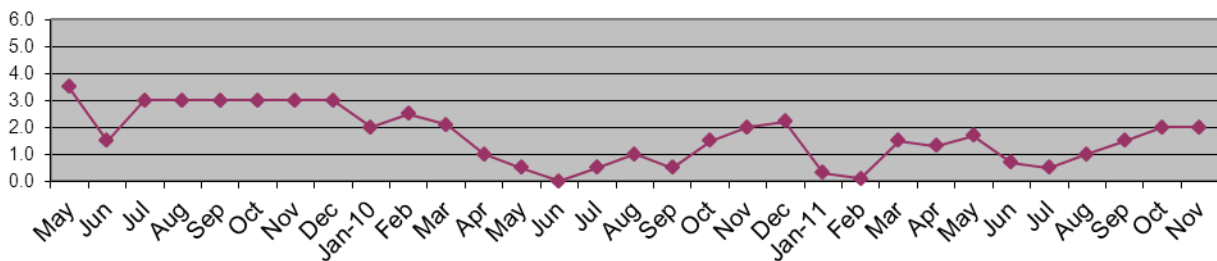


Number of Weeks Before Being Pulled for Processing

Application for Original License - Exam

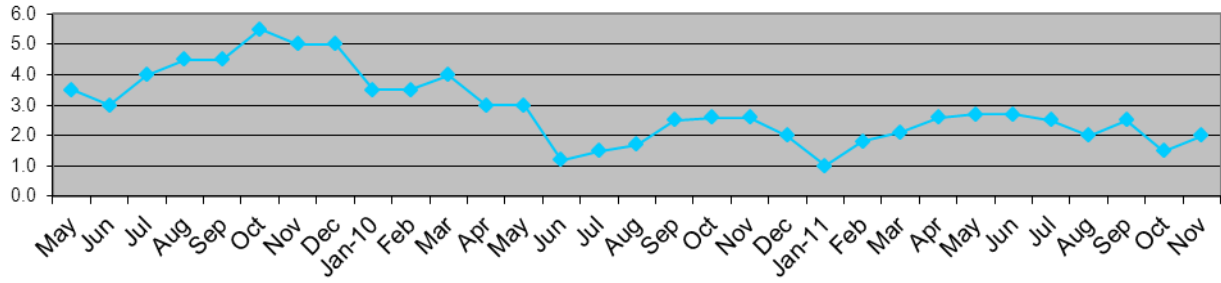


Application for Original License - Waiver

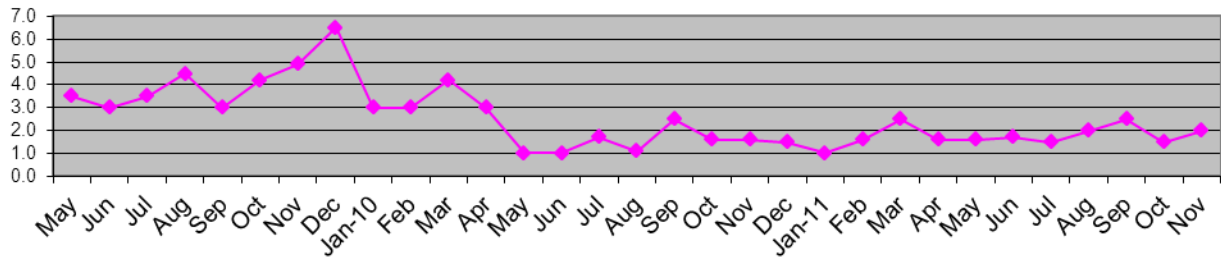




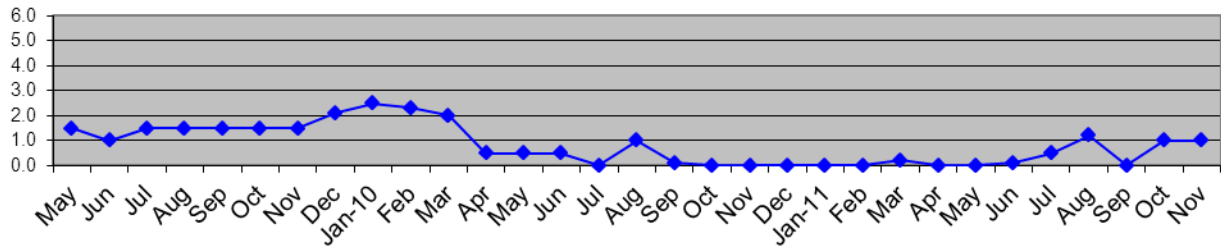
Application for Additional Classification



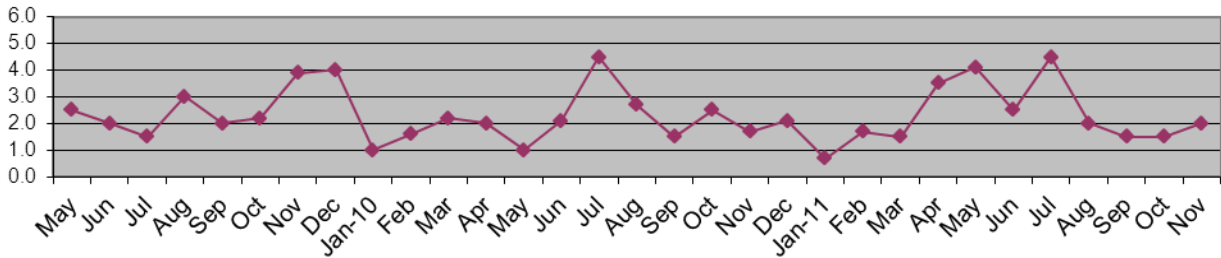
Application to Replace the Qualifier



Application for Renewal

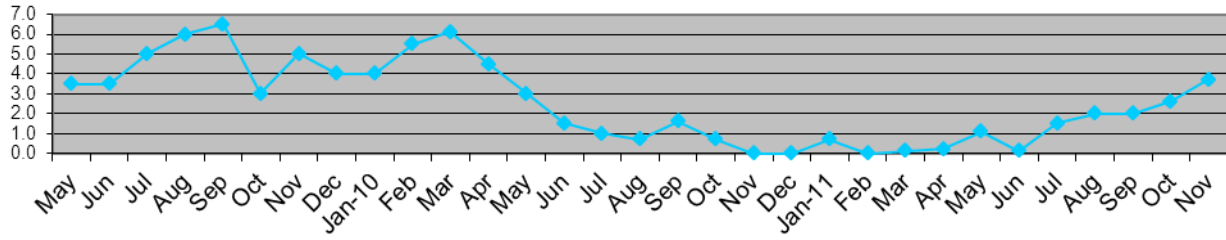


Home Improvement Salesperson (HIS) Application

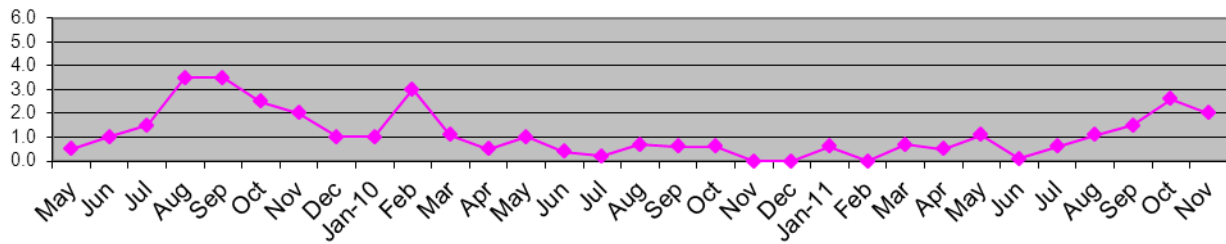




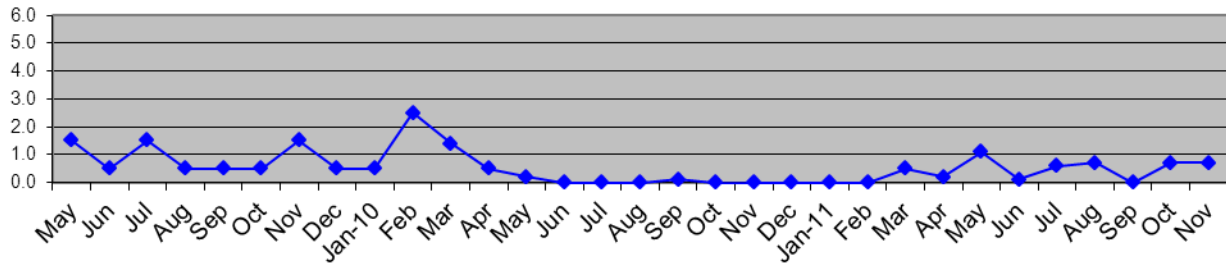
Application to Report/Change Officers



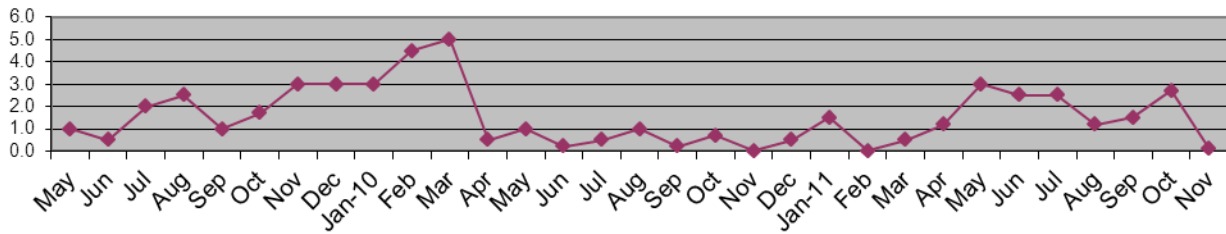
Application to Change Business Name or Address



Contractor's Bond and Bond of Qualifying Individual

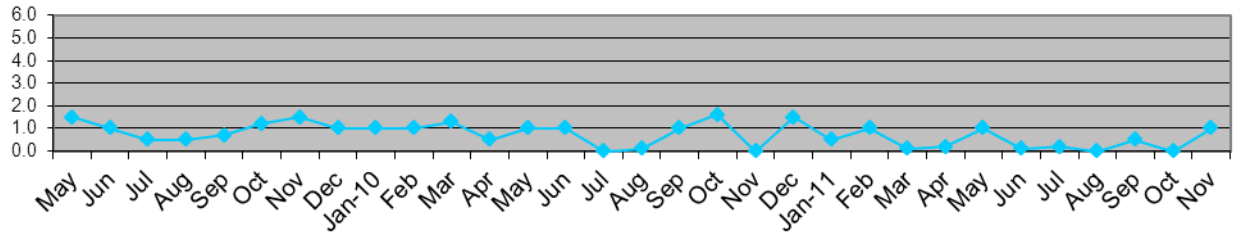


Workers' Compensation Certificates and Exemptions

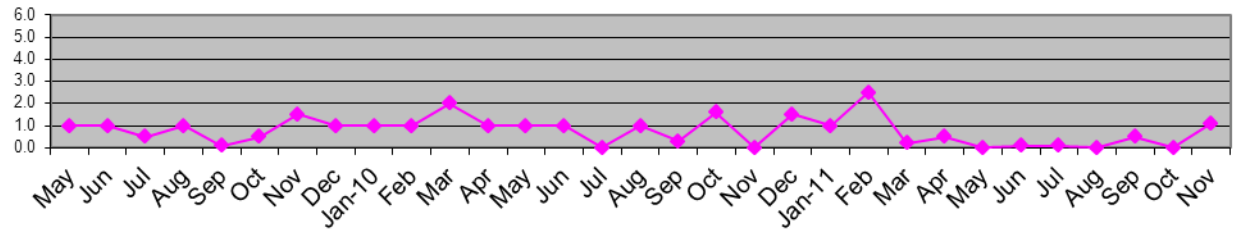




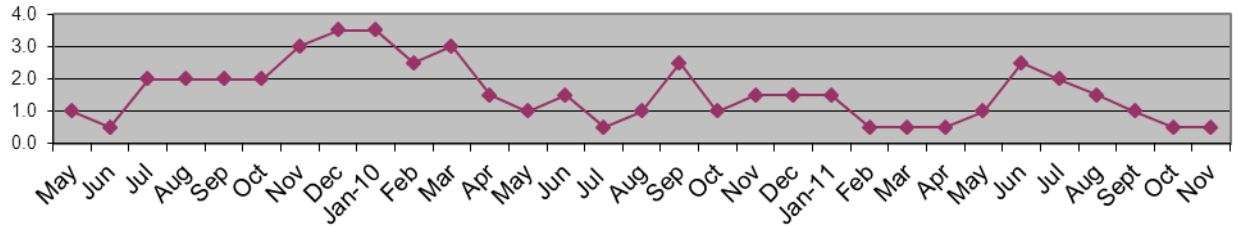
Certified License History



Request for Copies of Documents



Criminal Background Unit - CORI Review



AGENDA ITEM D

Testing Program Update





Staffing

The Testing Division has a total of five vacant positions, all in the Examination Administration Unit (EAU). We are still waiting approval from Department of Consumer Affairs (DCA) and Department of Personnel Administration (DPA) to fill the position that supervises the Examination Administration Unit (EAU), and two analysts are designated as leads to manage the workload.

During the month of December, Testing Division staff conducted interviews for the four vacant test monitor positions located in Sacramento, San Jose, Fresno, and San Diego. The new San Jose test monitor will start February 1; the three remaining selections are pending DCA approval. All four individuals who were selected are facing layoff from other state agencies.

Examination Wait Time

The wait time for an examination date is three weeks statewide. On any given day, walk-in applicants have an excellent chance of finding an available seat in any CSLB testing center.

Testing Center Status

CSLB maintains eight testing centers:

1. Sacramento
2. Oakland
3. San Jose
4. Fresno
5. Oxnard
6. Norwalk
7. San Bernardino
8. San Diego.

In February or March, the Oxnard Testing Center is scheduled to be reconfigured to correct inadequate spacing among seats that will provide additional comfort for applicants. The current configuration allows limited space for applicants to move or get up from their seats.

The lobby in the Oakland Testing Center has been repainted. The interior of the center is to be repainted shortly.

Examination Development

The Testing Division's Examination Development Unit (EDU) is responsible for ensuring that CSLB's 45 examinations are maintained and updated in accordance with testing



standards, guidelines, and CSLB regulations.

The examination development process involves two phases: occupational analysis and new examination development, and must be completed every five to seven years for each of CSLB's examinations.

The occupational analysis phase determines what information is relevant to each contractor classification, and in what proportions it should be tested.

The new examination development phase involves reviewing and revising the existing test questions, writing new test questions, and determining the passing score for the new examination.

EDU has recently completed new occupational analyses for the following:

- C-4 Boiler, Hot Water Heating and Steam Fitting
- C-21 Building Moving and Demolition classifications

In addition, EDU has completed a new examination for the C-54 Tile classification. The table that follows indicates the occupational analysis and examination development projects that are currently under way:

Occupational Analyses In Progress

- C-42 Sanitation Systems
- C-46 Solar
- C-47 Manufactured Housing
- C-57 Well Drilling
- Hazardous Certification

New Examinations in Progress

- C-2 Insulation
- C-4 Boiler, Hot Water Heating and Steam Fitting
- C-7 Low Voltage
- C-9 Drywall
- C-12 Earthwork and Paving
- C-16 Fire Protection
- C-21 Building Moving and Demolition
- C-31 Construction Zone Traffic Control
- C-53 Swimming Pool

The Testing Division is using email surveys as much as possible for occupational analysis projects, because they are quicker, less expensive, and eliminate data entry time. CSLB does not have email addresses for all contractors, however, so paper surveys are also being utilized to make sure CSLB reaches a large enough sample of licensees.

When enough data has been collected, an analysis will be conducted to identify any differences in the results of the two data collection methods.

Enforcement Representative I Examination

At the end of the June 2011, the Testing Division was successful in administering the Enforcement Representative I civil service examination at CSLB testing centers. This project was the culmination of a partnership between the DCA's Office of Human Resources, CSLB's Personnel Unit, Information Technology Division and Testing Division.



This was the first time a CSLB civil service examination was given by computer, and the first time that CSLB's SCORE application was used for a purpose other than licensing examinations.

There were no problems during the examination administration or during the transfer of information from CSLB to DCA in order for the applicants to receive their results. The examination was successfully administered again on December 6, 2011 to 161 applicants. It's is CSLB's goal to administer the test twice a year.

Ongoing Consumer Satisfaction Survey

The Testing Division conducts an ongoing survey of consumers whose complaint cases have been closed. The survey assesses overall satisfaction with the Enforcement Division's handling of complaints in eight content categories, and the data is compiled into an annual report.

Prior to 2010, CSLB mailed the survey to a random sample of consumers, and it often was mailed out 6-9 months after consumers' cases were closed. To speed up the survey distribution and improve efficiency, in 2010 the CSLB began emailing the survey to all consumers with closed complaints who provide CSLB with their email address during the complaint process.

Beginning in 2011, consumers whose complaints were closed in the previous month were sent the survey in the following quarter. Survey emails will go out later this month to consumers whose complaints were closed between October and December 2011.

AGENDA ITEM E


Visit to Belectric Solar Farm






TERMS TO UNDERSTAND


- **Watt**
 - Measure of power
 - How much energy is released
- **Example: 60-Watt Light Bulb**
 - Amount of Energy Released in One Hour is equal to 60 Watts



TERMS TO UNDERSTAND

- **Kilowatt**
 - Equal to 1,000 Watts
 - Electricity is sold by the kilowatt-hour (kWh)
 - One kWh equals using 1,000 watts for one hour
- **Megawatt**
 - Equal to One Million Watts







CONTRACT FOR ENERGY

Solar Companies in California


- May 2011
 - Constellation Energy acquired the 18 - megawatt solar generation project in the Elk Grove area from Belectric Inc. of Germany.






SOLAR IS A SUBSTANTIAL INVESTMENT

- Constellation Energy's Elk Grove Project
 - Will obtain \$40 million in project financing
 - Will generate enough electricity for 30,000 homes






HOW LONG WILL THE SOLAR FARM PRODUCE POWER

Elk Grove solar farm:


- Slated for completion at the end of 2011
- Will sell electricity to Sacramento Municipal Utility District (SMUD) by the kW hour for over 20 years
- One of several farms planned by SMUD



FUTURE SOLAR FARMS


SMUD also in solar farm projects with:

- Recurrent Energy (San Francisco)
- MBL Energy (San Jose)



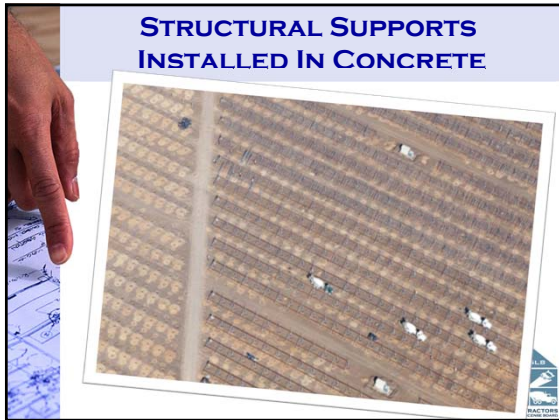
SOLAR FARM CONSTRUCTION

Solar farm construction phases:



CONSTELLATION'S 130-ACRE ELK GROVE PROJECT



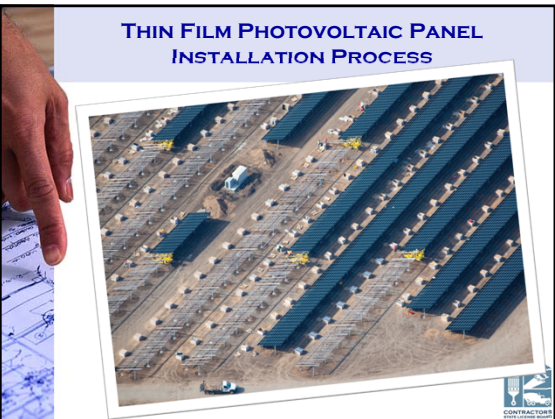


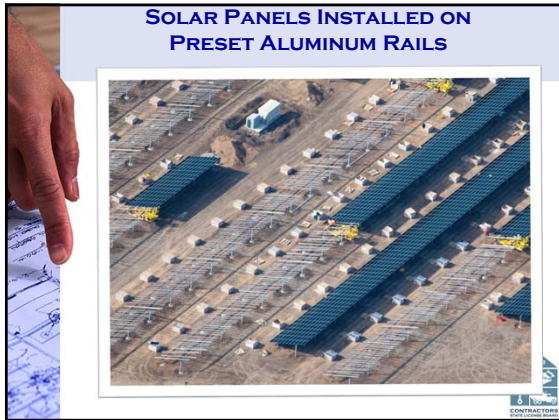




















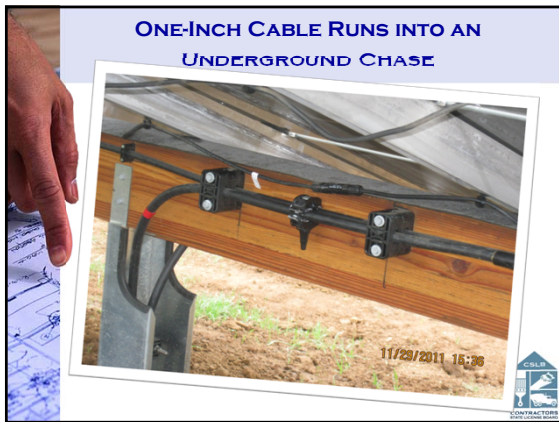






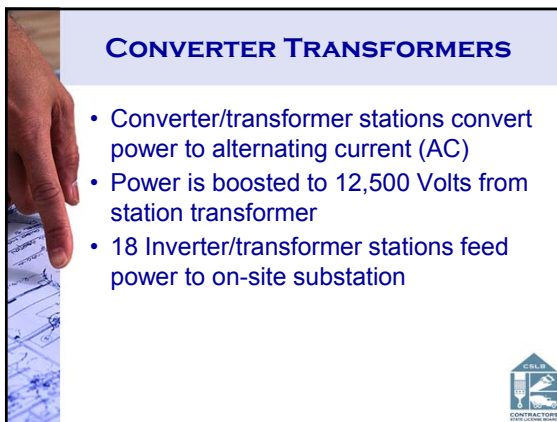








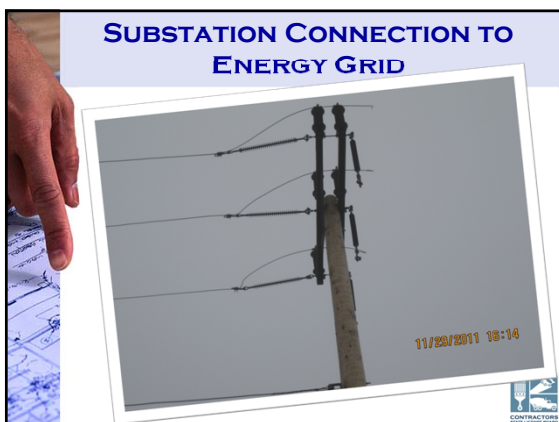


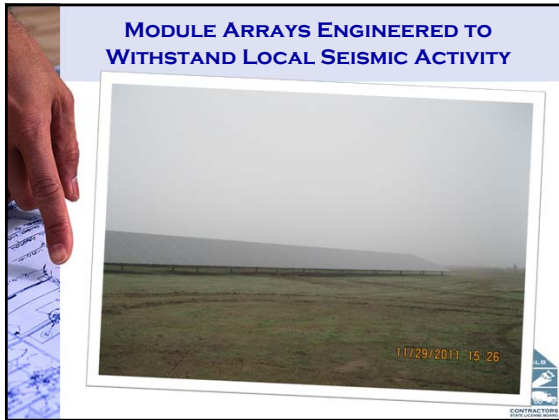
















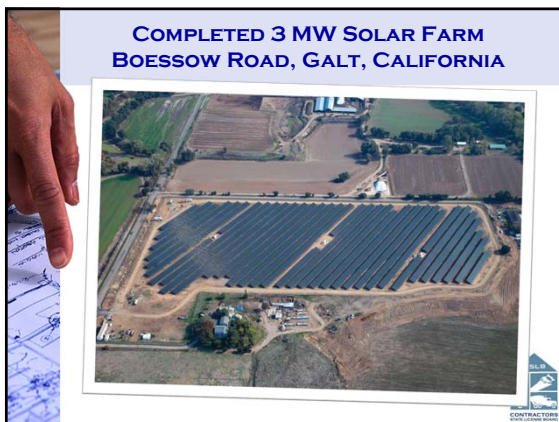












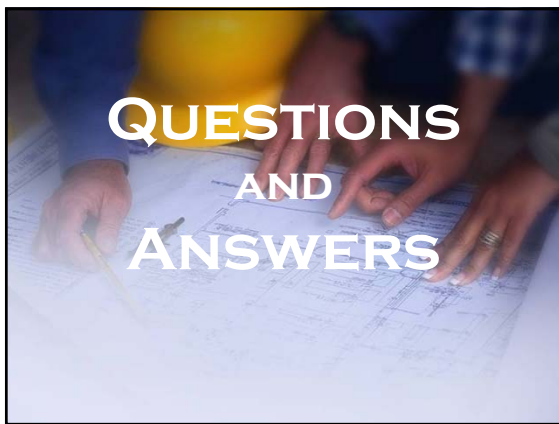




SOLAR FARM MAINTENANCE

- Solar panel life expectancy: 20 years
- A damaged panel can be individually removed and replaced
- Grass is planted under arrays and maintained for the life of the farm





QUESTIONS AND ANSWERS

AGENDA ITEM F

Adjournment



JANUARY 18, 2012
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Enforcement Committee



AGENDA ITEM A

Call to Order – Chair’s Remarks

Roll is called by the Committee Chair.

ENFORCEMENT COMMITTEE MEMBERS:

MATT KELLY, CHAIR

PASTOR HERRERA

ED LANG

JIM MILLER

JOHN O’ROURKE

FRANK SCHETTER

Committee Chair Matt Kelly will review the scheduled Board actions and make appropriate announcements.



AGENDA ITEM B

Public Comment Session

Members of the public may address the committee at this time.
The Committee Chair may allow public participation
during other agenda items.



AGENDA ITEM C

Enforcement Program Update





CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PROGRAM UPDATE

VACANCY UPDATE

On November 22, 2011, CSLB received notice from DCA that the hiring freeze had been lifted and that recruitment could begin immediately. Staff has been proactive in respect to advertising and hiring for all vacant positions. Presently, there are 33 vacant positions in the Enforcement Division.

The following chart depicts Enforcement vacancies as of December 29, 2011.

UNIT	CLASSIFICATION	# OF VACANCIES	CURRENT STATUS
Norwalk IMC	Supervising Program Technician II	1	On hold due to the 5%
Norwalk IMC	Program Technician II	2	One position on hold due to the 5%
Sacramento IMC	Consumer Service Representative	2	Pending DCA Approval
Sacramento IMC	Program Technicians	2	Pending DCA Approval
Sacramento IC	Enforcement Representative II	1	Pending DCA Approval
San Bernardino IC	Enforcement Representative I	1	Pending DCA Approval
San Bernardino IC	Enforcement Representative – Peace Officer	1	Currently Advertised
Norwalk IC	Enforcement Representative – Peace Officer	1	Currently Advertised
Fresno IC	Enforcement Representative – Peace Officer	1	Pending DCA Approval
Valencia IC	Enforcement Representative – Peace Officer	1	Currently Advertised
San Diego IC	Enforcement Representative - Peace Officer	1	Pending DCA Approval
San Diego IC	Enforcement Representative I	1	Pending DCA Approval
San Francisco IC	Enforcement Representative – Peace Officer	1	Pending DCA Approval
West Covina IC	Enforcement Representative – Peace Officer	1	Pending DCA Approval
Quality Assurance	Enforcement Representative II	1	On hold due to the 5%
Quality Assurance	Executive Assistant	1	On hold due to the 5%
Northern SWIFT	Enforcement Representative II – Peace Officer	1	Pending DCA Approval
Northern SWIFT	Enforcement Representative I	2	Pending DCA Approval
Northern SWIFT	Enforcement Representative II	1	Currently Advertised
Northern SWIFT	Office Technician	1	Pending DCA Approval
Southern SWIFT	Enforcement Supervisor I	1	Currently Advertised
Southern SWIFT	Enforcement Representative II – Peace Officer	1	Pending DCA Approval
Southern SWIFT	Enforcement Representative I	1	Currently Advertised
Southern SWIFT	Office Technician	1	Currently Advertised
Sacramento Case Management	Staff Services Analyst	2	Pending DCA Approval
Sacramento Case Management	Office Technician	3	Currently Advertised



INTAKE/MEDIATION CENTERS (IMC)

IMC HIGHLIGHTS:

CONSUMER SERVICES REPRESENTATIVE (CSR) SETTLES AN OUT OF STATE, NO JURISDICTION COMPLAINT AND SAVES THE PUBLIC MORE THAN A QUARTER MILLION DOLLARS

In 2004 a consumer entered into a written contract with a licensee to build a four-unit condominium for \$750,000. The contract was completed and full payment was made.

Several years later, the building's roof began leaking and needed extensive repairs. After several failed attempts to contact the licensee, the consumer filed a complaint with CSLB. It was determined the cost to repair the failing roof would be \$277,000.

The CSR contacted the licensee to discuss the complaint. Although the workmanship issues were well out of CSLB's statute of limitations of four years, the CSR was able to mediate the complaint. Both parties met at the jobsite and the licensee agreed to take care of all the issues, at no cost to the consumer. This resulted in a \$277,000 savings to the public.

WARNING LETTER SUCCESSFUL IN GETTING LICENSEE TO COMPLY WITH LAW

A consumer entered into a contract with a licensee to install a metal carport over a concrete pad that had previously been poured by the consumer. The licensee collected a \$1,000 deposit and was ready to start the project when the consumer refused to obtain the required building permits for the project.

The licensee had previously received a CSLB warning letter for failing to pull a permit and declined to move forward with the project and refunded the \$1,000 deposit.

The consumer filed a complaint with CSLB, claiming the contractor had abandoned the project. The consumer also wanted the licensee to pay for the concrete pad that was installed, claiming that there was no reason for it without the metal carport.

The CSR educated the consumer on the need for a building permit and explained that the licensee was not at fault and could not be held responsible for the cost to install the concrete pad. The complaint was closed with no violations found.

The warning letter that was previously issued to the licensee had served its purpose and influenced the contractor to follow the law and forfeit the non-permitted job.



INVESTIGATION CENTERS

INVESTIGATIVE CENTER HIGHLIGHTS:

SOLAR SYSTEM FAILS TO DELIVER THE POWER

A consumer in Palm Desert entered into a contract with a licensee to install a 40-panel solar system for \$50,712. The licensee promised that the new solar equipment would provide 98% of the electricity needed to power the entire home and drastically reduce the consumer's utility bill.

Once the project was completed and the contract paid in full, the consumer was shocked to find out that the solar system was not performing to specifications and the electrical bills were actually increasing with each passing month. The consumer contacted the licensee, who admitted to miscalculating the estimate and agreed to add an additional 20 solar panels to meet the original projection.

The additional panels were never installed, so the consumer filed a complaint with CSLB. The licensee acknowledged in writing the system was deficient. However, when contacted by a CSLB Enforcement Representative (ER), he declined to perform additional work stating he had recently filed for bankruptcy.

The ER hired an Industry Expert (IE) who inspected the project and determined that the cost to install the necessary solar panels was \$27,390. As a result the complaint has been recommended for accusation against the contractor's license for failing to perform per contract.

WELL DRILLING COMPLAINTS RESULT IN THREE REVOKED LICENSES AND AN APPLICATION DENIAL

In August 2009, a CSLB ER was contacted by California Groundwater Association in conjunction with a Sonoma County Environmental Health Specialist who believed that two men, William Nicholls and Jack Courson, had drilled wells in Sonoma County without permits and without a well drilling license.

A complex CSLB investigation determined that Nicholls, a general contractor (License #292965), had purchased well drilling equipment from Fields Well Drilling and was using its C-57 (Well Drilling) license #309821.

The Fields alleged that Mr. Nicholls used its license number without permission and submitted a sworn declaration stating the same. However, CSLB's investigation determined that the Fields had indeed allowed Mr. Nicholls to use its license to pull multiple permits. The Fields stated that to officials in nearby Lake County.

In addition, Mr. Nicholls charged a Napa County consumer to drill two additional boreholes after saying a first borehole failed to produce water. The CSLB investigation found that the first well was, in fact, a functioning well. Nicholls said it was not so he could get paid more money. Also, Mr. Courson, a Nicholls' employee, caused a blowout that polluted a nearby creek.

A criminal referral was made to the Napa County District Attorney. In June 2010 Mr. Nicholls was convicted of misuse of a license number and was ordered to pay \$41,000 in restitution, serve 45 days in jail, and have three years formal probation.



In another case, a consumer in Lake County hired Mr. Nicholls to drill a well on a piece of commercial property with an estimated total contract price of \$4,465. Mr. Nicholls requested and was paid a deposit of \$2,480.

Work began in December 2008. Shortly thereafter a disgruntled employee of Mr. Nicholls allegedly caused the drill bit to break off underground on purpose in retaliation for a wage dispute with Nicholls.

That borehole was left unprotected, leading the Lake County Environmental Health (LCEH) to send letters to both Mr. Nicholls and the Fields regarding the public nuisance and issuing a Notice of Violation to the property owner. The ensuing investigation revealed that LCEH staff made the Fields sign for subject permit and other permits, and that the Fields stated that Mr. Nicholls was working under their license.

In July 2009, CSLB issued a probationary license to Mr. Courson, a revoked licensee, Two complaints were filed with CSLB against Mr. Courson for work performed in Sonoma County using the equipment Mr. Nicholls had purchased from the Fields.

In addition, in November 2009, the Fields canceled their corporate license and applied for a sole ownership license for John Field. The CSLB ER discovered the pending application and opened an application investigation. That pending application was denied and accusations were drafted to revoke all three licenses.

Mr. Courson did not file a Notice of Defense (NOD), and his probationary license was revoked in May 2011. The Fields and Mr. Nicholls did file NODs, and John Field appealed the license denial, which resulted in a seven-day appeal hearing.

On December 22, 2011, Mr. Nicholls' and the Fields' licenses were revoked and the application denial became final. None can reapply for a CSLB license for five years.

EFFECTIVE INTERNAL PARTNERING RESULTS IN CRIMINAL PROSECUTION

In May 2011 a Southern California consumer contracted with unlicensed operator, Uaipulu "Junior" Tanginitopa to pour a concrete patio and walkways, construct a fire pit, drainage system, brick work and complete and overlay on a driveway for \$6,200.

Mr. Tanginitopa requested and received a \$2,000 cash deposit. He later received \$4,000 more after only completing the concrete flatwork. The consumer immediately began to notice defects in the work performed. Mr. Tanginitopa vowed to repair the work, but no repairs were made. Soon after, Mr. Tanginitopa abandoned the project. The consumer filed a complaint with CSLB.

The ER handling the complaint contacted Mr. Tanginitopa with the phone number listed on his advertisement. He refused to cooperate. The advertisement for the unlicensed contractor was forwarded to CSLB's Statewide Investigative Fraud Team (SWIFT) for use as a target in an upcoming undercover sting operation.

After additional investigation Mr. Tanginitopa was identified as Vake Tupou, who has an extensive history of unlicensed activity. Mr. Tanginitopa showed up at the sting to provide a bid on a project was issued a Notice to Appear (NTA) on the spot.

As a result of this coordinated enforcement effort, Mr. Tanginitopa's case has been referred to the Riverside County District Attorney's Office for a criminal filing of violations of Business & Professions Code (B&P) 7028 – unlicensed contracting, 7027.1 – Advertising by an unlicensed person, 7159.5(a)3 – down payment violations and Penal Code (PC) 484(b) – embezzlement.



Mr. Tanginitopa is scheduled to be arraigned on January 11, 2012 for the aforementioned violations and the NTA that was issued during the undercover sting.

ER INVESTIGATION LEADING TO CRIMINAL REFERRAL

In March 2011, an unregistered salesman acting on behalf of Michael Boshard (Vanderbuilt Construction Inc., License #753019), entered into a \$62,000 contract with a consumer in Contra Costa County to repair damage caused by a vehicle that crashed into his home.

A \$2,500 deposit was requested and received, as well as an additional \$17,700 to prepare plans. The project was abandoned without any work being performed and the deposit was not returned. On June 10, 2011, Vanderbuilt Construction filed for bankruptcy.

CSLB's investigation established that the funds were deposited into the account of Vanderbuilt Construction and the design company neither prepared plans nor received any payment for any work.

Further, Vanderbuilt Construction records show that no disbursements for materials or services for the project were made. When interviewed, Mr. Boshard claimed that prior to the bankruptcy he put \$150,000 of his own money into the business, but the company failed nonetheless due to the bad economy and loss of its credit line.

The CSLB ER handling the complaint has referred the matter to accusation for violation of sections 7107, 7108, 7116, 7154, 7159.5(a)(3) and 7159.5(a)(5) of the Business & Professions (B&P) Code. A copy of the investigation report will also be submitted to the Contra Cost County District Attorney, requesting criminal prosecution for violation of Penal Code sections 459, 484b and 487 and B&P sections 7159.5(a)(3) and 7159.5(a)(5).

UNLICENSED PAINTER ON PROBATION GETS NABBED AGAIN

A consumer entered into a written agreement with an unlicensed operator, Dragolsav Kruska to paint the exterior of his home located in the foothills of Placer County for a total of \$6,400. When the consumer questioned the lack of a contractor's license on Mr. Kruska's proposal, Mr. Kruska claimed that he was working for a licensed contractor who would be assisting him on the job.

The painting job was completed; however, the work was not up to the consumer's expectations. Subsequently, through contacts with the licensed contractor, the homeowner learned that the individual he hired was not licensed and the contractor had nothing to do with the paint job.

During an interview with a CSLB ER, the licensee denied giving Mr. Kruska permission to use his license and denied having worked on the homeowner's painting job, stating he was in Oklahoma at the time. The licensee further stated that Mr. Kruska had fraudulently used the contractor's charge account at a paint store to purchase paint during the time frame he was painting the home in question.

Mr. Kruska admitted to the ER that he did not having a contractor's license and had painted the consumer's residence. But, he claimed he did so using the licensed contractors license and with his help on the job.

But, Mr. Kruska could offer no records or other documents to prove this, including checks, since he claimed he paid the licensee in cash. Mr. Kruska further admitted that he knew he needed a



contractor's license to do this kind of painting project which was well in excess of the \$500 that is allowed for unlicensed persons.

Unfortunately for Mr. Kruska, at the time he was painting the home in question, he was already on probation for contracting without a license, and other charges, stemming from a previous CSLB criminal case prosecuted in El Dorado County.

When the Placer County Deputy District Attorney (DDA) learned about this probation violation he requested an investigative report be forwarded for prosecution consideration. On December 29, 2011, a "Declaration in Support of Arrest Warrant" was sent from the Placer County DDA to the CSLB investigator for various violations.

The declaration has been signed and returned to the DDA. CSLB Peace Officer Joseph Martinez will assist in the arrest

**CASE MANAGEMENT**

CALENDAR YEAR (JAN – NOV 2011)

CITATIONS ISSUED		
	Licensee	Non-Licensee
Citations Issued	652	797
Citations Appealed	266	290
Citation Compliance	382	291
MANDATORY SETTLEMENT CONFERENCES		
Scheduled	211	
Settled	94	
Civil Penalties Collected	\$631,730	
Total Savings to the Public	\$993,272	

ARBITRATION	
Arbitration Cases Initiated	540
Arbitration Decisions Received	467
Licenses Revoked for Non-Compliance	127
Arbitration Savings to the Public – Restitution	\$1,478,734

ACCUSATIONS / STATEMENT OF ISSUES	
Revocations by Accusation (Applicants Revoked)	301
Restitution for Accusations	\$117,975
Statement of Issues (Applicants Denied)	43
Cost Recovery Received	\$122,636
Number of Cases Opened	343
Number of Accusations/Statement of Issues Filed	206
Number of Proposed Decisions Received	78
Number of Stipulations Received	64
Number of Defaults Received	157
Number of Decisions Mailed	274



SWIFT – STATEWIDE INVESTIGATIVE FRAUD UNIT

PARTNERING EFFORTS

STAFF PARTNERS WITH SAN BERNARDINO DA INVESTIGATORS TO ISSUE ADMINISTRATIVE CITATIONS & FOUR STOP ORDERS

On December 8, 2011 SWIFT staff partnered with a Senior District Attorney (DA) Investigator from the San Bernardino County DA's Office to conduct a sweep in the City of Rancho Cucamonga. Two days of surveillance was conducted prior to the sweep and proved to be valuable. Thirteen (13) contractors were checked for compliance, five were found to be unlicensed operators (two with uninsured employees). Two licensees were determined to have uninsured employees. Four Stop Orders were issued.

TELEPHONE PARTNERING HELPS REACH OUT AND TOUCH AN EXPIRED LICENSEE

While making a routine traffic stop on a car with no registration, a San Diego Police Officer called CSLB. The call was transferred to a SWIFT ER. The driver of the vehicle, Phillip Morales Tapia handed the officer a business card for his Heating-Ventilation-Air-Conditioning (HVAC) business.

The officer checked CSLB's website and discovered that the license had been expired for more than one year. The ER assisted the officer in questioning Mr. Tapia about his construction business and confirmed recent projects that he had done.

As a result, the officer issued Mr. Tapia a Notice to Appear (NTA) for driving on a suspended license and violation of B&P 7028 – contracting without a license. The officer also informed the ER that in 2006 Mr. Tapia had been convicted of arson.

PARTNERING WITH THE SAN DIEGO DISTRICT ATTORNEY'S OFFICE

On November 29, 2011 SWIFT staff met with San Diego DA staff. DDA Dominic Dugo, Director of Fraud Grants, was instrumental in developing the Premium Insurance Taskforce in 2005.

Mr. Dugo has committed to assist CSLB in the prosecution, by way of grand jury, premium insurance fraud cases that are referred to his office stemming from consumer complaint investigations.

In January 2012, San Diego Investigative Center supervisor Vicki Coore will present her top three cases to the task force. This is an example of how effective partnering with other government agencies can translate into improved consumer protection.

SOUTHERN SWIFT PARTNERING EFFORTS LEAD TO CRIMINAL CHARGES FOR REPEAT OFFENDER

SWIFT staff in Southern California teamed up with investigators from the Los Angeles DAs Office and Department of Industrial Relations/Division of Labor Standards Enforcement (DLSE)



to conduct a sweep operation in Diamond Bar, Rowland and Hacienda Heights. A Stop Order and NTA was issued to Santiago Garcia for contracting without a license.

Mr. Garcia was previously convicted for unlicensed contracting activity in 1988 and now faces a mandatory 90-day jail sentence. Two licensees received Stop Orders and NTAs for employing workers without a valid workers' compensation policy.

NORTHERN SWIFT PARTNERS WITH SAN JOAQUIN COUNTY TO FIND 11 UNLICENSED OPERATORS

Northern SWIFT staff partnered with the San Joaquin County DA's Office to hold a sting in the community of Linden on November 30, 2011. Industries targeted included landscaping, concrete, fencing, painting, tree service, and demolition. Of those called out to the sting, 11 will face charges of contracting without a license, nine of which also face a charge of illegal advertising. Two others were charged with being unregistered home improvement salespeople.

GENERAL COMPLAINT-HANDLING STATISTICS

- **MAINTAIN ER PRODUCTION OF CLOSING 10 COMPLAINTS PER MONTH**

Pursuant to elimination of furlough days and implementation of a personal leave day, CSLB increased the average number of complaints closed per ER to nine (9) closures per month.

ER's had closed an average of **9** complaints in the month of November, 2011.

- **INCREASE THE PERCENTAGE OF LICENSEE COMPLAINTS SETTLED TO 30%**

In November 2011, this goal was achieved, with licensee complaints settled averaging **32%**

- **ACCOMPLISH INTAKE/MEDIATION CENTER LICENSEE COMPLAINT DISCLOSURE OF 70%**

In November 2011, this goal was achieved by closing an average of **72%** of complaints received in the IMC.

- **REDUCE 270-DAY-OLD COMPLAINTS TO 100 OR LESS**

Staff's effective management of pending complaints has resulted in consistently maintaining CSLB's goal in this area. In November 2011, aged cases were slightly over the goal with **110 cases over 270 days old**. While the goal was not met in the month of November, the goal has been continuously met for the last 6 months in a row.



TRAINING UPDATE

As part of CSLB's 2011-2012 Strategic Plan, the Enforcement division committed to creating a training curriculum for staff that includes basic enforcement procedures, and a mentoring program and specialized training.

Below is a list of training that was conducted in 2011, as well as a proposed training schedule for the remainder fiscal year 2011-2012.

- 1. Stop Order Training** **February 2011**
Staff from around the state met in Sacramento HQ to attend a two-day course on Stop Order procedures.
- 2. Conflict Resolution** **February 2011**
Enforcement Representatives (ERs) attended training by Instructor Lee Jay Berman on effective ways to handle difficult situations.
- 3. Hearing Officer Training** **March 2011**
The Department of Industrial Relations/Division of Labor Standards Enforcement (DLSE) provided training to staff designated to serve as hearing officers.
Training included participating in a mock hearing and attending an official DLSE Stop Order hearing.
- 4. Team Building II** **March 2011**
The Centre for Organizational Effectiveness provided training to supervisors to develop and enhance team approaches.
- 5. DCA Management Academy** **March/April 2011**
Select staff attended the fourth management academy developed to bring supervisors and managers up to date on contemporary management issues.
- 6. Follow-up to Fundamentals of Leadership** **April 2011**
The Centre for Organizational Effectiveness (COE) provided ERs training on public speaking techniques, leadership in action application, and performance management concepts.
- 7. Riverside District Attorney's Office Training** **May 2011**
Southern California Enforcement staff attended training conducted by Riverside DDA Homan Hosseinioun at the Riverside County District Attorney's office.
Staff received training on taking witness statements and gathering evidence to prepare an investigation report for a criminal filing. Staff also received "Prop 115" certification which allows ERs to testify to hearsay evidence in preliminary criminal hearings.



8. National Certified Investigator/Inspector Training

June 2011

Enforcement investigators attended the National Certification Program at the Department of Consumer Affairs. The training is for regulatory investigators and inspectors and included investigation and inspection techniques and procedures. This certification will lend more credibility to the investigators when testifying and increase their knowledge base.

9. Module 1: Basic Investigative Techniques

June – August 2011

This course was developed by CSLB in conjunction with the Attorney General's Office. Retired annuitant Doug Galbraith and Michael Franklin led an eight-hour block of instruction on basic investigative techniques, roles and responsibilities of an investigator, effective case management, overview of rules of evidence, and elements to Business & Professions Code Sections: 7107 (Abandonment), 7116 (fraud), and 7125.4 (False reporting of a workers' compensation insurance exemption certificate).

10. Elder Abuse Training

October 2011

CSLB Peace Officer Lydia Patron, along with prosecutors from Riverside County and Los Angeles County conducted an elder abuse training class for southern CSLB ERs. The course provided an overview of the special criminal laws targeted at those who steal from elders and dependent adults. Staff also learned valuable tips on investigating and submitting reports to achieve a successful prosecution.

11. Module 2: Interview Techniques

October – December 2011

This course is designed to assist ERs enhance their interview techniques; understand the importance of obtaining accurate statements, admissions, and confessions; and prepare to provide expert testimony in court and administrative hearings. This course includes a workshop for participants to test their interview skills in several CSLB-related scenarios.



PROPOSED TRAINING

The following training is planned for the remainder of fiscal year 2011-2012:

1. Module 3: Effective Report Writing **First & Second Quarter 2012**

This course will be designed to assist ERs in enhancing their writing skills in order to create a professional, accurate, and complete investigative report. Emphasis will be placed on credibility, proof-reading, and ensuring findings will pass scrutiny during a trial or hearing. The class will include a practical report-writing exercise and an exercise where participants will engage in a mock trial.

2. Bankruptcy Case Law & Impact on Enforcement **First Quarter 2012**

This one-day course will be provided by Supervising Deputy Attorney General (SDAG) Marc Greenbaum and his staff. The training will include an overview of bankruptcy case law and the impact a bankruptcy filing has on CSLB Enforcement action and a consumer's ability to recover financial restitution.

3. Workers' Compensation Requirements & Enforcement Strategies **January 2012**

This one-day course will be provided by SDAG Greenbaum and representatives from State Compensation Insurance Fund (SCIF) and the Department of Insurance. The training will include an overview of workers' compensation insurance requirements, investigation strategies, and elements needed to support prosecution of uninsured and underinsured contractors.



INVESTIGATIVE CENTER AUDITS

The internal audit of CSLB's Investigative Centers (ICs) has been completed. The audit team consisted of Enforcement Supervisor II (ES II) Jeneece Hards and Enforcement Supervisor I (ES I) Jessie Flores, who audited the Southern Investigative Centers. ES II Missy Vickrey and ES I Steve Grove audited the Northern Investigative Centers.

The audits were performed to assess and review the Investigative Centers' effectiveness, quality of service, adherence to policies and staff training needs. The audits are a hands-on management tool for achieving continual improvement in the Enforcement division. The audits are also used to highlight areas of good practice and provide evidence of conformance.

The audit team reviewed all investigations closed by the ERs during the months of June and July 2011. Although the audit identified some areas where staff needed improvement, the majority of the recommendations can be addressed by training and increased supervisory oversight. Most findings were related to the consistent handling of complaints between ICs.

Areas of review included:

- **Proper Investigation Procedures**
Are complaints being initiated timely? Are Industry Experts obtained and dispatched timely? Are complete investigation notes included in file? Did the ER request timely public disclosure of probable complaint pursuant to B&P 7124.6? Did staff use a standardized report format? Have all parties been informed of the disposition of the complaint?
- **Proper Complaint Closure**
Was the complaint closed with the appropriate disposition? Are complaints opened in the IC being closed for insufficient evidence or no further action?
- **Criminal Complaint Referrals**
For licensee criminal referrals, was the primary case submitted to Accusation? Are non-licensees subjected to both criminal and administrative actions? Is the criminal complaint disclosure properly disclosed to the public? Is the DA referral being monitored for the court's disposition?
- **Public Protection and Progressive Discipline**
Was arbitration considered prior to writing a legal action report? Did the ER consider workers' compensation violations during the course of the investigation? Were both parties advised of the closure and the closing disposition?
- **Administrative Policies, Procedures and Practices**
Were state vehicles being used according to Department of General Services guidelines? Was staff following office policies and procedures? Was staff provided monthly meetings? How is information and new policies/memos distributed amongst staff in each Investigative Center?

Staff as well as Enforcement Supervisors will continue to receive training. A follow-up meeting will be held with each Enforcement Supervisor I individually, in addition to a review of the overall findings being discussed in a group setting during the February 2012 statewide enforcement supervisors meeting.



PUBLIC WORKS INVESTIGATION UNIT UPDATE

CSLB's Public Works Investigation Unit continues to work with awarding authorities, labor compliance organizations, and the Department of Industrial Relations/Division of Labor Standards Enforcement (DLSE) to ensure that contractors working on public works projects are properly licensed and abide by Public Contract Code (PCC) and the Labor Code (LC).

In addition, lines of communication have been opened so that public works contractors, both primes and subs, can discuss their concerns and be educated about violations of PCC and LC that are also cause for discipline by CSLB under Contractors' License Law.

When the public works pilot commenced, it was anticipated that CSLB would be able to "piggyback" on investigations performed by other agencies to address violations related to public works contractors.

While this is somewhat true, it is not entirely the case. While field visits are not always required, often there are additional documents requested and statements needed from the complainant, respondent and witnesses. In addition, there is considerable supporting documentation that requires summarizing, and the public works investigator create spreadsheets as part of their investigation that succinctly detail audit reports, certified payrolls (CPRs), and other findings.

In addition, often the violations alleged are not the violations that can be supported by the documentation, especially if there is not a final finding by another agency or awarding authority.

However, the CPRs have proven to be very important documents to support violations including:

- Business and Professions (B&P) Code Section 7110/LC 3700.5, Failure to provide Workers' Compensation for Employees;
- B&P Code Section 7125.4, Filing a False Exemption from WC; and
- B&P Code Section 7117.5, Contracting with an Inactive/Suspended/Expired License.

CSLB is now communicating with those agencies to discuss changing the verbiage used in stipulated agreements so that it allows for discipline of violations by CSLB, if warranted.

Complaint Disclosure

Discipline imposed by awarding authorities and other agencies is not disclosed by CSLB on its website until a CSLB complaint has been referred for a disciplinary action, or if there is a determination that a probable violation that, if proven, would result in suspension or revocation of the license and/or criminal prosecution.

Often, local agency debarments are the result of stipulated agreements that contain language that precludes CSLB from imposing discipline. In addition, Civil Wage and Penalty Assessments (CWPA's) referred often have not become final orders of the Labor Commissioner and, therefore, cannot be used to support the alleged violations.

Consequently, the only way for CSLB to disclose debarments and CWPA's that do not include a finding of a LC violation is to complete an investigation that results in an administrative action. As with any legal action, a strong, well-supported and documented investigation report must be provided.



Unlicensed Activity

Allegations of unlicensed contractors working on public works projects have resulted in licensees that hired the unlicensed subcontractors being disciplined for B&P Code Section 7114, Aiding and Abetting, and/or B&P Code Section 7118, Contracted with Unlicensed Subcontractor.

There are currently three public works contractors with pending disciplinary actions for using the same unlicensed construction clean-up contractor, and the unlicensed subcontractor was issued three non-licensee citations.

In March 2011, an awarding authority was going to award a public works contract to an unlicensed contractor, knowing that the winning bidder was not properly licensed. The second low bidder, who was a legitimate licensed contractor, filed a protest and received a letter from the awarding authority's attorney that stated that they did not care if the winning bidder was licensed or not.

The assigned public works investigator notified the awarding authority that she could issue the public entity a citation for knowingly awarding the contract to an unlicensed contractor pursuant to B&P Code Section 7028.15, and issued the non-licensee a citation for B&P 7028.15, Submitting Bid to Public Agency without a License. The awarding agency decided to not award the contract to the unlicensed contractor.

In another case, a complaint was filed against a public works contractor that specialized in the installation of synthetic turf for using an unlicensed sub-contractor for installation. Based on CPRs, the investigator was able to positively identify the unlicensed sub-contractor, who was from New Mexico, and issued the sub a non-licensee citation for contracting without a license. In addition, neither appealed the citation and paid CSLB a total of \$12,000 in civil penalties.

Investigation Outcomes

During the 2011 calendar year, 118 public works complaints were initiated. Below are the outcome of complaints recommended for disciplinary action:

- Licensee Citations: 23
- Referred for Accusation: 18
- Referred to Prosecutor for Criminal Filing: 2
- Non-Licensee Citations: 5

In several instances, licensees on public works projects disappeared after the alleged violations and could not be located. CSLB saved money and time in revoking the licenses by issuing citations that were not appealed. After non-compliance with the citations, the licenses were revoked. The following public works contractors' licenses were revoked in 2011 for non-compliance with citations:

- Sciarini Steel Company, License #870679
- North State Caulking Inc., License #892525
- Sean Shanahan Floor Covering, License #725399
- Kim Soo Electric Company, License #568103
- Cedar Development Corporation, License #839898



In addition, the following public works contractors' licenses were revoked through accusations in 2011:

- Superior Floor Covering, License #597848
- Southwest Grading, License #8404216
- Statewide Construction, License #873495
- Country Builders Inc., License #699574

Often, the licensees disciplined for public works projects are unlisted third-tier sub-contractors that have suspended or expired licenses and/or fail to maintain workers' compensation (WC) insurance for employees.

The case against Superior Floor Covering involved a misrepresentation to obtain the contract (B&P 7161). Superior Floor Covering partner, Cory Petero, offered copies of his pocket card and a WC certificate as proof of license status and WC.

Unfortunately, the contractor who hired Superior Floor Covering did not check the CSLB website, which would have indicated the license was expired and suspended for lack of WC.

The copy of the pocket card had been altered to change the expiration date to a future date, and the WC certificate was a fake, as the company listed on the certificate did not provide WC insurance at all.

Public works investigators advise awarding authorities and contractors to verify licensure by checking the CSLB website for license and WC status.

Flagging Debarred Individuals Not on CSLB License Personnel

Upon further scrutinizing of DLSE debarments, it became apparent that not all individuals named on debarments were personnel of record on licenses. Appropriately, the public works investigators obtain identifying information to flag the CSLB database to ensure any and all individuals named in debarments, both licensed and unlicensed, who apply for licensure will be referred for investigation.



Partnering with Labor Compliance Investigators

Because of the open lines of communication, complaints being filed by labor compliance organizations such as the Work Preservation Fund, the Center for Contract Compliance, and the Northern California Electrical Construction Industry (NCECI) include strong documentation of alleged violations.

On December 13, 2011, a NCECI referral was subject of an administrative hearing for contracting with a suspended license. The supporting documentation included CPRs and the daily inspection records submitted by the awarding authority's project manager that detailed the dates the contractor worked on the project. While the administrative law judge's decision is still pending, it was a strong solid case, and the alleged violations are being disclosed on the contractor's license history on the CSLB website.

Another NCECI referral is scheduled for an appeal hearing on March 21, 2012, for a contractor having employees and no WC. Again, CPRs are being used to support the alleged violation.

In addition, labor compliance investigators regularly call CSLB public works investigators to notify them of licensees working with license suspensions or having employees and not having WC. The public works investigators will have support staff check the Workers Compensation Insurance Rating Bureau (WCIRB) to determine if there is any history of WC and then will call and/or write letters to the contractors alleged to be working without WC and give them a date certain by which to provide a certificate of WC or face issuance of Stop Work order and/or formal disciplinary action. Often compliance is achieved without a formal complaint investigation.

CalTrans

California Department of Transportation (CalTrans) is working with CSLB's public works investigators to ensure that submitted bids are true and correct. Contractors that falsify bid documents may be referred to CSLB for disciplinary action pursuant to B&P Code 7116, Willful or Fraudulent act, even if the contract is not awarded.

On December 19, 2011, staff met with CalTrans managers to discuss opportunities to ensure contractors submitting bids are properly licensed, investigation strategies to address their debarred contractors and develop a protocol for investigation of their complaints. CalTrans agreed to share information to the extent allowed by a Memorandum of Understanding (MOU) between the two organizations.

Recently, Gary Dyrr, dba Feather River Material Inc. (License # 774030) was debarred by CalTrans for falsifying an engineer's stamp on aggregate testing.

Mr. Dyrr was being criminal investigated by the Office of the Inspector General (OIG) and the Division of Investigation (DOI). Mr. Dyrr would not speak with investigators from either organization, but provided a statement to CSLB's public works investigator, who was in communication with the criminal investigators and shared her findings.

On October 13, 2011, Mr. Dyrr was criminally convicted in Plumas County of impersonating and using the seal of a professional engineer. His license has been referred for an accusation to revoke.

AGENDA ITEM D

Discussion Regarding the impact of
the Underground Economy on
Employers & Anticipating the
Effects of Health Reform





Frank Neuhauser

Frank Neuhauser, Executive Director of the Center for the Study of Social Insurance at the University of California at Berkeley, will provide the committee with a PowerPoint presentation on the impact the underground economy has on the construction industry.

Mr. Neuhauser received a bachelors degree in Economics from the University of California at Los Angeles and a masters degree in Public Policy from the University of the California at Berkeley.

Mr. Neuhauser is a member of the National Academy of Social Insurance and received the International Association of Industrial Accident Boards and Commissions Award of Merit in 2006.

A prodigious researcher, Mr. Neuhauser has taken in-depth looks at the issues surrounding workers' compensation fraud and abuse, and the lack of coordination between group health and workers' compensation insurers.

Mr. Neuhauser is also a frequent commenter on the Workers' Compensation Insurance Rating Bureau of California rate filings, offering an independent view of the pure premium impact of current cost trends.

A copy of Mr. Neuhausers presentation follows:

Measuring the Impact of the Underground Economy on Employers & Anticipating the Effects of Health Reform



Frank Neuhauser, Executive Director
Center for the Study of Social Insurance,
University of California, Berkeley

Select Committee on Small Business and the
Underground Economy December 5, 2011
Sacramento, CA

Focus of Testimony



- Impact of the underground economy on employers through
 - Under-reporting and mis-reporting of workers' compensation
 - Important impact of health care reform under the Affordable Care Act on employer fraud

Survey and Research Center, UC Berkeley

Incentives to Cheat



"If you ain't cheatin', you ain't tryin'." (Old NASCAR saying)

- Two types of workers' comp cheating
 1. Employers simply do not report all or part of payroll
 2. Employers mis-report types of employees, i.e. call a roofer a receptionist, report Al "the maintenance guy" as a hostess, etc.



Survey and Research Center, UC Berkeley

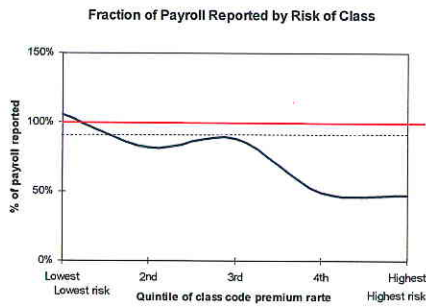
Impact of Fraud on Honest Employers



- Many think that payroll reporting fraud is perpetrated against insurance companies
- Insurance companies (as a group) can protect themselves from employer fraud
- Honest employers, especially smaller employers have few protections

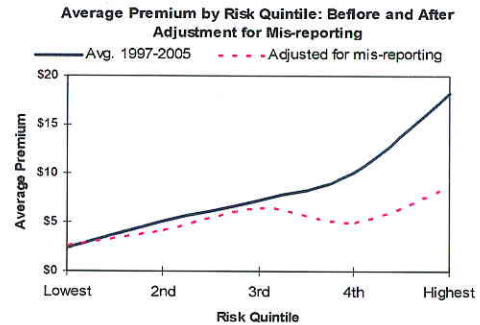
Survey and Research Center, UC Berkeley

Payroll Reporting by WC Premium Rate



Survey and Research Center, UC Berkeley

Current vs. "Real" Premium Rates

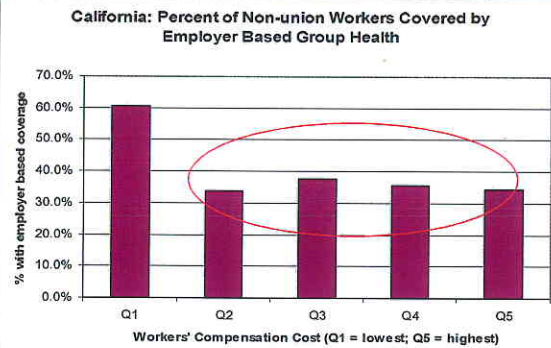


Looming Challenge of PPACA

- Health reform, the Affordable Care Act
- Imposes new requirements on employers to offer health insurance or support alternative.
- Current cost of employment-based health insurance, 8.4% of payroll (BLS, national employer survey)
- Current cost of workers' compensation, 2%-3% of payroll.
- ACA – employer pays 4%-6% if >50 employees and does not offer health insurance, effective 2014.

Survey and Research Center, UC Berkeley

PPACA Mandate--Affected Employers, Workers



Conclusions



- We estimate an average of \$15 to \$68 billion of CA payroll to be annually unreported from 1997-2005. This is 4% to 12% of total wages in CA.
- Many more dollars may be mis-reported into low-premium rate class codes

Survey and Research Center, UC Berkeley

Conclusions



- Premium rates appear to be unfairly high for employers of high-risk workers
 - 2-3 times or more above appropriate rates
- These premium rates hurt honest employers
- There are few incentives for insurers to improve reporting

Survey and Research Center, UC Berkeley

Conclusions



- The PPACA and related mandate may increase employer costs
 - Especially for smaller to medium-size employers with high workers' compensation insurance costs
- This will multiply the importance of enforcement efforts against underground employers to protect honest firms
- Improving enforcement—main issue

Survey and Research Center, UC Berkeley

AGENDA ITEM E

Review and Discussion on Proposed 2012 Proactive Enforcement Strategies





CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, CA 95827
Mailing Address: P.O. Box 26000, Sacramento, CA 95826
800-321-CSLB (2752)
www.cslb.ca.gov

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Top Five CSLB Enforcement Objectives for the Labor Enforcement Task Force

1. Partner with the Employment Development Department (EDD), Division of Labor Standards Enforcement (DLSE), Division of Occupational Safety and Health (DOSH), Board of Equalization (BOE), and the Department of Insurance (CDI) to identify construction businesses in violation of license, tax and workers' compensation insurance requirements through:
 - a. Industry Associations and Labor Compliance Organizations*
 - b. CSLB Complaints
2. Meet regularly with construction industry associations and identify egregious construction offenders that will be subject to one or more enforcement actions:
 - a. Targeted Site Inspections with the afore-mentioned partnering agencies
 - b. CSLB Office Investigation for Administrative and or Criminal Referrals
 - c. Undercover Sting Operations
 - d. CSLB Enforcement Representatives (ERs) will research each target and identify contractors at their jobsites. ERs will conduct surveillance when appropriate.
3. Establish protocol with partner agencies to provide for violation disclosure and outstanding liability suspension for the following:
 - a. Unpaid Wage Claims
 - b. Unpaid Civil Penalties (Division of Safety and Health)
 - c. Outstanding Tax Liabilities
4. Establish a statistical report format that identifies enforcement actions and outstanding monies owed, as well as tracks compliance (i.e., impact of license suspensions and monies paid to satisfied outstanding liabilities, judgments, and penalties).
5. ERs will establish an outreach and educational program that provides assistance to prospective and established business owners, regarding license, safety, and tax requirements within the construction industry.

*The following associations have agreed to participate:

- ✓ California Professional Association of Specialty Contractors (CALPASC)
- ✓ California Landscape Contractors Association
- ✓ California Roofing Contractors Association
- ✓ California Sign Association
- ✓ National Plastering Council
- ✓ Spa and Pool Educational Council



REVIEW AND DISCUSSION OF PROPOSED CHANGES TO PROACTIVE ENFORCEMENT

The Statewide Investigative Fraud Team (SWIFT) is comprised of 30 enforcement representative (ER) positions focused on proactively combatting unlicensed contractors and the underground economy. For the past six years, eleven (11) of the 30 positions were assigned to the Economic Employment Enforcement Coalition (EEEC) established under the Schwarzenegger Administration. The remaining 19 SWIFT positions were assigned to the Joint Enforcement Strike Force (JESF).

EEEC Becomes the Labor Enforcement Task Force (LETF)

CSLB's participation in the EEEEC primarily consisted of construction sweeps, and EEEEC-assigned ERs partnered with other state agencies to randomly visit construction sites to verify License, Tax, and Labor Code compliance. Effective January 1, 2012, the EEEEC was reorganized as the LETF under the Department of Industrial Relations. While LETF continues to be a collaborative effort between state agencies to combat the underground economy, rather than perform random sweeps of construction projects, a formal process was established to identify offenders before visiting a project site.

Under EEEEC, teams would randomly inspect 10 projects; however, it is estimated that LETF teams will perform targeted construction sweeps every three weeks, and nine (9) teams will inspect an estimated four (4) projects each. Prior to conducting sweeps, each team will perform research to identify potential offenders' active jobsites, workers' compensation history, payroll tax history, and license status. Researching and identifying targets will increase the number of enforcement actions by ERs and will result in efficient sweep operations.

JESF Investigators Pilot the Partnering Agency County Task Force (PACT)

With CSLB Member approval, PACT launched January 1, 2012, in nineteen counties throughout California piloted by JESF-assigned ERs. PACT teams CSLB ERs with District Attorney (DA) investigators, building officials, and California Department of Insurance (CDI) investigators. Each ER will be assigned to one or more of the participating counties to target unlicensed and/or uninsured violators. To maximize efforts and achieve a higher degree of compliance with workers' compensation requirements, SWIFT ERs routinely meet with partnering agencies, industry, and the public within each assigned county.

Partnering with EDD

Dan Kurttila, Chief of EDD's Compliance Development Operations, will brief the Committee on EDD's commitment to the construction industry, the Board's strategic objective to combat underground economy measurements, and will answer questions regarding tax enforcement.

PROPOSED ENFORCEMENT STRATEGY

SWIFT ERs will be divided into two groups: LETF-assigned ERs who partner with State Agencies and JESF-assigned ERs who partner with Local Governments and Law Enforcement. Following is a summary of what each group will achieve during 2012:



- I. State Agency Partnering/LETF (11 ERs)
 - ✓ Assign the 11 LETF ERs to partner with other state agencies under the Direction of Department of Industrial Relations to enforce License, Tax, Insurance, and Labor Code requirements.
 - ✓ Meet regularly with Industry Associations and Labor Compliance Organizations to develop lead referral and investigation strategies.
 - ✓ Participate in LETF-targeted construction site inspections every four weeks.
 - ✓ Partner with EDD auditors a minimum of two times per month (outside of the structured calendar) to perform targeted construction site inspections.*

- II. Local Government/Law Enforcement/Employment Enforcement Task Force Partnering (19 ERs)
 - ✓ Continue the Board-approved PACT program with a continued focus on partnering with building departments and DA investigators.
 - ✓ Respond to vetted leads relating to unlicensed and/or uninsured contractors.
 - ✓ Conduct four sting operations per month.
 - ✓ Achieve more than 500 criminal referrals for unlicensed practice and 200 disciplinary actions (criminal and/or administrative) for workers' compensation insurance violations.
 - ✓ Partner with EETF for a minimum of four targeted investigations per month (investigations may result from stings, leads, consumer complaints).*

*CSLB/EDD 2012 partnering with result in an estimated 768 completed EDD audits with \$23 million in tax assessments.

Proactive legal actions taken from January 1 to October 31, 2011 follow:

Jan. 1, 2011 - Oct. 31, 2011				
	N10	L1C	N60	TOTAL
North	213	52	88	353
Central	162	47	48	257
South	170	73	131	374

	Sting Days	Sting Operations
North	30	20
Central	19	12
South	24	14
TOTAL	73	46

FOR IMMEDIATE RELEASE
Wednesday, December 28, 2011
IR# 11-28
Internet: www.dir.ca.gov

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**DIR launches new Labor Enforcement Task Force
to battle California's underground economy**

Oakland – The Department of Industrial Relations (DIR) announces the Jan. 1 launch of the newly created Labor Enforcement Task Force (LETf). LETf is a collaborative effort between state agencies to combat the underground economy and to improve California's business environment where legitimate employers can thrive.

The primary partners of the LETf include DIR, the Employment Development Department, Contractors State License Board, Board of Equalization, and the Bureau of Automotive Repair. LETf will also collaborate with the Department of Insurance, the Attorney General and Local District Attorneys, and others in affected communities. LETf will help ensure that workers' rights are protected and that hard-working, compliant business owners have an opportunity for healthy competition in California.

“The goal of LETf is to ensure fair and safe working conditions in all workplaces and promote a level playing field for employers through education and enforcement of state laws,” said Labor and Workforce Agency Secretary Marty Morgenstern. “Labor law violators endanger workers and have an unfair market advantage over law-abiding businesses. We cannot tolerate businesses that skirt the law.”

LETf's focus on collaboration, wider information-sharing and use of new technology for enforcement will ensure more effective targeting of businesses in the underground economy. This will help eliminate the worst violations of workers' rights and protections. The task force will also conduct outreach and education efforts to inform businesses of their rights and responsibilities under the law.

“This effort is using state resources judiciously in a time of limited funding to allow key agencies to collaborate and direct their best efforts to fight the menace of the underground economy,” said DIR Director Christine Baker. “Legitimate businesses grow California's economy; they are our economic backbone. It is the mission of LETf to see that those businesses are protected.”

The goals of the workforce will be to:

- Ensure that workers receive lawful wages and are provided safe working conditions.
- Ensure that the State receives taxes due from employers and collects penalties owed by employers who violate labor laws.
- Level the playing field so that employers who comply with the law and support California's economy do not have to compete with employers who break the law.

- Eliminate the underground economy.
- Make the most efficient use of the state’s resources in carrying out these goals.

“By joining forces with other agencies conducting inspections, we can have a greater impact on stopping labor violations and the underground economy,” said Christine Baker. “Collaboration will also save time and money by avoiding overlapping inspections and focusing our efforts on the egregious violators.”

Businesses operating underground typically violate many laws designed to protect workers and our state’s economy. These include: not paying income taxes, unemployment insurance or disability insurance; not carrying workers’ compensation coverage; not paying proper wages; and not registering for required licenses or permits. These underground operations subsequently pay lower overhead costs which give them an unfair competitive advantage over legitimate, law-abiding businesses.

For more information on employer and employee rights and responsibilities, please visit www.dir.ca.gov.

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AGENDA ITEM F

Review and Approval of Enhanced Enforcement Representative Identification





REQUEST FOR EMBLEM APPROVAL

Several CSLB Board members, led by then Secretary Bob Lamb, held an informal gathering on June 24, 2010 with Norwalk enforcement staff. At the meeting staff requested that CSLB develop an official CSLB emblem and professional identification (ID) card, perhaps like the one used by other non-sworn investigators (i.e. Division of Labor Standards Enforcement, Bureau of Automotive Repair). They expressed that a formal, professional looking enhanced ID would help investigative staff identify themselves as government officials working for the State of California when they are conducting business in the field.

Need for Emblem

Approximately 70 ERs in CSLB's ICs and 22 ERs assigned to the Statewide Investigative Fraud Team (SWIFT) investigate nearly 3,000 consumer complaints each year against unlicensed contractors.

The IC ERs have the duty of regularly issuing administrative citations to unlicensed and licensed contractors. These citations are reviewed by CSLB case management staff prior to being mailed to the respondent. ERs also make referrals to local prosecutors, albeit less frequently, to file criminal charges against unlicensed and licensed contractors for violations stemming from consumer complaints. When there are administrative and criminal legal action referrals, ERs are mandated to testify to their investigations at defendants' appeals hearings. SWIFT ERs take a more proactive approach, issuing citations and/or Notices to Appear (NTA) in the field during sting and sweep operations.

ERs in the ICs have also taken a lead role in issuing Stop Orders to combat workers' compensation insurance violations, and conducting criminal investigations for elder abuse, insurance fraud, unlicensed practice, etc.

Task Force

A task force comprised of one Enforcement Representative (ER) from each of CSLB's Investigative Centers (IC) and Statewide Investigative Fraud Team (SWIFT) office was formed to study the suggestion. The task force, supervised by retired CHP Officer/ retired annuitant Doug Galbraith, met at CSLB Headquarters on September 27, 2010, to develop a professional ID prototype for use by all ERs.

Meetings with Department of Consumer Affairs (DCA)

CSLB Management and Doug Galbraith met twice with DCA legal counsel and the Chief of the Division of Investigation during which CSLB was presented with a list of concerns for the professional enhanced ID prior to DCA's supporting the proposed emblem. As a result CSLB agreed to implement all of the following:

1. The felt flap covering the emblem inside the single-fold wallet is to open from the bottom to allow for the photo identification card on the top to be shown at the same time as the medallion; staff can show the photo ID card alone, but not the medallion.
2. The photo identification card must include the following statement in red and clearly visible:
NOT A PEACE OFFICER.



3. ERs and supervisors were to take a course specifically designed to teach the proper use of the enhanced ID medallion.
4. After completing the course the staff was to sign an acknowledgment statement, indicating they had completed the training, and agree that any misuse of the ID may result in disciplinary action being taken against them.

Emblem

An image of the enhanced ID emblem appears below. Notice the only inclusions are the words “Contractors State License Board”, and “CSLB”, surrounding the California state seal. Nowhere on the medallion are the words “Enforcement”, “Peace Officer”, “Investigator”, nor is the medallion in the shape of a star or a shield. The simplicity in the design was to ensure the public would not confuse our non-sworn enforcement representatives with peace officers or law enforcement officers.



Training

CSLB Retired annuitant Doug Galbraith, a retired California Highway Patrol officer, created a training course on the “Proper Use of Identification”. The course includes:

- Staff’s responsibility in appropriately and accurately identifying and introducing themselves;
- Utilizing the metal emblem along with their photo ID card;
- Citing Penal Code section 538d(c), “*Impersonating a peace officer; wearing uniform, insignia, badge, etc.*”, the investigators were warned that deceiving an ordinary reasonable person into believing they are a peace officer, by misusing their ID/badge/emblem, or otherwise intentionally impersonating a peace officer, is a misdemeanor.

At the conclusion of the training, staff signed an acknowledgement statement that included an agreement that misuse of the ID would be cause for disciplinary action taken against them.

Department of Industrial Relations/Division of Labor Standards Enforcement (DIR/DLSE)

CSLB Retired annuitant Pete Tuminia worked at DIR/DLSE for 31 years. Mr. Tuminia supervised and managed peace officers and deputy labor commissioners during his tenure.

Mr. Tuminia has acknowledged that in addition to the DLSE peace officers having their 7-point star badges as identification, deputy labor commissioners carry star-shaped badges, as well.



They were, and still are, gold colored, in a single-fold wallet, printed with “Deputy Labor Commissioner” across them. The new version of the badge is printed with “Labor Standards Enforcement”. The peace officers’ badges identify them as “Investigator, State of California”. The peace officers’ photo ID cards also include, in 14-pt orange font: “PEACE OFFICER”, across the top. The deputy labor commissioners are trained on proper use of the badge at time of initial hire, but no formal classroom training is provided as it is at CSLB.

When asked about any problems in the past with misrepresentation, or confusion by the public in assuming the deputy labor commissioners were peace officers, Mr. Tuminia stated he wasn’t aware of any problems. “When you stop and think about it”, he said, “you usually only show your ID upon request. We didn’t go out ‘badge heavy. The flapper badges were probably only used 5% of the time, at the most. I don’t think the ERs will use their badges very often, either. And, if they do, from my experience as a Peace Officer for many years, that medallion does not look like a law enforcement badge to me; I don’t see a problem with it as long as the ERs follow the training and protocols in place at CSLB.”

While conducting industry sweeps with state, county and/or city partnering agencies, Mr. Tuminia noted that, “Everyone had a badge of some sort, including stars and shields, even though they were not peace officers. The city and county code enforcement officers, building inspectors, automobile inspectors, even the county vector control inspector – the bug control guy – had a badge.”

Request for Approval

The committee is being asked to consider the following three options for providing the enhanced ID credentials to CSLB investigative staff:

1. Ask the Board to approve the issuance of the enhanced ID emblem to all Enforcement Representatives.
2. Provide new ID’s only to SWIFT staff. The ERs on the current approved Delegation of Authority list are SWIFT staff who issue Notices to Appear in conducting proactive enforcement. (In September, 2011 a legislative proposal was submitted by Management to amend Business and Professions Code (B&P) 7011.4 to include ERs in the Investigative Centers who have completed Basic Peace Officer Standards Training (PC 832, POST) as having authority within the *enforcement division* to issue a written notice to appear (NTA) in court. This amendment, if approved, could add all IC ERs to DCA’s Delegation of Authority list.)
3. Provide the enhanced ID emblem to those ERs who have (1) completed PC832 POST academy training, (2) completed the “Proper Use of Identification” training, and (3) signed the aforementioned acknowledgement statement.

AGENDA ITEM G

Adjournment

