

FEBRUARY 7, 2012
SAN JOSE, CALIFORNIA



CONTRACTORS STATE LICENSE BOARD

Board Meeting





CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, California 95827
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STATE OF CALIFORNIA
Governor Edmund G. Brown Jr.

NOTICE OF BOARD MEETING

The Contractors State License Board (CSLB) will hold a Board Meeting on February 7, 2012, from 9:00 a.m. to 5:00 p.m. at the Dolce Hayes Mansion, 200 Edenvale Avenue, San Jose, California, 95136, (408) 226-3200.

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 meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting (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.

AGENDA

February 7, 2012

9:00 a.m. – 5:00 p.m.

- A. Call to Order – Establishment of Quorum
- B. Chair's Remarks and Board Member Comments
- C. Public Comment Session
- D. Review and Approval of December 6, 2011, Board Meeting Minutes
- E. Legislative Committee Report
 - 1. Status of Legislative Proposals for the Upcoming Legislative Session:
 - A. Amendment to Business and Professions Code Section 7011.4 – Notice to Appear Authority
 - B. Amendment to Business and Professions Code Section 7011.8 – False Complaints Against Contractors
 - C. Amendment to Business and Professions Code Section 7026.1 – Unlicensed Construction Consultants

- D. Amendment to Business and Professions Code Section 7026.1 – Rental Equipment Providers
- E. Amendment to Business and Professions Code Section 7076 – Events Resulting in Cancellation of a License
- F. Amendment to Business and Professions Code Section 7106.5 – Effect of Expiration or Suspension of License on Jurisdiction of Registrar
- 2. Review and Approval of Recommended Position on SB 691 (Lieu) and SB 975 (Wright)
- F. Licensing Committee Report
 - 1. Review and Approval of January 18, 2012, Licensing Committee Summary Report
 - 2. Licensing Program Update
 - 3. Testing Division Update
- G. Public Affairs Committee Report
 - 1. Public Affairs Program Update
- H. Enforcement Committee Report
 - 1. Review and Approval of January 18, 2012, Enforcement Committee Summary Report
 - 2. Enforcement Program Update
 - 3. Review and Approval of Changes to Proactive Enforcement Strategy
 - 4. Review and Approval of Enhanced Enforcement Representative Identification
- I. Executive Committee Report
 - 1. Administrative and Information Technology Program Update
 - 2. Budget Update
 - 3. Update of 2011-2012 Strategic Plan Objectives
 - 4. 2012-2013 Strategic Planning Meeting
- J. Review of Tentative Schedule
- K. Adjournment

AGENDA ITEM A

Call to Order – Pledge of Allegiance – Establishment of Quorum

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

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

BOARD MEMBER ROSTER

ROBERT BROWN	JAMES MILLER
DAVE DIAS	LISA MILLER-STRUNK
JOAN HANCOCK	JOHN O'ROURKE
PASTOR HERRERA JR.	BRUCE RUST
MATTHEW KELLY	FRANK SCHETTER
LOUISE KIRKBRIDE	PAUL SCHIFINO
ROBERT LAMB	MARK A. THURMAN
ED LANG	



AGENDA ITEM B

Chair's Remarks and Board Member Comments

Board Chair Robert Lamb will review the scheduled Board actions and make appropriate announcements.

Board members may comment on issues not on the agenda. They may not debate or vote on issues not included on the agenda notice.



AGENDA ITEM C

Public Comment Session

Members of the public may address the Board at this time on matters that are not on the agenda. However, because such matters are not on the agenda, the Board may not take action at this meeting. The Board Chair will allow public comment during other agenda items at his/her discretion.

BOARD AND COMMITTEE MEETING PROCEDURES

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

- (1) If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person shall be instructed to refrain from making such comments.
- (2) If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - (a) Where the allegation involves errors of procedure or protocol, the Board may designate either its Registrar or a board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
 - (b) Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.
- (3) The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.



AGENDA ITEM D

Review and Approval of December 6, 2011, Board Meeting Minutes





CONTRACTORS STATE LICENSE BOARD

BOARD MEETING MINUTES

BOARD MEETING MINUTES

December 6, 2011

A. CALL TO ORDER

Board Chair Robert Lamb called the meeting of the Contractors State License Board (CSLB) to order at 11:00 a.m. on September 16, 2011, in the John C. Hall Meeting Room at the Contractors State License Board, 9821 Business Park Drive, Sacramento, CA 95827. A quorum was established.

Board Member Joan Hancock led the Board in the Pledge of Allegiance.

Board Members Present

Robert Lamb, Chair
Paul Schifino, Vice Chair
Joan Hancock, Secretary
Robert Brown
David Dias
Matt Kelly
Louise Kirkbride

Ed Lang
Jim Miller
John O'Rourke
Bruce Rust
Frank Schetter
Mark Thurman

Board Members Excused

Pastor Herrera
Lisa Miller-Strunk

DCA/CSLB Staff Present

Stephen Sands, Registrar
Cindi Christenson, Chief Deputy Registrar
Don Chang, Legal Counsel
Mike Franklin, Deputy Attorney General

David Fogt, Enforcement
Rick Lopes, Public Affairs
Karen Ollinger, Licensing
Laura Zuniga, Legislation

B. CHAIR'S REMARKS AND BOARD MEMBER COMMENTS

Board Chair Bob Lamb welcomed everyone on behalf of the Board and wished them a Happy Holidays and New Year. He also asked for comments from the board; there were none.

C. PUBLIC COMMENT SESSION

There was no public comment.



D. REVIEW AND APPROVAL OF SEPTEMBER 16, 2011, BOARD MEETING MINUTES

Motion to Approve the September 16, 2011, Board Meeting Minutes

MOTION: A motion was made by Board Member Matt Kelly and seconded by Board Member Robert Brown to approve the September 16, 2011, Board Meeting Minutes. The motion carried unanimously, 13-0.

E. LEGISLATIVE COMMITTEE REPORT

Legislative Committee Chair Mark Thurman and Chief of Legislation Laura Zuniga provided the Legislative Committee Report. Mr. Thurman gave an overview of the Committee meeting that was held on November 3, 2011, and then asked for a motion to approve the Committee Summary Report.

1. Motion to Approve the November 3, 2011, Legislative Committee Summary Report

MOTION: A motion was made by Board Member Joan Hancock and seconded by Board Member Ed Lang to approve the November 3, 2011, Committee Summary Report. The motion carried unanimously, 13-0.

2. Review and Consideration of Legislative Proposals for the Upcoming Legislative Session

Motion to Approve the Legislative Proposals for the Upcoming Legislative Session

MOTION: A motion was made by Board Member Matt Kelly and seconded by Board Member Dave Dias to approve the Legislative Proposals for the Upcoming Legislative Session. The motion carried unanimously, 13-0.

3. Legislative Update

- AB 249 Unlicensed Contractors: Compensation Recovery.—“Watch.”
- AB 275 Rainwater Capture Act of 2011.—“Watch.”
- AB 338 Regulations: Legislative Validation.—“Watch.”
- AB 397 Contractors: Workers’ Compensation Recertification.—“Sponsor.”
- AB 465 Gardening or Landscaping Maintenance Services. “Watch.”
- AB 569 Business Master License Center.—“Watch.”
- AB 878 Contractors: Workers’ Compensation Insurance.—“Sponsor.”
- AB 958 Statute of Limitations.—“Watch.”



- AB 1091 Contractors: Notification of Disassociation of Qualifier.—“Sponsor.”
- AB 1307 State Board of Equalization: Administration: Collections.—“Sponsor.”
- AB 1424 Franchise Tax Board: Delinquent Tax Debt.—“Watch.”
- SB 454 Energy Efficiency Standards.—“Watch.”
- SB 541 Contractors: Subject Matter Experts.—“Support.”
- SB 543 Business and Professions: Regulatory Boards.—“Support.”
- SB 865 Contractors: Expertise: Legal Representation.—“Sponsor.”
- SB 886 Sprinkler Fitters: Licensing.—“Watch.”
- SB 944 Business and Professions.—“Sponsor.”

F. LICENSING COMMITTEE REPORT

Licensing Committee Chair Dave Dias introduced Licensing Chief Karen Ollinger provided the Licensing Committee Report.

1. Licensing Program Update

Ms. Ollinger provided updates on the application workload, limited liability companies, fee increases and application revisions. She also reviewed various charts and reports located in the Board packet.

2. Testing Division Update

Chief of Testing Heidi Lincer-Hill provided the Testing division update. Ms. Lincer – Hill reported on staffing issues, testing centers, examination wait times, and examination development.

3. Examination Development Presentation

This item was taken out of order between Item H and Item I.

4. Review and Approval of Construction Management Education Account Committee Proposal Regarding Grants to Qualifying Programs

Motion to Approve Construction Management Education Account Committee Proposal Regarding Grants to Qualifying Programs

MOTION: A motion was made by Board Member Joan Hancock and seconded by Board Member Ed Lang to approve the Construction Management Education Proposal Regarding Grants to Qualifying Programs. The motion carried unanimously, 13-0.

**G. PUBLIC AFFAIRS COMMITTEE REPORT**

Public Affairs Chair Joan Hancock and Chief of Public Affairs Rick Lopes provided the Public Affairs Committee Report. Ms. Hancock updated the Board on the Wellness Fair and Senior Scam StopperSM seminars. She also commended staff for the hard work put forward, and specifically Melanie Bedwell for all of time and hard work she has put into the 2012 law book.

1. Public Affairs Program Update

Mr. Lopes provided updates on staffing, website highlights, media relations, disaster outreach, publication highlights, community outreach, and employee wellness highlights.

H. ENFORCEMENT COMMITTEE REPORT

Chair Matt Kelly provided the Board with updates on the staff meeting that was held in Norwalk in September. Mr. Kelly noted some discussion points that took place at the meeting among the Board members present and the staff. He then introduced Enforcement Chief David Fogt to provide the program update.

1. Enforcement Program Update

Mr. Fogt reported on staff vacancies, Intake and Mediation Center highlights, Investigative Center highlights, Case Management, Training, and the success of partnering with District Attorneys.

Chair Matt Kelly introduced Enforcement's Doug Galbraith who gave the Board an update on the status of training within the Enforcement division.

2. Report on Consumer Satisfaction Survey

Registrar Steve Sands briefed the Board on the most recent Consumer Satisfaction Survey results, and noted the increasing satisfaction statistics. Mr. Sands introduced Heidi Lincer-Hill who elaborated on the survey data.

F. EXAMINATION DEVELOPMENT PRESENTATION**3. Examination Development Presentation**

Testing Chief Heidi Lincer-Hill provided an Examination Development presentation.



I. EXECUTIVE COMMITTEE REPORT

Board Chair Bob Lamb provided highlights from the Executive Committee meeting, which was held in November.

1. Motion to Approve the Amended November 3, 2011 Executive Committee Summary Report

MOTION: A motion was made by Board Member Joan Hancock and seconded by Board Member John O'Rourke to approve the Amended November 3, 2011, Executive Committee Summary Report. The amendment is where Adjournment should be Item H and the incomplete sentence in Item G should read, "Mr. Sands advised the Committee that the upcoming strategic planning process will be similar to our previous process and welcomed any suggestions from the Board." The motion carried unanimously, 13-0.

2. **Administration and Information Technology Update**

Ms. Christenson updated the Board on the Statistical Summary Report. She also covered personnel and business services. Ms. Christenson then introduced Information Technology Chief Amy Cox-O'Farrell who presented the IT division update. Ms. Cox'O-Farrell covered IT staffing, limited liability company projects, CSLB's website, BreEZe, and the California Email Services system.

3. **Budget Update**

Budget Analyst Jonathan Buttle reviewed the status of revenue and expenditures through detailed charts located in the Board packet.

4. **Review and Possible Recommendation Regarding the Board Member Administrative Procedure Manual**

Ms. Christenson briefed the board on the Procedure Manual contents, which was approved by the Executive Committee. She then asked for a motion to approve the Procedure Manual.

Motion to Approve the Board Member Administrative Procedure Manual

MOTION: A motion was made by Board Member Paul Schifino and seconded by Board Member Matt Kelly to approve the Board Member Administrative Procedure Manual. The motion carried unanimously, 13-0.

5. **Update of 2011-2012 Strategic Plan Objectives**

Registrar Steve Sands provided the Board with a brief overview of the current objectives that will be discussed at the April 2012 Strategic Planning Session.



6. 2012-2013 Strategic Planning Meeting

Mr. Sands touched on meeting material that will be up for discussion at April's 2012-2013 Strategic Planning Meeting.

J. REVIEW OF TENTATIVE SCHEDULE

Mr. Sands advised the Board that the next meeting will be held in San Jose. He also provided the Board with future meeting dates for 2012.

K. ADJOURNMENT

Board Chair Robert Lamb adjourned the Board meeting at 3:05 p.m.

Robert Lamb, Chair

Date

Stephen P. Sands, Registrar

Date

AGENDA ITEM E

Legislative Committee Report



AGENDA ITEM E-1

Status of Legislative Proposals for the Upcoming Legislative Session



AGENDA ITEM E-1A

Amendment to Business and Professions Code Section 7011.4 – Notice to Appear Authority



CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Modification to Business and Profession Code - Section 7011.4

BACKGROUND: In 1989, a separate unit, Statewide Investigative Fraud Team (SWIFT), was established to proactively address unlicensed contracting activity and pursue criminal sanctions with local prosecutors. Business and Professions (B&P) Code section 7011.4 provides authority for SWIFT Enforcement Representatives (ER) to refer investigations to local prosecutors for misdemeanor violations of law by issuing Notice to Appear (NTA) citations.

PROBLEM/SUMMARY:

- 1) January 1, 2011, CSLB received authority to issue Stop Orders to construction employers that fail to secure workers' compensation insurance for employees. In addition to issuing a Stop Order, violators are subject to administrative or criminal sanctions for the underlying workers' compensation insurance violations.

The majority of the 15,000 consumer complaints received each year by CSLB have evidence of a workers' compensation violation; however, Investigative Center (IC) investigators rarely make referrals to local prosecutors because they lack authority to issue an NTA in criminal court for the misdemeanor violation.

- 2) CSLB receives approximately 3,000 consumer complaints each year against unlicensed contractors. Consumer complaints are investigated at an IC that is staffed by approximately 70 ERs, rather than the approximate 22 ERs assigned to SWIFT. IC investigators lack authority to issue NTAs and disposition the majority of complaints to an administrative citation, rather than a referral to a local prosecutor for the misdemeanor violation.

For the aforementioned reasons, a modification to B&P Code section 7011.4 is needed to provide authority to CSLB investigators assigned to ICs that have completed Penal Code 832 (Basic Peace Officer Standards Training) to work effectively with local prosecutors by issuing NTAs to unlicensed and uninsured contractors.

COMMENTS:

With the growing population and difficult economic times, there are many complaints filed against unlicensed and illegal contractors, many of whom do not have workers' compensation (WC) insurance for employees. CSLB's Enforcement division has Statewide Investigative Fraud Teams that perform proactive investigations, and conduct undercover sting and sweep operations. However, many complaints received against unlicensed contractors and uninsured contractors are received through the Investigation Centers (ICs). In addition, it is a demonstrated fact that 60 percent of licensees have filed for exemption from WC insurance. Contractors who fail to carry WC for employees

are considered to be part of the underground economy, and they pose a threat to consumers, legitimate licensees, businesses, and employees.

Pursuant to B&P Code section 7125.4 and Labor Code section 3700.5, it is a misdemeanor in the State of California to employ workers without having WC insurance. Further, it is a felony to underreport employees in order to lower WC insurance premium costs. In July 2010, the Fraud Assessment Commission gave the California Department of Insurance (CDI) a \$30 million grant to prosecute WC fraud. CDI, in turn, has partner with CSLB to target unlicensed and illegal contractors who are in violation of WC laws and pose a threat to consumers, legitimate businesses, and employees. On January 1, 2011, CSLB was granted the ability to issue Stop Orders to licensed and unlicensed contractors that have employees and do not have WC insurance.

A change is needed within CSLB Enforcement. This is an opportunity to refer more criminal complaints to prosecutors through Notices to Appear (NTAs). In addition, with the growing need and new focus on WC violations, Enforcement would be enhanced by allowing IC investigators to issue NTAs and Stop Orders so that they can partner with CDI and the Premium Insurance Fraud Task Force to combat unlicensed and uninsured practice. By allowing IC investigators the ability to issue NTAs and Stop Orders, enforcement of Contractors' License Law will be enhanced, thus protecting those who live, work, and do business in California.

PROPOSED CHANGE (Include the Related Sections of Law)

7011.4.(a) Notwithstanding Section **7011**, there is in the Contractors' State License Board, an enforcement division which shall rigorously enforce this chapter prohibiting all forms of unlicensed activity.

In the text of 7011.4 Business and Professions Code, replace "a separate enforcement unit" with "an enforcement division."

PROPOSED LANGUAGE:

Section 7011.4 should read as follows:

- (a) Notwithstanding Section 7011, there is in the Contractors' State License Board, a ~~separate enforcement unit~~ an enforcement division which shall rigorously enforce this chapter prohibiting all forms of unlicensed activity.
- (b) Persons employed as enforcement representatives in this ~~unit~~ division and designated by the Director of Consumer Affairs, after completing P.C. 832 or equivalent, are not peace officers and are not entitled to safety member retirement benefits. They do not have the power of arrest. However, they may issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

AGENDA ITEM E-1B

Amendment to Business and Professions Code Section 7011.8 – False Complaints Against Contractors



CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: False Complaints Against Contractors

BACKGROUND: Business & Professions (B&P) Code section 7011.8 provides that a person who files a false complaint with the Contractors State License Board (CSLB) is guilty of an infraction, and further provides that CSLB may notify the appropriate district or city attorney that a false report has been filed. Since enacted in 1992, a violation of section 7011.8 has never been pursued.

PROBLEM/SUMMARY: A violation of B&P section 7011.8 is an infraction. Prosecutors file criminal complaints for misdemeanor and felony violations, not for infractions, and there is no authority for CSLB staff to issue a “parking ticket” style citation for a violation of B&P section 7011.8.

PROPOSED CHANGE (Include the Related Sections of Law): Amend B&P Code section 7011.8 to instead provide the CSLB Registrar with the authority to take administrative action.

PROPOSED LANGUAGE: Replace “an infraction punishable by a fine not to exceed one thousand dollars (\$1,000)” with “the registrar may issue a citation to a person subject to licensure by this chapter.”

COMMENTS:

Prosecutors file misdemeanor and felony charges. They do not file criminal charges for infractions; rather, infractions are typically issued by police for traffic or other minor violations.

CSLB is aware of only one occasion in the 18 years that section 7011.8 has been on the books where a referral was made to a district attorney (DA). It involved a deranged contractor who filed a complaint against an industry expert for issuing a report that was used for filing an accusation for poor workmanship (in addition to the administrative case, CSLB also made a referral to the DA against the same contractor for Penal Code section 484b). CSLB was advised by the DA at the time of the referral that criminal filings for infractions are not handled by prosecutors.

1/26/2012

AGENDA ITEM E-1c

Amendment to Business and Professions Code Section 7026.1 – Unlicensed Construction Consultants



CONTRACTORS STATE LICENSE BOARD LEGISLATIVE PROPOSAL FORM

SUBJECT: Jurisdiction over construction managers

BACKGROUND: CSLB's April 24, 2008, *Precedential Decision No. 1* establishes that someone acting in the capacity of a swimming pool consultant is a contractor.

The March 27, 2009, Appellate Court decision *The Fifth Day v. Bolotin* found that someone acting in the capacity of a construction manager is not required to be licensed as a contractor.

PROBLEM/SUMMARY: The *Fifth Day v. Bolotin* decision undermines CSLB's Precedential Decision.

Recently, an unlicensed contractor facing criminal prosecution for violating Business and Professions (B&P) Code section 7028 claimed to have been a project coordinator and asserted exemption from licensure, citing *The Fifth Day v. Bolotin* decision. Although the unlicensed contractor was not overseeing a contract between the project owner and a general contractor as in the *Fifth Day v. Bolotin* case, the defense strategy was nonetheless of concern to the prosecutor and ultimately resulted in a plea bargain dismissing the 7028 charge.

PROPOSED CHANGE (Include the Related Sections of Law): Amend B&P Code section 7026.1 to specify that the term "contractor" include any person not employed by a licensed contractor who acts as a construction manager, project manager, or project coordinator.

PROPOSED LANGUAGE: SEE (f)

7026.1. The term "contractor" includes all of the following:

(a) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(b) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct any building or home improvement project, or part thereof.

(c) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this subdivision shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this subdivision shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary

labor service agency.

(d) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nursery person who in the normal course of routine work performs incidental pruning of trees, or guying of planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(e) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, re-perforating, or abandoning any water well, cathodic protection well, or monitoring well.

(f) Any person other than a public agency or owner of privately owned real property to be improved that meets any of the following criteria: Provides or oversees a bid for a construction project, and/or arranges for and sets up work schedules for contractors and subcontractors and maintains oversight of the project.

AGENDA ITEM E-1D

Amendment to Business and Professions Code Section 7026.1 – Rental Equipment Providers



**CONTRACTORS STATE LICENSE BOARD
LEGISLATIVE PROPOSAL FORM**

SUBJECT: Rental Equipment Providers – Business & Professions Code (B&P) section 7026.1

BACKGROUND: B&P Code defines the term “contractor.”

PROBLEM/SUMMARY: It has become commonplace for contractors, licensed and unlicensed, to attempt to circumvent Contractors’ License Law (CLL) and Public Contract Code (PCC) requirements by asserting they are not subject to licensure as contractors because they are “Renters of Operated Equipment.” Examples include businesses that provide backhoes, tractors, paving and grading equipment, with a full crew to operate the equipment and perform incidental work, i.e., smoothing concrete with hand trowels and raking out asphalt on roads. Public protection is compromised in public works and residential construction as follows:

Public Works

PCC sections 4100-4114 are known as the Subletting and Subcontracting Fair Practices Act (the Act), and it is intended to ensure fair competition between prime and subcontractors who bid public works projects. The Act requires a listing of all subcontractors who perform more than 1/2 of 1% of the prime contract amount.

Awarding agencies are unable to identify the lowest “responsible” bid when the prime contractor fails to list subcontractors. The prime contractor benefits by not listing the subcontractor because the subcontractor may have prior Labor Law violations and/or they want to shop for lower bids after the contract is awarded, commonly referred to as “bid shopping.” *Bid shopping* is a practice by which contractors, both before and after their bids are submitted, attempt to obtain prices from potential subcontractors and material suppliers that are lower than the contractors’ original estimates on which their bids are based, or after a contract is awarded, by seeking to induce subcontractors to reduce the subcontract price included in the bid.

The practice of bid shopping is a threat to legitimate licensees, awarding authorities and, ultimately, taxpayers, as these projects are typically funded by federal, state, and local tax dollars. Moreover, by not listing the subcontractors, it becomes confusing for the awarding authority and/or labor compliance personnel to keep track of employees working on the project to ensure that prevailing wages are paid.

Further, PCC section 4101 specifically addresses “bid shopping,” and states the following:

4101. The Legislature finds that the practices of bid shopping and bid peddling in connection with the construction, alteration, and

repair of public improvements often result in poor quality of material and workmanship to the detriment of the public, deprive the public of the full benefits of fair competition among prime contractors and subcontractors, and lead to insolvencies, loss of wages to employees, and other evils.

Residential Construction

Licensed and unlicensed contractors seek to avoid CLL requirements by claiming to be acting in the capacity of a “Renter of Operated Equipment” and not a contractor. They seek this exemption, so they will not have to comply with licensure and workers’ compensation insurance requirements, or comply with home improvement contract restrictions that limit payments and provide other consumer protections.

Summary

This change in the law is to protect legitimate licensees who bid on public works projects, awarding authorities, employees, consumers, and, ultimately, taxpayers.

Regarding significance and number of offenders, it may be beneficial to request review and comment from Caltrans Public Works Manager Angela Shell.

PROPOSED CHANGE (Include the Related Sections of Law)

Amend B&P Code §7026.1 to include a subsection (f) to define licensing requirements for businesses that provide equipment and operators for works of improvement.

PROPOSED LANGUAGE:

(g) Vendors of operated equipment that exercise direction and control of work covered by this chapter.

AGENDA ITEM E-1E

Amendment to Business and Professions Code Section 7076 – Events Resulting in Cancellation of a License



**CONTRACTORS STATE LICENSE BOARD
LEGISLATIVE PROPOSAL FORM**

SUBJECT: Accusations Against Revoked Licenses – Business & Professions (B&P)
Code section 7106.5

PROBLEM/SUMMARY: Section 7106.5 grants the Registrar authority to proceed with investigation of a complaint even though the license has been expired, cancelled, forfeited, or suspended by operation of law, or voluntarily surrendered. However, the statute does not provide for pursuing an accusation to revoke the license when the license has already been revoked by operation of law.

Revoking a license by operation of law occurs when a licensee fails to comply with a citation or arbitration award. The license is revoked for a minimum of one year. To reinstate the license, the licensee must make restitution or comply with the order of correction, pay civil penalties, and post a minimum disciplinary bond in the amount of \$15,000.00. Often, the amount of restitution is minimal and the civil penalties cannot exceed \$5,000.00.

By not having the clear authority to file an accusation when the license is revoked by operation of law, an individual could evade/avoid discipline because the facts of the grounds for the accusation were never established. For example, if the licensee may not re-apply for licensure for five years after the revocation for non-compliance, the witnesses and evidence of the aforementioned case would not be fresh or the witness may not be located.

By adding the statute change, the Board could proceed with the accusation hearing, and put the discipline and facts of the case on record, which would require the licensee to comply with the Order of the Registrar prior to getting the license re-issued.

The proposed change would protect the public by establishing a financial injury relative to the case, which would allow the consumer to file against the bond. The public would also be more protected when, and if, the licensee re-applied because the egregious act would result in the requirement of a higher disciplinary bond amount, which currently can be imposed up to \$125,000.00.

In addition, the consumer of the complaint would be entitled to restitution before the license is re-issued.

PROPOSED CHANGE (Include the Related Sections of Law)

Change the first sentence of the statute to include the language “or revocation”

PROPOSED LANGUAGE:

The expiration, cancellation, forfeiture, or suspension, **or revocation** of a license by operation of law...

Details:

The question of when CSLB might have needed the proposed authority occurs when a licensee has been revoked by operation of law as opposed to being revoked by a disciplinary action through an accusation. Being revoked by operation of law occurs

when a licensee fails to comply with a minor action such as failing to comply with an arbitration award or a citation. The revocation is for a period of one year and the licensee can reapply for their license by complying with the award or citation and by posting the minimum disciplinary bond (DB), which currently is in the amount of \$15,000.00. The DB must be in place for two years.

Revocation by accusation occurs when a licensee has committed egregious acts in violation of the Contractors' License Law, or has a history of complaints and or disciplinary actions. An accusation is a disciplinary action where the Board is seeking revocation through the Office of the Attorney General in accordance with the Government Code, as stated in the Administrative Procedures Act. If the Order results in revocation, there may be a probationary period, cost recovery, restitution, continuing education, and a period of up to five years before the respondent can reapply for licensure. In addition, the DB posting is required, which currently can range from the minimum of \$15,000.00 up to \$125,000.00, for a period of two to five years. These terms and conditions are ordered in proportion to the egregiousness of the acts and injury incurred.

Because the Board has the authority to investigate complaints for four years from the date of the act or omission (B&P Code section 7091), a contractor who is revoked by operation of law may have committed violations of Contractors' License Law that were egregious on another project prior to being revoked by operation of law. The investigation of the complaint alleging egregious acts resulting in a large financial injury warranting an accusation may be precluded from being prosecuted before an administrative law judge.

In this scenario, if a significant period of time passed before the revoked licensee reapplied for licensure, the Board may not be able to pursue the accusation where there was a significant injury due to circumstances where the witness may no longer be available.

The Board could use this authority to establish the violations and financial injury through the hearing process as stated in the Administrative Procedures Act. The decision and order would be on record and available to the public. The injured party could use the Order to aid on their behalf in civil litigation.

Other Information:

There is an argument that once a license is revoked, it can't be revoked again. This proposal is only for the purpose of filing an accusation against a license that has been revoked by operation of law. As stated above, there is a clear difference between the two processes of revocation. If the statute is amended, it will provide better protection to consumers and a clearer authority. There have been instances in the past where the Board has proceeded with an accusation where a license has been revoked by operation of law and the Administrative Law Judges have ruled both ways, some upholding our request for revocation, while others have failed to rule because the license is revoked. This proposal would clarify any confusion.

AGENDA ITEM E-1F

Amendment to
Business and Professions Code
Section 7106.5 –
Effect of Expiration or
Suspension of License on
Jurisdiction of Registrar



**CONTRACTORS STATE LICENSE BOARD
LEGISLATIVE PROPOSAL FORM**

SUBJECT: Accusations Against Revoked Licenses – Business & Professions (B&P)
Code section 7106.5

PROBLEM/SUMMARY: Section 7106.5 grants the Registrar authority to proceed with investigation of a complaint even though the license has been expired, cancelled, forfeited, or suspended by operation of law, or voluntarily surrendered. However, the statute does not provide for pursuing an accusation to revoke the license when the license has already been revoked by operation of law.

Revoking a license by operation of law occurs when a licensee fails to comply with a citation or arbitration award. The license is revoked for a minimum of one year. To reinstate the license, the licensee must make restitution or comply with the order of correction, pay civil penalties, and post a minimum disciplinary bond in the amount of \$15,000.00. Often, the amount of restitution is minimal and the civil penalties cannot exceed \$5,000.00.

By not having the clear authority to file an accusation when the license is revoked by operation of law, an individual could evade/avoid discipline because the facts of the grounds for the accusation were never established. For example, if the licensee may not re-apply for licensure for five years after the revocation for non-compliance, the witnesses and evidence of the aforementioned case would not be fresh or the witness may not be located.

By adding the statute change, the Board could proceed with the accusation hearing, and put the discipline and facts of the case on record, which would require the licensee to comply with the Order of the Registrar prior to getting the license re-issued.

The proposed change would protect the public by establishing a financial injury relative to the case, which would allow the consumer to file against the bond. The public would also be more protected when, and if, the licensee re-applied because the egregious act would result in the requirement of a higher disciplinary bond amount, which currently can be imposed up to \$125,000.00.

In addition, the consumer of the complaint would be entitled to restitution before the license is re-issued.

PROPOSED CHANGE (Include the Related Sections of Law)

Change the first sentence of the statute to include the language “or revocation”

PROPOSED LANGUAGE:

The expiration, cancellation, forfeiture, or suspension, **or revocation** of a license by operation of law...

Details:

The question of when CSLB might have needed the proposed authority occurs when a licensee has been revoked by operation of law as opposed to being revoked by a disciplinary action through an accusation. Being revoked by operation of law occurs

when a licensee fails to comply with a minor action such as failing to comply with an arbitration award or a citation. The revocation is for a period of one year and the licensee can reapply for their license by complying with the award or citation and by posting the minimum disciplinary bond (DB), which currently is in the amount of \$15,000.00. The DB must be in place for two years.

Revocation by accusation occurs when a licensee has committed egregious acts in violation of the Contractors' License Law, or has a history of complaints and or disciplinary actions. An accusation is a disciplinary action where the Board is seeking revocation through the Office of the Attorney General in accordance with the Government Code, as stated in the Administrative Procedures Act. If the Order results in revocation, there may be a probationary period, cost recovery, restitution, continuing education, and a period of up to five years before the respondent can reapply for licensure. In addition, the DB posting is required, which currently can range from the minimum of \$15,000.00 up to \$125,000.00, for a period of two to five years. These terms and conditions are ordered in proportion to the egregiousness of the acts and injury incurred.

Because the Board has the authority to investigate complaints for four years from the date of the act or omission (B&P Code section 7091), a contractor who is revoked by operation of law may have committed violations of Contractors' License Law that were egregious on another project prior to being revoked by operation of law. The investigation of the complaint alleging egregious acts resulting in a large financial injury warranting an accusation may be precluded from being prosecuted before an administrative law judge.

In this scenario, if a significant period of time passed before the revoked licensee reapplied for licensure, the Board may not be able to pursue the accusation where there was a significant injury due to circumstances where the witness may no longer be available.

The Board could use this authority to establish the violations and financial injury through the hearing process as stated in the Administrative Procedures Act. The decision and order would be on record and available to the public. The injured party could use the Order to aid on their behalf in civil litigation.

Other Information:

There is an argument that once a license is revoked, it can't be revoked again. This proposal is only for the purpose of filing an accusation against a license that has been revoked by operation of law. As stated above, there is a clear difference between the two processes of revocation. If the statute is amended, it will provide better protection to consumers and a clearer authority. There have been instances in the past where the Board has proceeded with an accusation where a license has been revoked by operation of law and the Administrative Law Judges have ruled both ways, some upholding our request for revocation, while others have failed to rule because the license is revoked. This proposal would clarify any confusion.

AGENDA ITEM E-2

Review and Approval of Recommended Position on SB 691 (Lieu) and SB 975 (Wright)



CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number: SB 691 (Lieu)
Status/Location: As Amended 1/4/12 - Assembly
Sponsor: None
Subject: Unemployment Insurance: Compensation
Code Section: Insurance Code Section 1095

Summary:

Existing law authorizes the Employment Development Department (EDD) to share relevant information relating to any specific workers' compensation insurance fraud investigation.

This bill would add the Contractors State License Board (CSLB) to the list of agencies with which EDD may share the information.

Background:

According to the author's office:

The State of California faces significant challenges from the underground economy, which is defined by the Employment Development Department as individuals and businesses that deal in cash and/or use other schemes to conceal their activities and their true tax liability from government licensing, regulatory, and taxing agencies. In short, it is an entire universe of illegal activities that can include such diverse activities as tax fraud, cigarette smuggling, and failure to provide employees the minimum wage. A 2005 Legislative Analyst's Office study on the underground economy estimated that California loses \$6.5 billion in annual income tax revenues.

One of the most egregious activities by employers who participate in the underground economy is workers' compensation fraud. This can include failure by the employer to report all of his or her employees to the insurance company when creating a policy, misreporting the type of work done by employees, or even failing to secure any workers' compensation coverage for all employees.

In testimony before the Senate Select Committee on Small Business and the Underground Economy in 2011, Professor Frank Neuhauser of UC Berkeley testified that, on average, \$15 to \$68 billion of annual payroll in California went unreported, or 4-12% of the total payroll in California. These figures did not include wages or employees that were misreported into a lower premium class. Particularly in high risk occupations, this lack of reporting increased workers' compensation premiums by more than 300%, pressuring law-abiding employers to either go underground or go out of business.

Fiscal Impact for CSLB:

Any costs related to this bill would be minor and absorbable.

Staff Recommendation and Comments:

SUPPORT. This bill will allow CSLB to access EDD records, through its Automated Collection Enhancement System, which will assist in lead development and workers' compensation insurance investigations. CSLB already has a Memorandum of Understanding (MOU) in place with EDD to work cooperatively on enforcement matters; this bill will complement the existing MOU.

Date:

January 25, 2012

CONTRACTORS STATE LICENSE BOARD LEGISLATIVE ANALYSIS

Bill Number: SB 975 (Wright)
Status/Location: Introduced 1/19/12 – Senate Rules
Sponsor: American Council of Engineering Companies
Subject: Regulatory Authority
Code Section: Business and Professions Code (B&P) 101.2

Summary:

Existing Law provides for the licensure and regulation of various professions and vocations by the boards, bureaus and commissions under the Department of Consumer Affairs.

This bill provides that:

1. A board, bureau, or commission shall have sole authority in state government to license and regulate their profession or vocation.
2. No licensing requirements may be imposed on a licensee by an entity other than his or her licensing board.
3. “Licensing requirements” is defined as including, but not limited to:
 - (a) Additional training or certification requirements to practice within the licensed scope of practice.
 - (b) Continuing education requirements for renewal or continuation of licensure.
 - (c) Any additional requirements beyond those provided in the B&P Code or pursuant to a board’s regulations.
4. Specifies that this bill shall not prohibit parties from contractually agreeing to additional experience, qualifications, or training of a licensee in connection with performance of a contract.
5. Further specifies that the bill does not prohibit a license from voluntarily undertaking certification programs.

Fiscal Impact for CSLB:

Pending.

Staff Recommendation and Comments:

WATCH. This bill could potentially benefit consumers and licensees, by ensuring that one state entity, the licensing board, has authority to set standards and requirements for the profession.

This bill appears to be a follow-up to AB 1210 (Garrick, 2011) which was vetoed by the Governor. AB 1210 would have exempted licensed civil engineers from training requirements related to the preparation of Storm Water Pollution Prevention Plans. In his veto message, the Governor stated:

“Many of these storm plans are found to be deficient and those preparing them need a much better understanding of the necessary elements of a solid plan. It is not feasible to inspect every plan or

every construction site but it is essential to have some process in place to ensure compliance in preparing complete and sound storm water plans.

The current process depends on a training education program for all professionals who prepare storm plans -- engineers, geologists, hydrologists, and landscape architects. This bill, a piecemeal approach, exempts only one profession, the civil engineers. A more comprehensive solution would be better.

I am directing the State Water Board to review the entire program and evaluate compliance alternatives that are more efficient and workable for all professionals.”

Date: January 25, 2012

AGENDA ITEM F

Licensing Committee Report



AGENDA ITEM F-1

Review and Approval of January 18, 2012, Licensing Committee Summary Report





CONTRACTORS STATE LICENSE BOARD

Licensing Committee Summary Report

LICENSING COMMITTEE

January 18, 2012

Sacramento, CA

CALL TO ORDER

Licensing Committee Chair David Dias called the Licensing Committee meeting to order at 9:00 a.m. on Wednesday, January 18, 2012, in the John C. Hall Hearing Room, located at CSLB Headquarters, 9821 Business Park Drive, Sacramento, California.

Licensing Committee

Members Present

Dave Dias, Chair

Lisa Miller-Strunk

Bruce Rust

Frank Schetter

Other Board Members Present

Matt Kelly

Pastor Herrera Jr.

Ed Lang

Board Staff Present

Stephen Sands, Registrar

Cindi Christenson, Chief Deputy Registrar

Don Chang, DCA Legal Affairs

David Fogt, Enforcement Chief

Amy Cox-O'Farrell, Information Technology Chief

Rick Lopes, Public Affairs Chief

Karen Ollinger, Licensing Chief

Rick Villucci, Licensing Classification Deputy

Laura Zuniga, Legislation Chief

Melanie Bedwell, Public Affairs

Heidi Lincer-Hill, Testing Chief

Venus Stromberg, Public Affairs

Ana Rodriguez, Enforcement

Missy Vickrey, Enforcement

Carlos Marquez, Enforcement

Scott Weber, Enforcement

Doris Velazquez, Enforcement

Bertha Todary, Enforcement

Maggie Sanchez, Enforcement

Jeff Miller, Enforcement

Roseann Colgrove, Enforcement

Lori Kinder, Enforcement

Others Present

Claudine Desmond, Association of California Surety Companies

Brad Diede, California Professional Association of Specialty Contractors

Michael Franklin, Office of the Attorney General

Mason Gunn, Basic Crafts

Ken Grossbart, Law Offices of Abdulaziz, Grossbart & Rudman

David Kalb, Capitol Services

Shauna Krause, Capitol Services

Dan Kurttila, Employment Development Department

Harry Moos, California Building Industry Association

Rick Pires, Basic Crafts

Simon Ramsuhag, Employment Development Department

Larry Rohlfes, California Landscape Contractors Association

**CHAIR REMARKS**

Chair David Dias introduced himself and welcomed everyone to the Licensing Committee meeting.

PUBLIC COMMENT

There was no public comment.

LICENSING PROGRAM UPDATE

Licensing Chief Karen Ollinger provided the Licensing Program Update. She presented the license application workload statistics, and pointed out that the number of applications received each month continues to decline, consistent with the downturn in the construction industry. This has kept processing times for all of the Licensing division units within an acceptable timeframe.

Chief Ollinger reported on the roll-out of the new limited liability company (LLC) licensing category, which began December 28, 2011. To date, CSLB has received 23 LLC applications, five requiring examination(s) and eighteen waivers. An LLC application processing meeting was held on Monday, January 9, 2012, to familiarize all staff involved in processing LLC applications with the requirements and procedures. All but one of the applications reviewed were unacceptable. A second processing meeting is scheduled for Friday, January 20.

Out of the five LLC exam applications received, only one was acceptable for posting and scheduling the examinations; the remaining four required rejection for a variety of reasons. Of the 18 waiver applications, 10 were reviewed with only one found to be acceptable as submitted. The remaining nine applications were unacceptable, and must be rejected for various reasons.

A common reason for rejection is failing to list the LLC registration number provided by the California Office of Secretary of State (SOS). This number must be reported on the application. While some applicants left this area on the application blank, at least one stated the number is pending. Another common reason for rejection is that personnel listed on the application do not match in name and quantity with the personnel reported on the SOS records.

Also relating to the personnel, some of the applications must be rejected as staff is unable to confirm the name(s) and total count of LLC personnel. This is because SOS is experiencing a four-month delay in entering Statements of Information (SOI) into their database. Unfortunately, this backlog is beyond CSLB's control. The SOI information is required for processing the LLC application, as it provides staff with the current listing of the total number and names of LLC personnel/members/managers, which is crucial in determining the appropriate amount for the LLC liability insurance requirement (between \$1 million and \$5 million). SOS offers expedited 24-hour processing for the SOI for an additional fee.



Chief Ollinger stated she would continue to keep the committee updated on the progress of the new LLC program.

Board member Lisa Miller-Strunk and Chief Ollinger agreed that an industry bulletin posted on our website regarding the LLC processing requirements would be beneficial to prospective applicants.

Chief Ollinger reviewed the licensing transaction statistics and the statistics for the Criminal Background Unit (CBU). Since inception, CBU has received over 42,000 criminal histories, denied over 1,000 licenses—of which approximately 500 have appealed, and issued over 1,000 probationary licenses.

Chief Ollinger reported that lack of staff in the Licensing Information Center (call center) has led to much higher call wait times, as indicated in the statistics. On numerous occasions, the number of calls holding in the queue has reached the system maximum. When the call queue is maxed out, CSLB cannot receive any additional inbound calls. Additionally, after 5:00 p.m., although no inbound calls can be received, callers already waiting in the queue prior to the 5:00 p.m. shut-off time remain on hold. Staff has been forced to stay after hours in order to answer all the calls waiting in the queue. Recently, several staff had to stay until 5:30 p.m. to clear the queue. This poses a problem since staff is working more than eight hours and no overtime has been authorized. For this reason, the queues were closed at 4:30 p.m. on January 18, 2012; no additional callers could get in, allowing staff to wrap up calls by the end of their eight hour work day.

Chief Ollinger reviewed the Judgment Unit portion of the Licensing Program Update, commenting on the individual functions – processing of outstanding liabilities, judgments and bond payment of claims and the overall savings to the public achieved as a result of the monies CSLB staff assisted in collecting.

TESTING DIVISION UPDATE

Chief of Testing Heidi Lincer-Hill provided the Testing division update. She reported that the Testing division is dealing with nine staff vacancies, five in the Examination Administration Unit, and four in various test centers. In the test centers, one vacancy will be filled on February 1, 2012, with two awaiting approval. Because of the decline in applications, wait times for all test centers is currently at three weeks, with walk-in testing readily available. With the exception of some minor reconfiguration work at the Oxnard test center, the relocation and remodeling projects at all test sites is complete.

Projects currently underway within the Testing division are the occupational analysis of four classification examinations and the hazardous certification. The occupational analysis of the C-4 Boiler, Hot-Water Heating and Steam Fitting and C-21 Building Moving/Demolition classifications and the new examination for the C-54 Tile classification has been completed. Development and updating of nine other classification examinations is underway. Testing continues to use email surveys to collect occupational analysis information, which saves on staff time and resources.



Testing is using a hybrid survey model utilizing both email and the postal service to collect data for occupational analysis. Approximately 40 percent of CSLB contractors provide CSLB with an email address, which is used for surveying purposes; the remaining contractors are mailed surveys to ensure participants are not lost.

With the permission of the State Personnel Board and the Department of Consumer Affairs, Testing has worked on the occupational analysis, development of new test questions, and the administration of the Civil Service examination for the Enforcement Representative I classification. The new multiple choice examination has been successfully administered twice, once in June 2011 and again in December 2011.

The 2011 email Consumer Satisfaction Survey information is still being gathered. Testing hopes to have this full year of data compiled to report on at the June 2012 Board meeting.

LICENSURE FOR SOLAR/ALTERNATIVE ENERGY CONTRACTORS

As part of Licensing's ongoing research into solar/alternative energy, Board Member Joan Hancock, Licensing Chief Karen Ollinger and Enforcement Representative / Classification Deputy Rick Villucci recently visited a solar farm in Elk Grove. Mr. Villucci provided a PowerPoint presentation of the Belectric Solar Farm. Mr. Villucci's presentation included an overview of the visit to the solar farm, the construction of the farm and the pros and cons of using solar. Belectric, which went online December 2011, was engineered and built to generate enough electricity to power 30,000 homes. The life expectancy of the solar panels is 20 years.

SPECIAL PRESENTATION

Licensing Committee Chair David Dias and Enforcement Committee Chair Matt Kelly acknowledged Enforcement Representative/Classification Deputy Rick Villucci for his invaluable assistance in the development of the Interview Techniques Workshop used for investigator training, his numerous successful investigations that resulted in criminal convictions of unlicensed operators and transient criminals, and his participation in video clips used by CSLB staff for outreach events. Mr. Villucci was commended on a job well done.

ADJOURNMENT

Having no further business, the Licensing Committee meeting adjourned at 9:40 a.m.

AGENDA ITEM F-2

Licensing Program Update





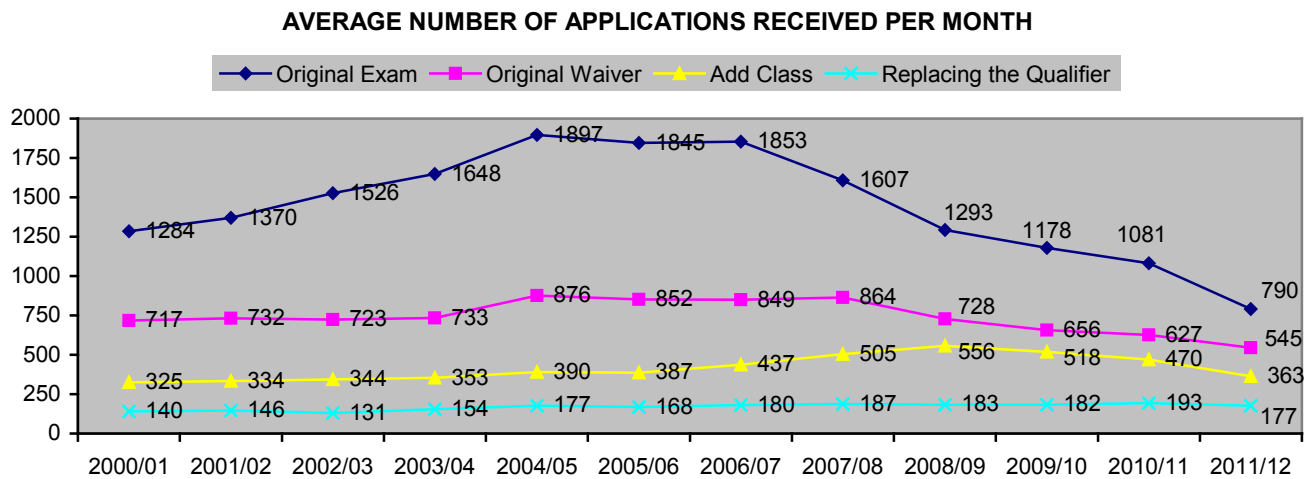
CONTRACTORS STATE LICENSE BOARD

LICENSING PROGRAM UPDATE

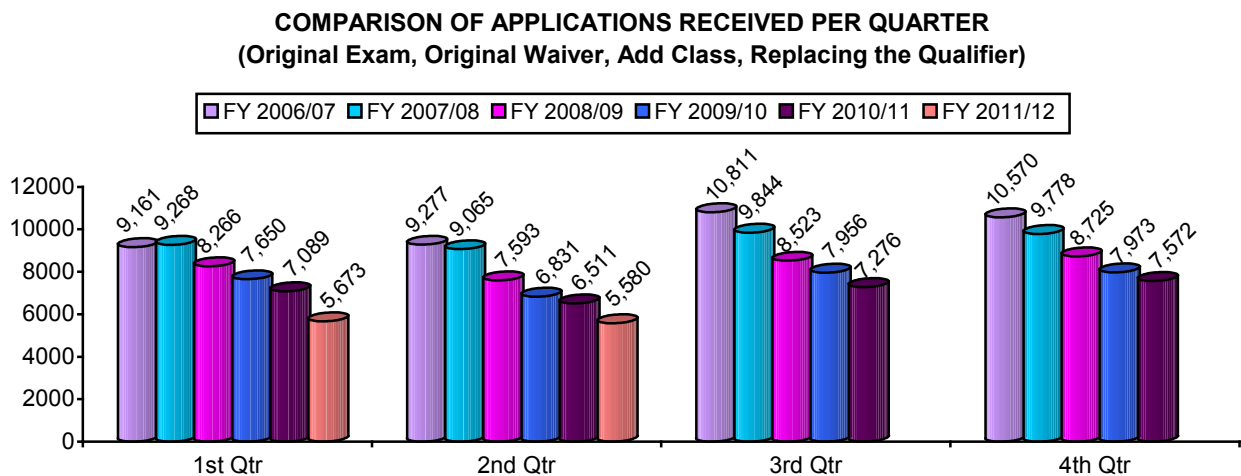
License Application Workload

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.



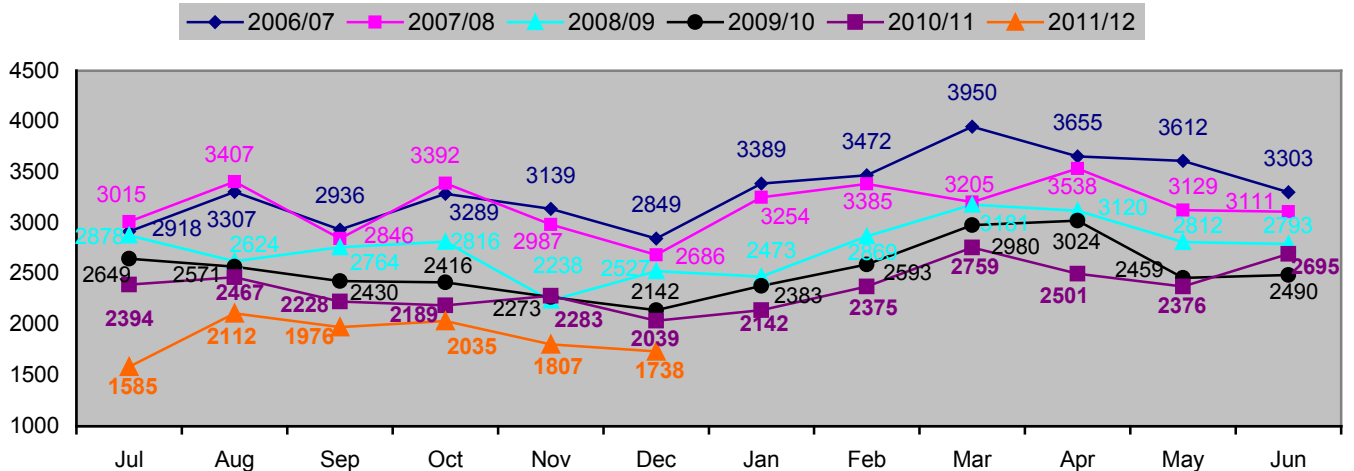
The following chart compares the total number of applications received by quarter for the past five fiscal years.



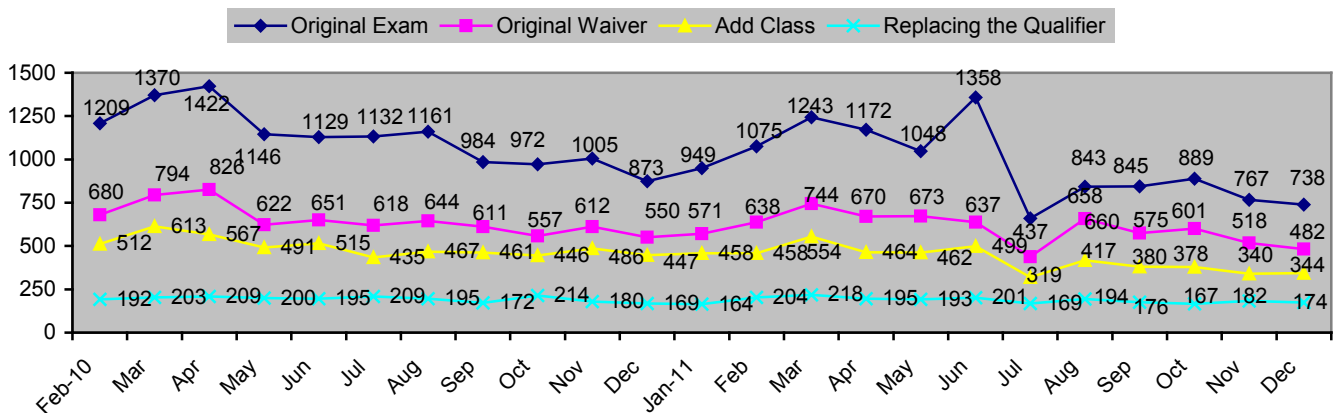
Decrease of 6.5% for total applications received for 2010-11 as compared to 2009-10



**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. This 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.

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 were recently revised (06/11 revision date) to reflect those new fees. The updated applications have been available on CSLB’s website since the end of June. Bulk quantities of the hardcopy applications were printed by the Office of State Publishing and were delivered to CSLB headquarters in mid- and late-July. Supplies are distributed to CSLB’s various field offices as needed.

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



2011 CSLB FEE INCREASES

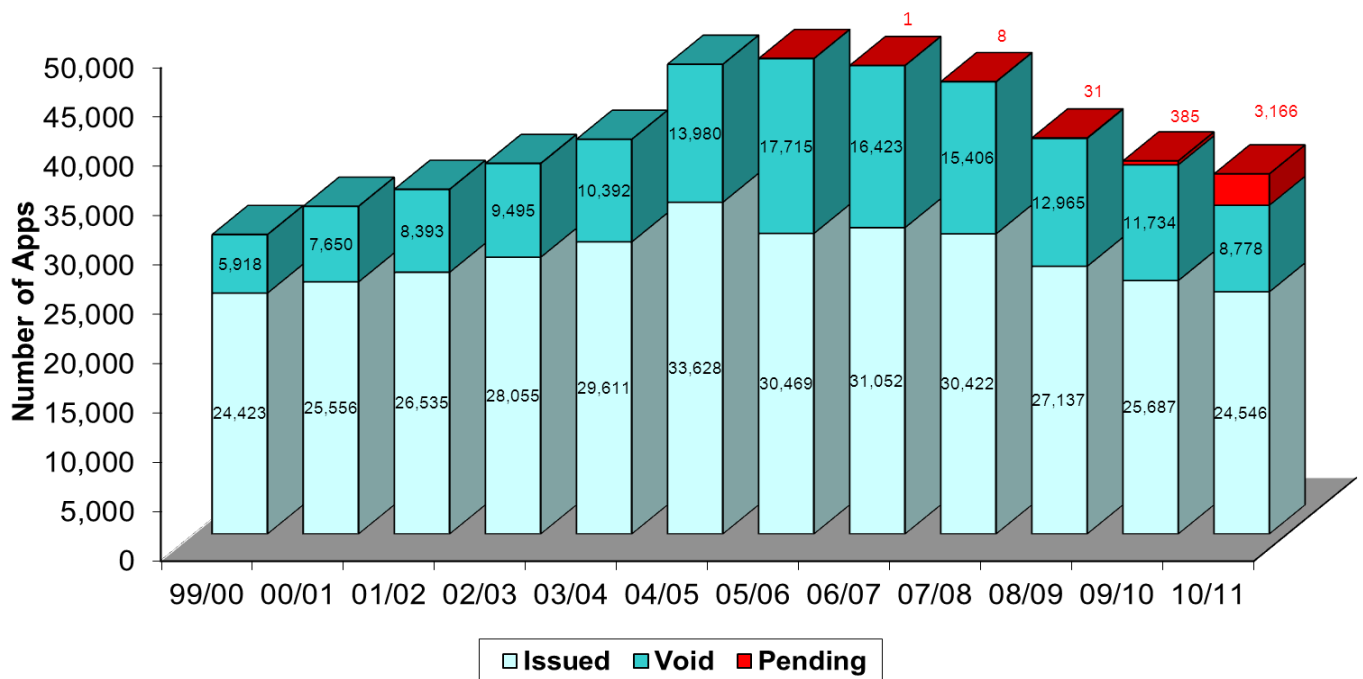
Fee	Previous Amount	New Amount	\$ Amount of Increase	% of Increase
Application for Original Contractor License	\$250.00	\$300.00	\$50.00	20%
Application to Add a Supplemental Classification or to Replace the Responsible Managing Officer or Employee on an Existing License	\$50.00	\$75.00	\$25.00	50%
Rescheduling 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 01/017/2012

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



License Transaction Processing Times

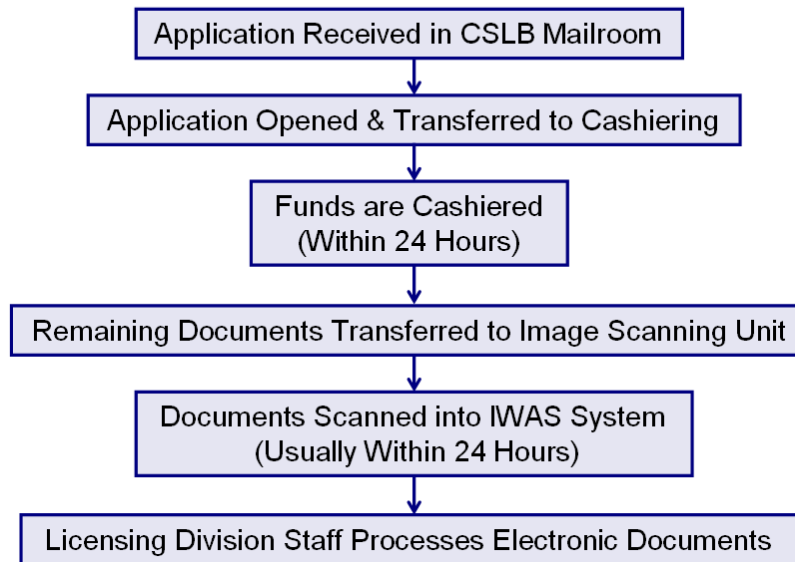
CSLB management continues to monitor processing times for the various units on a weekly and monthly basis. The charts on pages 14-16 track the “weeks to process” for the various application and license maintenance/transaction units.

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 in the Board office 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 into the timelines because of cashiering and image-scanning tasks that 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 the 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

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 that 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 251,000 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 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 December 2011, CBU denied 1,056 applications and issued 1,172 probationary licenses. Of the denied licenses, 520 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	10,241	251,148
CORI RAPP Received	949	8,410	8,057	6,484	6,253	5,254	5,201	2,166	42,774
Denials	224	219	237	88	76	63	108	41	1,056
Appeals	71	113	130	45	47	29	62	23	520
Probationary Licenses Issued	-	-	126	290	206	203	243	104	1,172

*Through December 31, 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 4:21 in December.

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

Interaction Supervisor 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.

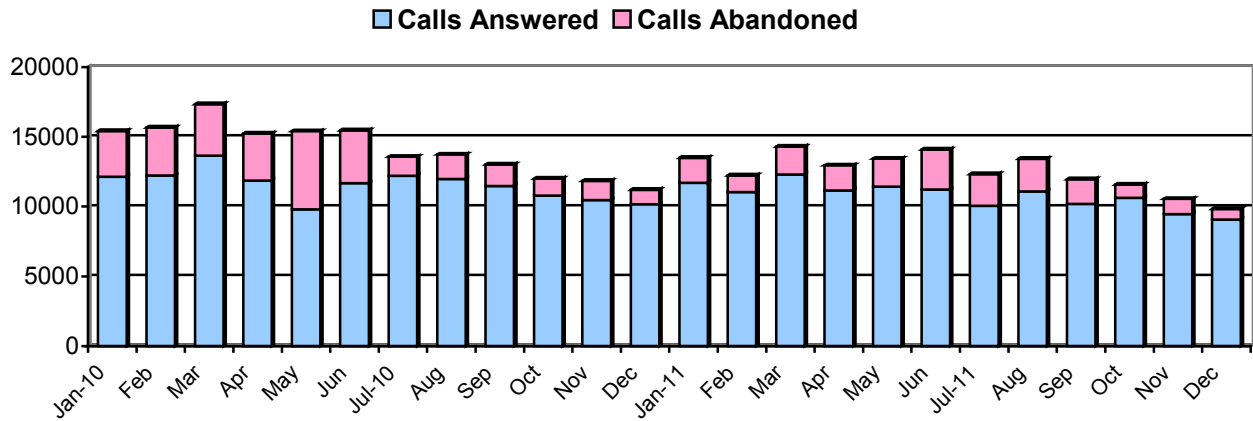
Increased Training

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



	Nov 2010	Dec	Jan 2011	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec 2011	
Calls Received	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	9,880	
Calls Answered	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	9,080	
Calls Abandoned	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	746	
Longest Wait Time	11:18	13:42	14:25	20:26	24:25	17:26	19:36	22:09	27:18	20:39	20:49	1	17:18	12:25	10:39
Shortest Wait Time	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	1:02	
Average Wait Time	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	4:21	



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.

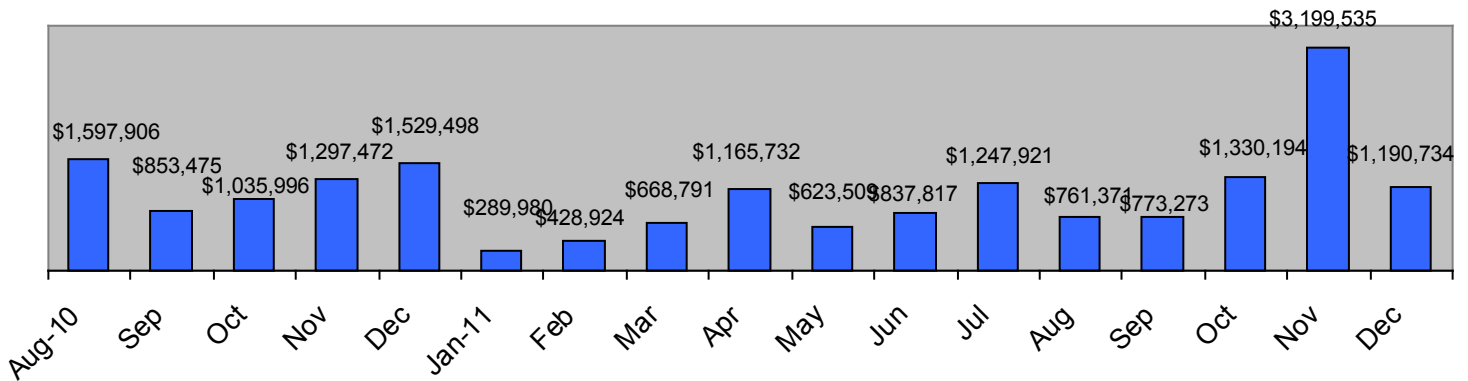
If compliance is not made within the allowed timeframe, the license is suspended and a suspend letter is sent to the contractor. A reinstatement letter is sent when compliance is met.



OUTSTANDING LIABILITIES

Letter Type Sent	Aug 2010	Sep	Oct	Nov	Dec	Jan 2011	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Initial	116	83	51	58	54	46	83	140	62	71	89	62	73	71	48	71	174
Suspend	59	75	92	68	88	54	52	50	30	104	56	36	57	56	64	42	89
Reinstate	64	38	31	37	31	15	40	91	70	84	59	28	38	52	41	32	117

SAVINGS TO THE PUBLIC

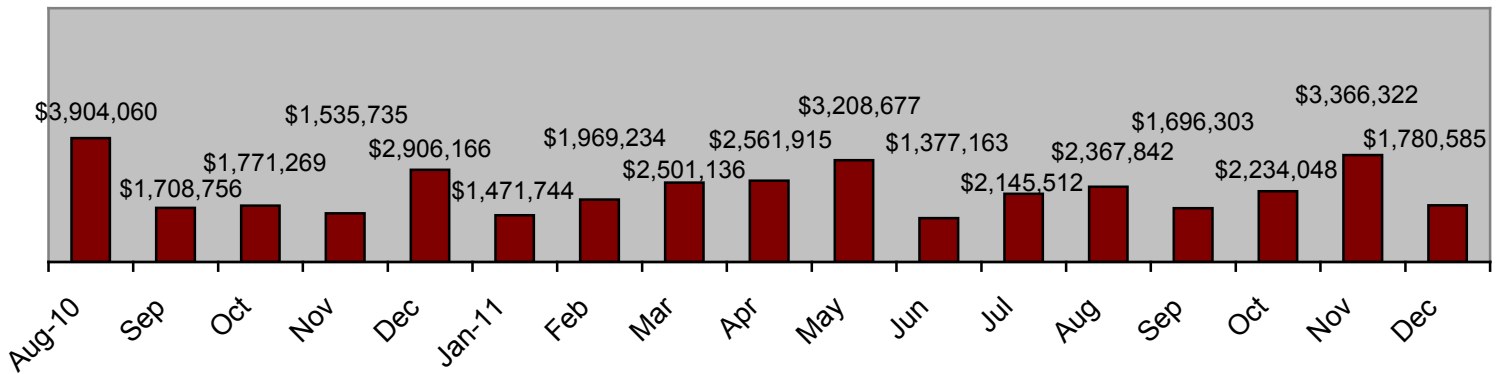




JUDGMENTS

Letter	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Initial	248	208	224	240	239	183	208	224	212	220	227	222	205	225	219	170	192
Suspend	103	124	94	126	78	89	91	109	84	84	77	92	114	82	84	81	93
Reinstate	177	163	151	184	162	98	154	191	165	165	135	131	186	145	162	132	127

SAVINGS TO THE PUBLIC

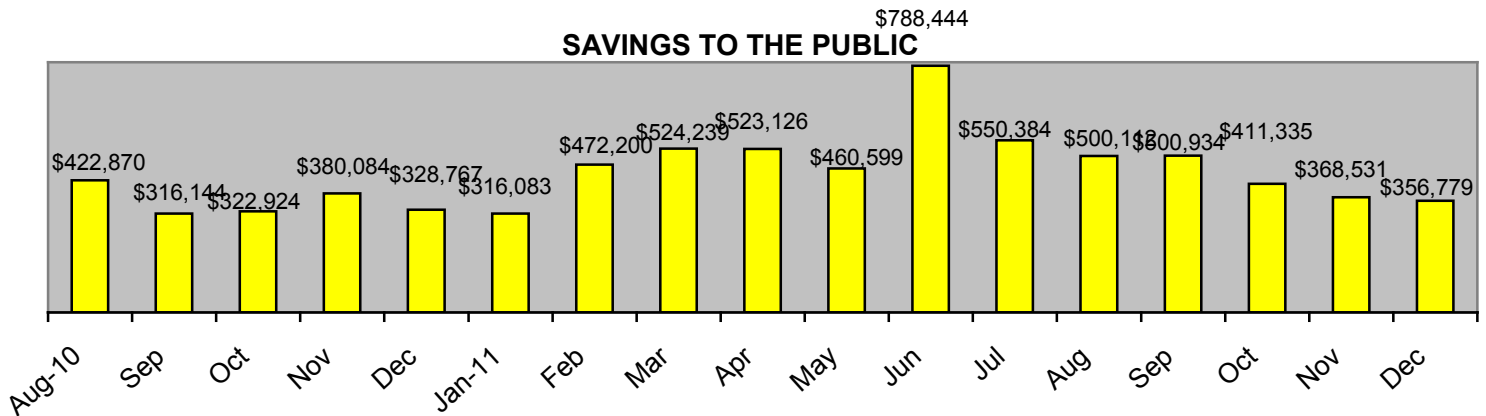




PAYMENT OF CLAIMS

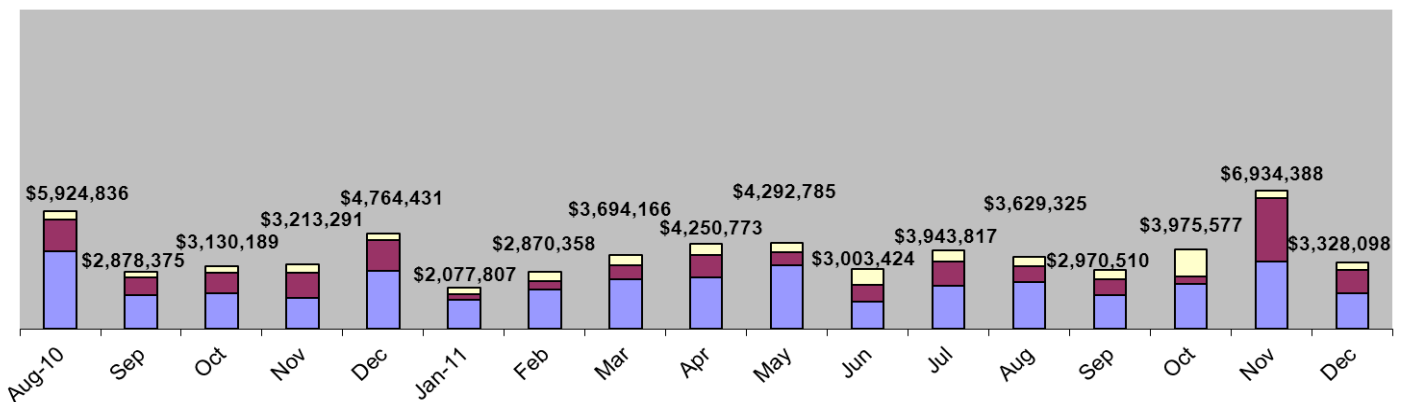
Letter	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Initial	189	114	93	149	310	218	205	251	220	213	234	188	177	120	224	155	152
Suspend	145	133	141	142	74	60	96	226	182	163	171	161	159	116	139	103	86
Reinstate	83	76	73	75	70	68	109	119	136	110	137	130	110	114	84	78	85

SAVINGS TO THE PUBLIC



TOTAL SAVINGS TO PUBLIC

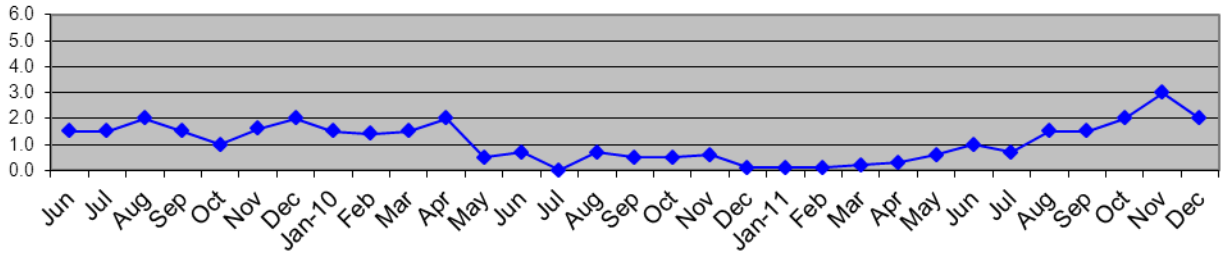
■ Judgments ■ Outstanding Liabilities □ Payment of Claims



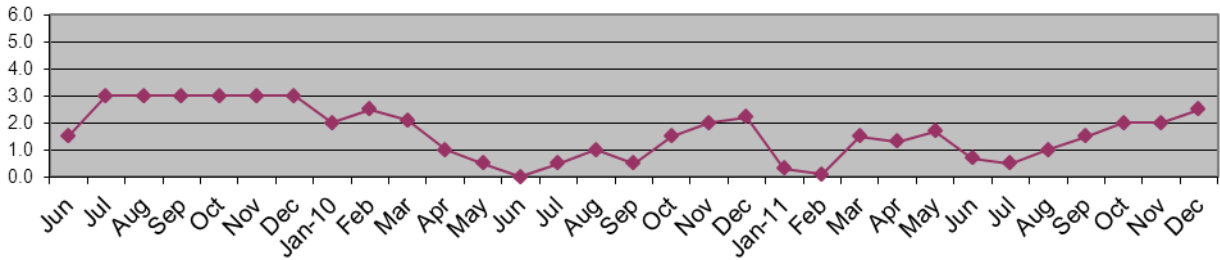


Number of Weeks Before Being Pulled for Processing

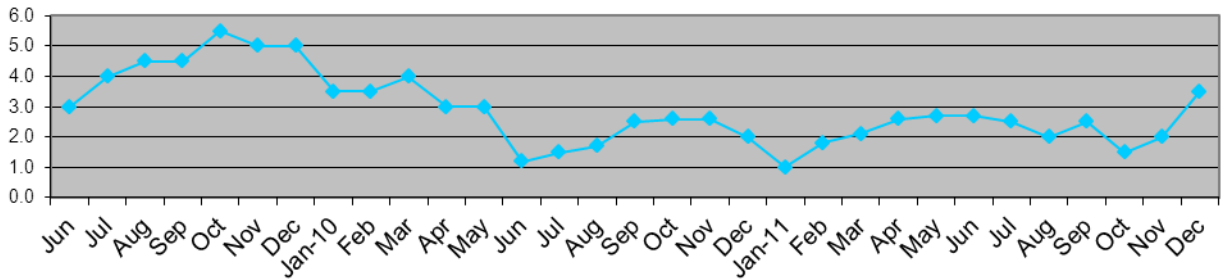
Application for Original License - Exam



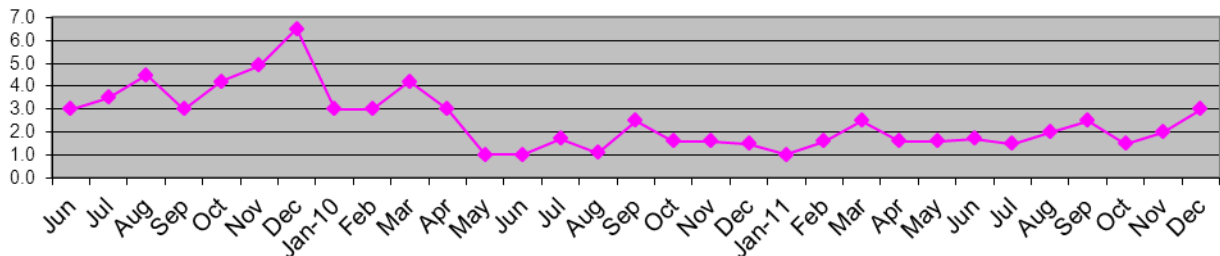
Application for Original License - Waiver



Application for Additional Classification



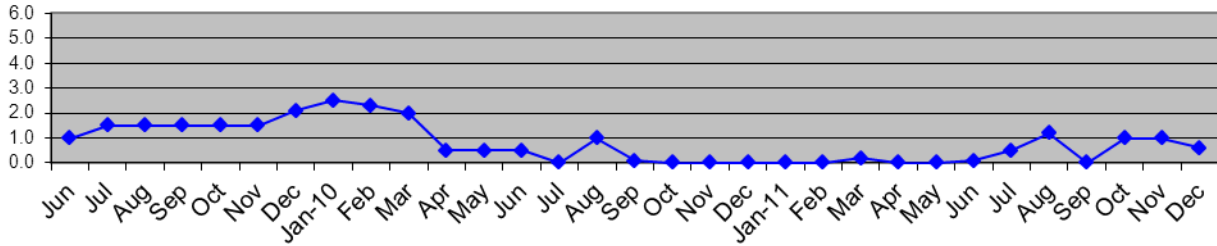
Application to Replace the Qualifier



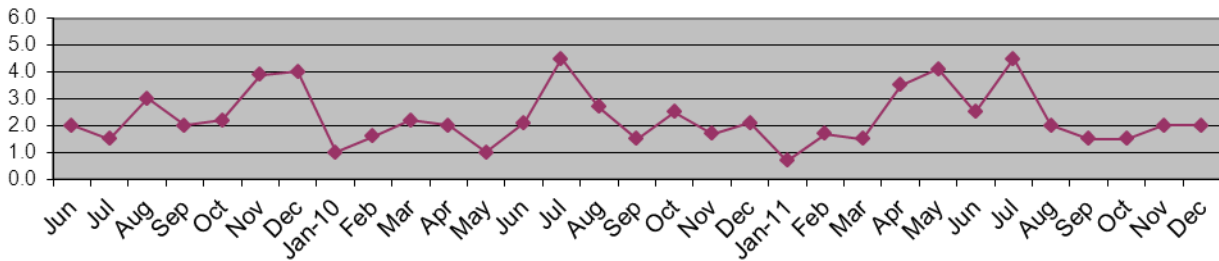


Number of Weeks Before Being Pulled for Processing

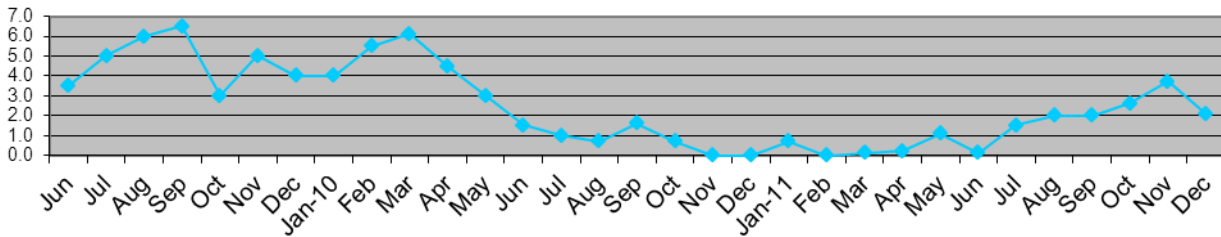
Application for Renewal



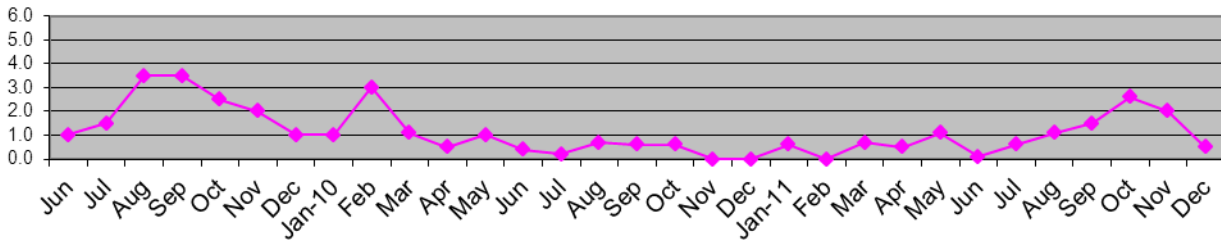
Home Improvement Salesperson (HIS) Application



Application to Report/Change Officers



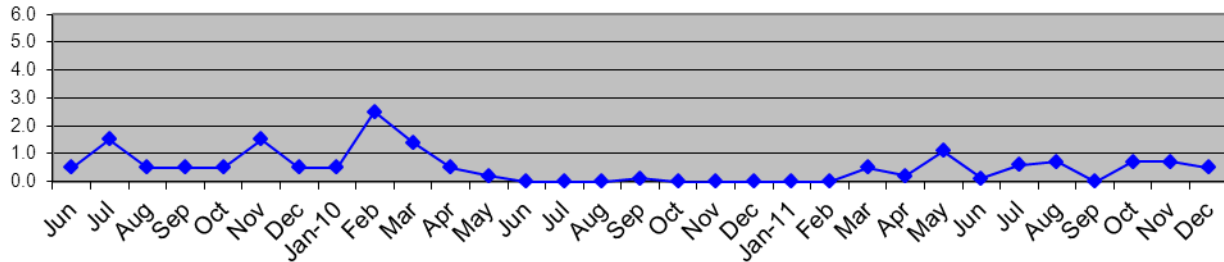
Application to Change Business Name or Address



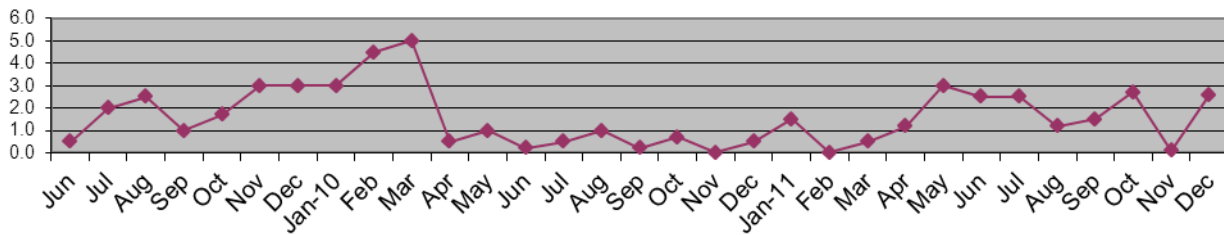


Number of Weeks Before Being Pulled for Processing

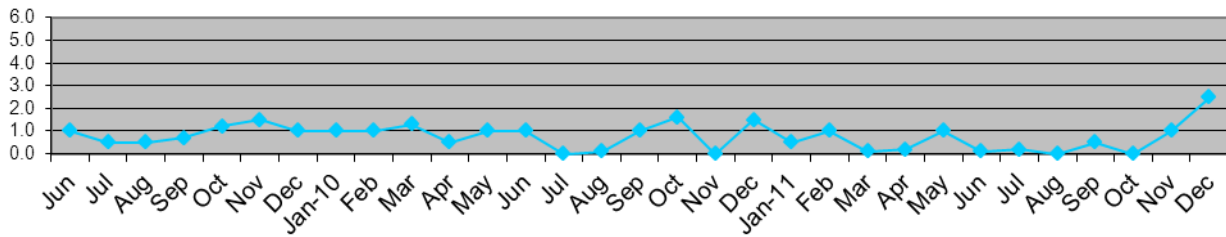
Contractor's Bond and Bond of Qualifying Individual



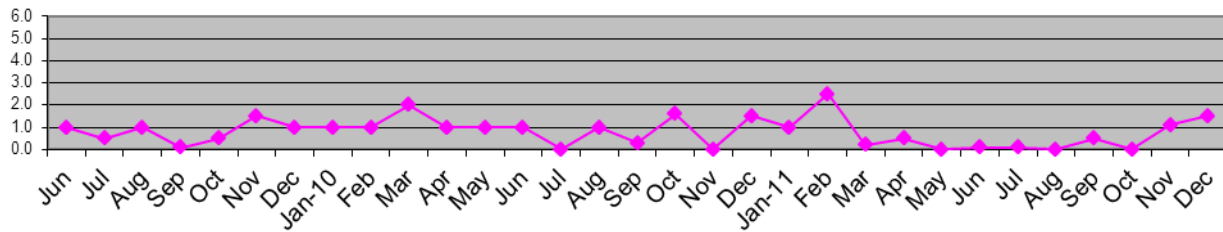
Workers' Compensation Certificates and Exemptions



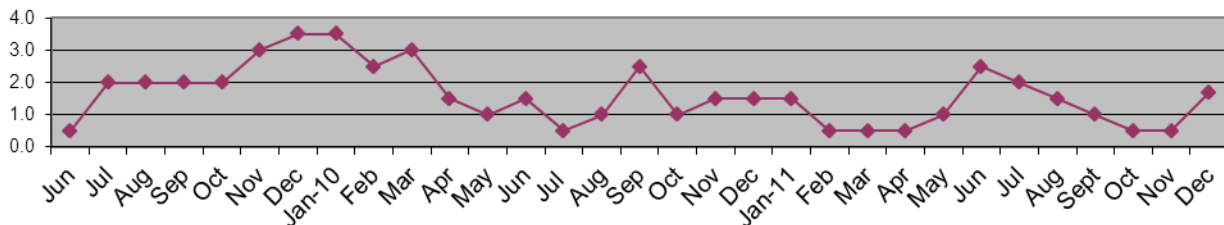
Certified License History



Request for Copies of Documents



Criminal Background Unit - CORI Review



AGENDA ITEM F-3

Testing Division Update





Staffing

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

During 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 starts February 1; the three remaining selections are pending DCA approval.

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 scheduled to be repainted soon.



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.

The EDU has recently completed new occupational analyses for the following classifications:

- C-4 Boiler, Hot-Water Heating and Steam Fitting
- C-21 Building Moving and Demolition
- C-47 Manufactured Housing

In addition, the EDU has completed new examinations for the following classifications:

- C-54 Tile
- C-9 Drywall
- C-12 Earthwork and Paving

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-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-16 Fire Protection
- C-21 Building Moving and Demolition
- C-31 Construction Zone Traffic Control
- C-47 Manufactured Housing
- 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 Office of Human Resources, the CSLB Personnel Unit, the CSLB Information Technology division and the CSLB Testing division.

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

There were no problems during the examination administration or during the transfer of information from CSLB back to DCA in order for the applicants to receive their results. The examination was successfully administered again on December 6, 2011, to 161 applicants, and the goal is for CSLB to continue to administer it twice per 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 for consumers whose complaints were closed in December were recently sent.

AGENDA ITEM G

Public Affairs Committee Report



AGENDA ITEM G-1

Public Affairs Program Update





CONTRACTORS STATE LICENSE BOARD

PUBLIC AFFAIRS PROGRAM UPDATE

The Contractors State License Board's (CSLB) Public Affairs Office (PAO) is responsible for media, industry, licensee, and consumer relations for CSLB. PAO provides a wide range of services, including proactive public relations and paid advertising campaigns; response to media inquiries; community outreach, including Senior Scam StopperSM and Consumer Scam StopperSM seminars, special events, and speeches to service groups and organizations; publication and newsletter development and distribution; contractor education and outreach; and employee relations.

STAFFING UPDATE:

PAO current has five full-time positions, plus one Retired Annuitant (Wellness Coordinator) and one Student Assistant (general office duties/social media/newsletter writing and coordination).

The other Information Officer I position (Publications Coordinator) has been put on-hold as part of CSLB's 5% workforce cap reduction and will not be filled.

PAO is awaiting approval to hire an additional Retired Annuitant to assist on several projects. A selection was made and the request was sent to DCA for hiring approval on December 14, 2011.

WEBSITE HIGHLIGHTS:

Website Assistance Project

Starting in September, PAO remains responsible for preparing all press releases, industry bulletins, and various other items for posting on CSLB's website. IT staff is still responsible for double-checking PAO's work, then actually uploading the material to the website. This assures timelier posting to the website, providing links for use on CSLB's social media websites. Between December 12, 2011 and January 24, 2012, PAO staff coded 10 items for web posting.

Social Media

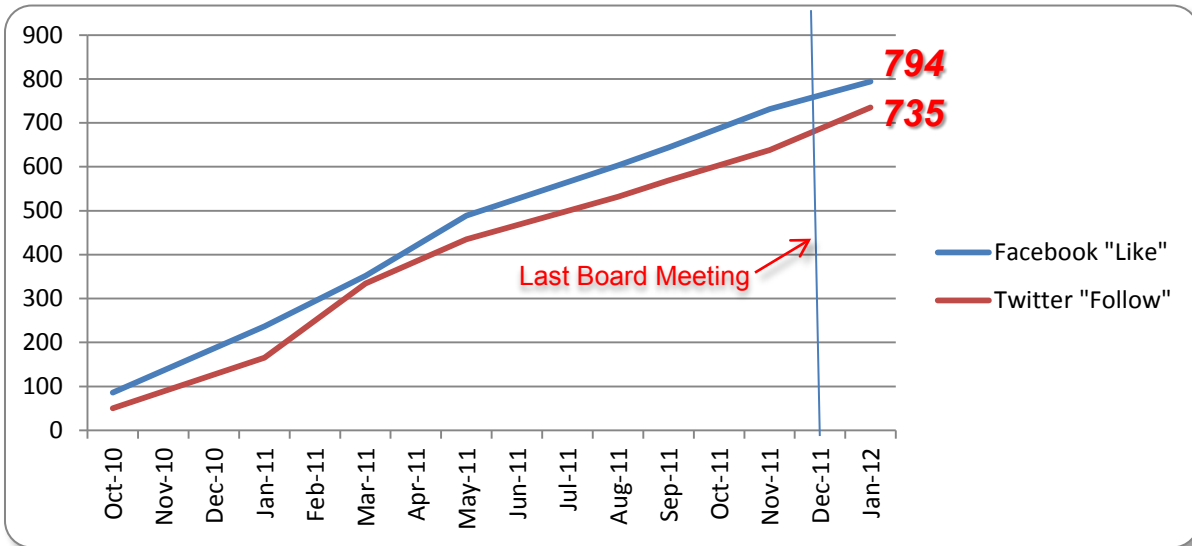
CSLB continues to gain followers of its Facebook and Twitter pages. PAO staff continues to monitor demographic data and track the number of "likes" and "followers," which generally increase on a daily basis. As of January 24, 2011, 794 individuals, businesses or other government entities of all types "like" CSLB's Facebook page and 734 are "following" CSLB on Twitter.

Most followers of both pages are contractors or in fields aligned with the construction industry. The most liked and talked about posts on Facebook tend to be those regarding enforcement actions, which the industry likes to see and tends to share or retweet, as well as comment on or "like" said posts. From December 12, 2011 to January 24, 2012, PAO posted 18 items to Facebook and 20 to Twitter.

In addition, PAO maintains a YouTube page. The latest video posted on this page, as of January 24, 2012, was the Senior Scam StopperSM seminar conducted with Senate President Pro Tempore Darrell Steinberg. The video was promoted on Facebook and Twitter and received positive feedback on those sites. Archived streams of past quarterly Board meetings are also posted on CSLB's YouTube page.



Facebook "Likes" & Twitter "Followers"



Email Alert Feature

PAO continues to publicize a website feature launched in May 2010 that allows people to sign up to receive up to four different email alerts from CSLB.

Subscribers can receive alerts for:

- California Licensed Contractor newsletter
- Press Releases/Consumer Alerts
- Industry Bulletins
- Public Meeting Notices/Agendas

A total of 14,120 subscriptions were activated as of January 25, 2012, an increase of 950 since the December Board meeting. Each of the four lists is growing at about the same rate, with the greatest number of subscribers to Newsletters, followed by Industry Bulletins, Press Releases, and Meeting Notices.



e-mail alerts

Please enter your information to sign up for a CSLB Mailing List:

Email address:

First name:

Last name:

Select the list you would like to subscribe to:

California Licensed Contractor Newsletter

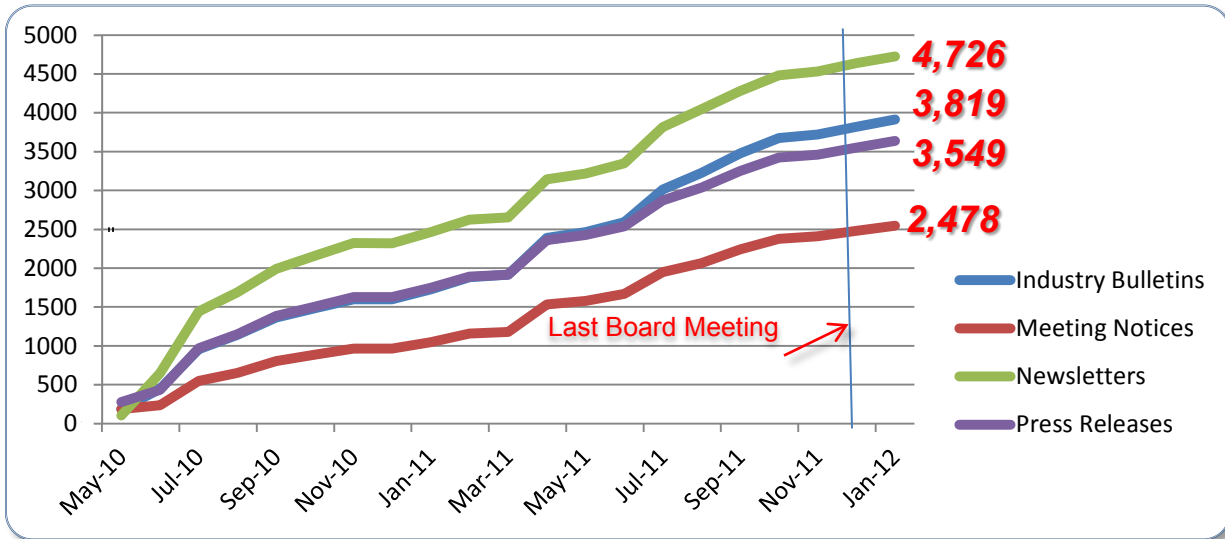
Press Releases/Consumer Alerts

Industry Bulletins

Public Meeting Notices/Agendas.



Email Alert Sign-Up Numbers



Email Registration on Applications/Renewals

PAO will again work closely with the Information Technology (IT) division to import a new list of email addresses voluntarily submitted on license applications and renewal forms. The first import of 78,487 active email addresses was completed in March 2011.

Combined, CSLB's email database now consists of 93,556 addresses.



MEDIA RELATIONS HIGHLIGHTS:

Media Calls

Between November 7, 2011 and January 25, 2012, PAO staff responded to 16 separate media inquiries and provided interviews to a variety of newspaper, radio, and television outlets.

A sample of media clips follows this report.

Press Releases

PAO continued its policy of aggressively distributing press releases to the news media, especially to publicize enforcement actions and undercover sting operations. Between November 7, 2011 and January 25, 2012, PAO distributed eight press releases.

Date	Press Release Title
November 16, 2011	Changing Your HVAC System? Don't Forget Permits
November 22, 2011	San Jose Undercover Operation Turns up a Dozen Unlicensed, Uninsured Operators Contracting for Home Improvement Projects
December 2, 2011	Gusty Winds Don't Slow Down CSLB Undercover Sting in San Joaquin County
December 2, 2011	Contractors State License Board Encourages Vigilance When Making Wind Storm Repair
December 30, 2011	Homeowner Protection and Responsibility to Increase in the New Year
January 18, 2012	CSLB Fresno Sting Sends 21 to Court for Ripping Off Consumers
January 20, 2012	CSLB and Partners Put Freeze on Unlicensed Home Improvement Contracting
January 23, 2012	Scammer on Felony Probation Snared in CSLB Sting

San Francisco District Attorney's Office Press Events

On December 16, 2011, PAO staff participated in a press event conducted by the San Francisco District Attorney Office. The event announced the sentencing of an unlicensed operator who failed to pay Chinese and Spanish-speaking day laborers and ripped off consumers of tens of thousands of dollars while fraudulently using a contractor license number issued to another person with the same name. PAO participated in a similar press event in April when the suspect was arrested.



DISASTER OUTREACH HIGHLIGHTS:

While no major disasters struck California since the last Board meeting, PAO has continued to support efforts to assist the National Association of State Contractor Licensing Agencies' (NASCLA) Resource Committee in developing model program materials that can be used by states around the country as part of disaster response.

The Nevada State Contractors Board has already successfully put pieces of CSLB's disaster response plan into action, following two recent wildfires in the Reno area.

PAO is also providing assistance to NASCLA as it develops of a model program to address elder abuse.



INDUSTRY/LICENSEE OUTREACH HIGHLIGHTS:

California Licensed Contractor Newsletter

The fall 2011 edition of the licensee newsletter, *California Licensed Contractor*, was posted online in December. The spring 2012 edition begins production in February.

Industry Bulletins

PAO continues to alert industry members to important and interesting news by distributing Industry Bulletins. Bulletins are sent out via email on an as-needed basis to a group of more than 3,800 people and groups. This includes those who signed up to receive the bulletins via CSLB's new Email Alert system. Between November 9, 2011 and January 25, 2012, three Industry Bulletins were distributed.

Date	Industry Bulletin Title
November 4, 2011	Contractors State License Board Warns Licensees to Be Aware of Misleading Business Solicitations
December 29, 2011	Training Available for New Public Works Project Requirements
December 29, 2011	New Year Means New Laws for Licensees



PUBLICATION HIGHLIGHTS:

2012 Contractors License Law & Reference Book

PAO is currently awaiting final copy of the 800+ page law book. Delays with the publisher have pushed back the release date until early March.

CSLB Publications

Between November 9, 2011 and January 25, 2012, several publications were completed, moved into production, or are being reviewed and designed.

Completed Publications

- CSLB Matters – Employee Newsletter (Online Only)
- California Licensed Contractor Newsletter (Online Only)
- January 2012 Licensing/Enforcement Committees Meeting Packet
- February 2012 2011 Board Meeting Packet
- 2011 Accomplishments & Activities Report
- 10 Tips Cards (English/Spanish Reprint)

Other Publications in Progress

- Stop Order Brochure (New)
- 10 Tips Cards (English/Chinese Reprint)
- Master Consumer Publication (New)
- Master Contractor Publication (New)
- Sting Brochure (New)

COMMUNITY OUTREACH HIGHLIGHTS:

Senior Scam StopperSM Seminars

Interest in Senior Scam StopperSM seminars increased since a promotional/informational brochure and letter was sent to each legislator last September. The letter was personalized and showed elderly population statistics in the legislators' districts.

In addition to providing information about construction-related scams and how seniors can protect themselves when hiring a contractor, Senior Scam StopperSM seminars feature expert speakers from many local, state, and federal agencies, who present broader topics, including identity theft, auto repair fraud, and investments scams.

Governor Brown's Executive Order B-06-11 put travel restrictions in place for all non-enforcement activities, including Senior Scam StopperSM seminars. CSLB will continue to schedule seminars, and request travel exemptions in order to deliver these fraud-prevention presentations. To date, all travel requests have been approved.





The following seminars have been conducted or scheduled since the last Board meeting:

Date	Location	Legislative Partners
December 6, 2011	Pomona	Sen. Gloria Negrete McLeod
January 13, 2012	Sacramento	Sen. Darrell Steinberg
January 20, 2012	Fremont	Asm. Bob Wieckowski
January 25, 2012	Fresno	Asm. Henry Perea
January 27, 2012	Sacramento	Sen. Darrell Steinberg
February 3, 2012	Compton	Sen. Roderick Wright Asm. Isadore Hall
February 6, 2012	Pleasanton	Asm. Mary Hayashi
February 8, 2012	Castro Valley	Asm. Mary Hayashi
February 10, 2012	Inglewood	Sen. Roderick Wright
February 17, 2012	San Rafael Area	Asm. Jared Huffman
February 23, 2012	Los Angeles Area	Asm. Felipe Fuentes
March 9, 2012	Los Angeles/Ventura	Sen. Fran Pavely
March 23, 2012	San Rafael Area	Asm. Jared Huffman

Speakers Bureau

CSLB speakers continue to be in demand. Since more requests are for enforcement-related topics, most of the requests are being accommodated by utilizing enforcement staff. Since the start of 2012, more than one dozen presentations or appearances have either been made or have been scheduled.

EMPLOYEE WELLNESS HIGHLIGHTS:

PAO coordinates the Employee Wellness programs at the main headquarters office in Sacramento and southern headquarters in Norwalk. Wellness program events provided since the last Board meeting in December include:

- Auto Maintenance Presentation
- Yoga and Zumba Classes
- Free Farmers Market



Scammer on Felony Probation Snared in CSLB Sting

January 24, 2012

SACRAMENTO – Revoked Contractors State License Board (CSLB) licensee Brian Gross, 48, of Valley Springs, is back in the Amador County jail, this time with no bail. Gross was one of ten individuals caught in CSLB's Statewide Investigative Fraud Team's (SWIFT) undercover sting operation at a Pine Grove home on January 19, 2012. The sting was conducted with investigators from the Amador County District Attorney's office...

Gross is no stranger to SWIFT. Investigators from SWIFT and the Amador County DA's office arrested him on October 1, 2010. He pleaded guilty to one felony count of fraudulent use of a contractor license number and one misdemeanor count of failing to purchase workers' compensation insurance for employees on March 2, 2011, and was sentenced to four years felony probation on May 5, 2011. CSLB revoked his general contractor license on June 1, 2010, for failure to pay administrative citations issued for asking for excessive down payments, failing to secure building permits, and other violations of contracting law. State law prohibits asking for or receiving a down payment larger than 10 percent of the contract price or \$1,000, whichever is less.

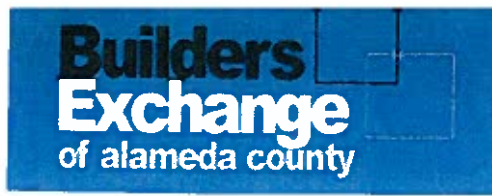
Brian Gross arrested January 19, 2012. Investigators, posing as homeowners, sought bids for general construction and painting projects at the multi-level house on seven acres. The ten who bid more than the legal threshold of \$500 for labor and materials will appear in court for contracting without a license. They will face an additional misdemeanor charge for illegal advertising. State law requires contractors to place their license number in all advertisements. Those who do home improvement jobs valued at less than \$500 may advertise, but their ads must state that they are not a licensed contractor.

"Hopefully Mr. Gross and the others caught at the Pine Grove sting get the message that CSLB and the Amador County DA's office take the state's consumer protection laws very seriously," said CSLB Registrar Steve Sands. "California homeowners considering hiring a contractor should review Ten Tips to Make Sure Your Contractor Measures Up to familiarize themselves with contracting laws and their rights as consumers. Before signing a contract, they should consult CSLB's online instant license check to ensure the contractor has a valid license and workers' compensation insurance if they have employees."

CSLB urges consumers to follow these tips before hiring anyone to work on their home:

- Hire only licensed contractors and ask to see their license and a photo ID to verify their identity.
- Always check the license number on CSLB's website at www.cslb.ca.gov or www.CheckTheLicenseFirst.com to make sure the license is in good standing.
- Don't pay more than 10 percent or \$1,000, whichever is less, as a down payment. There is an exception for about two dozen licensees who carry special bonds to protect consumers. These exceptions are noted on CSLB's website.
- Don't pay in cash, and don't let payments get ahead of the work.
- Get at least three bids, check references, and get a written contract.

The Contractors State License Board operates under the umbrella of the California Department of Consumer Affairs. More information and publications about hiring contractors are available on the CSLB website or by calling 800-321-CSLB (2752). You can also sign up for CSLB email alerts. CSLB licenses and regulates California's 300,000 contractors, and is regarded as one of the leading consumer protection agencies in the United States. In fiscal year 2010-11, CSLB helped recover nearly \$45 million in ordered restitution for consumers.



Kalb's Q&A for Contractors - CSLB's Proactive Enforcement Aimed at the Underground Economy

By David Kalb

January 23, 2012

We have been busy at Capitol Services helping contractors discover new opportunity in Nevada and Arizona, a 'rush' that is reflected in recent news of their leading the nation in state population growth over the last decade. Meanwhile, licensed contractors may find greater opportunity within the borders of California as government focuses on creating a 'level' playing field by cracking down on the unlicensed operators 'bending' the rules...

The CSLB Enforcement Committee met in Sacramento last week to discuss a wide variety of topics related to contractors and the construction industry. Of particular note was their emphasis on increasing proactive enforcement aimed at the underground economy.

The Contractors Board will be stepping up partnering with other state agencies including the Employment Development Department (EDD) and Department of Industrial Relations (DIR), among others. The focal point will be the newly created DIR Labor Enforcement Task Force (LETF), which was launched on January 1st. According to the DIR, "this 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, Contractor's State License Board, Board of Equalization, and the Bureau of Automotive Repair. "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". The goals of the task force will be to:

- 1) Ensure workers receive proper payment of wages and are provided a safe work environment;
- 2) Ensure California receives all employment taxes, fees, and fines due from employers;
- 3) Make efficient use of state and federal resources in carrying out the mission of the Labor Enforcement Task Force; and
- 4) Eliminate unfair business competition by 'leveling the playing field' so that employers who comply with the law do not have to compete with employers who break the law.

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

According to the DIR, and echoed by the CSLB, 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 (or under-reporting) Workers Compensation coverage; not paying proper wages; and not registering for required licenses or permits. These underground operators subsequently pay lower overhead costs, which give them an unfair competitive advantage over legitimate, law-abiding businesses.

In addition to discussing the goals of the LETF, the Enforcement Committee heard from the Chief of EDD's Compliance Development Operations, Dan Kurttila, who emphasized their commitment to the construction industry and the Board's strategic objective to combat the underground economy.

Like the 'synching' on your individual mobile, computer or server, State government networks are talking, 'pushing' data sharing and improving the odds unlicensed contractors will be caught in California.

THE SACRAMENTO BEE

Ten caught in sting accused of contracting without a license

By Cathy Locke

January 23, 2012

One person was arrested and nine others received notices to appear in court during a recent Contractors State License Board sting operation in Amador County.

The undercover operation was conducted Friday at a Pine Grove home by the board's Statewide Investigative Fraud Team and investigators from the Amador County District Attorney's Office.

Investigators, posing as homeowners, sought bids for general construction and painting projects at a multilevel house on 7 acres. The 10 people who bid more than the legal threshold of \$500 for labor and materials will be required to appear in court for contracting without a license, according to a Contractors State License Board news release. They also face an additional misdemeanor charge for illegal advertising.

State law requires contractors to place their license number in all advertisements. Those who do home improvement jobs valued at less than \$500 may advertise, but their advertisements must state they are not a licensed contractor.

Arrested in Friday's sting was Brian Gross, 48, of Valley Springs. He was previously arrested by the fraud team and Amador County District Attorney's Office in October 2010, and pleaded guilty to one misdemeanor count of fraudulent use of a contractor license number and one misdemeanor count of failing to purchase workers' compensation insurance for employees. He was sentenced in May 2011 to four years of felony probation, officials said.

In June 2010, the Contractors State License Board revoked Gross' general contractor license for failure to pay administrative citations issued for asking for excessive down payments, failing to secure building permits and other violations of contracting law, according to the news release. State law prohibits asking for or receiving a down payment exceeding 10 percent of the contract price, or \$1,000, whichever is less.

Receiving notices to appear for allegedly contracting without a license and illegal advertising are Ruben Cervantes, 44, of Placerville; Kenneth Jerrell McCloud, 65, of Pioneer; Richard Paul Reinoehl, 60, of Pine Grove; Benjamin Joseph Smith, 22, of Pine Grove; James Theo Cerles, 63, of Shingle Springs; Steven David Garrett, 53, of Sutter Creek; and Kenneth Lawrence Griffin, 53, of Pine Grove. All submitted bids for general construction work.

Also receiving notices to appear are Matthew Martin Pederson, 28, of Rancho Cordova, who bid on tree services, and Luis Fernando Leyva-Martinez, 36, of Placerville, who bid on painting work, according to the news release.

All are scheduled for arraignment March 19 in Amador County Superior Court.

Before signing a contract, consumers are advised to check the Contractors State License Board's website at www.cslb.ca.gov or www.CheckTheLicenseFirst.com to make sure the contractor has a valid license and worker's compensation insurance if the contractor has employees.

Hiring a contractor? Ask to see a license!

Matt Le Vesque,
January 20, 2012

If you've been driving a car for a while, chances are pretty good that you have received a traffic ticket at some point. This isn't a very fun thing for most people. When you get a ticket, you have two choices; pay it (or pay to go to traffic school) or fight it.

If you pay it, you essentially are saying that you are guilty. And then you have two more choices. You can change your attitude and your behavior, which means you drive differently. Or you can just change your behavior, which means you just try not to get caught anymore.

Well, this is the same thing that happens when the Contractors State License Board (CSLB) busts people in the contracting business.

In a recent undercover sting operation, CSLB investigators posed as homeowners to get bids for various home improvements. As a result, 21 people were caught violating various state laws, including taking excessive down payments, using someone else's license, or contracting without a license.

Let's take these one by one.

The law says that a contractor can not ask for more than ten percent or one thousand dollars, whichever is less. I can sometimes see that a contractor has a busy schedule and wants to get people to commit by asking for a down payment. However, I would suggest that most contractors need to seriously consider just avoiding this all together.

If I was a homeowner that was considering a contract, I would steer away from someone who wants a down payment. It's cheesy. Speaking of cheesy, you wouldn't make a down payment when you order a pizza, right? Okay, maybe not the best example, but I hope we all get the point. Down with down payments. Include a down payment as the first payment, after you've received permits or something.

Next, we have a case where someone is using someone else's license. Well, I started this off by mentioning traffic tickets, so what do you think would happen if you used your friend's driver's license when you drove around town. Or, what would you think if I "borrowed" my doctor's license to do some minor surgery for you?

No way, right? The whole point of a license is to make sure someone has some level of training, experience, and, most importantly, accountability.

Using someone's license is, in my view, as bad as not having a license to begin with. If you are a guy who contracts without a license then you better consider what you're doing.

Would you allow your kid to drive a car if they didn't have a license? Would you take your child to an unlicensed doctor or an unlicensed dentist? I hope your answer is, "No."

If not, I hope you don't have any kids!

What's got me on a rant about this so early in the morning is the fact that more than one of the people caught in this sting have been caught before. And what is aggravating is that this type of thing goes on all over the state all the time. The issue here is that some of these people are not changing their attitudes.

One of the guys who was caught was caught twice in 2010. Another guy was arrested on an outstanding warrant for not showing up the last time he was arrested for contracting without a license.

Here's the clincher. One of the fellows who was arrested in this sting was a registered sex offender. Of course, he didn't have a license. And, if you check almost all of the stories about these sting operations, you very likely will find that many of these stings result in the arrest of sex offenders or criminals with warrants.

Now, I'm not saying that every unlicensed person posing as a contractor is a registered sex offender or other criminal.

But what is a fact is that you have to submit fingerprints to the FBI and Department of Justice to get a contractor's license and if you don't have a license ... well, then, I guess there's no way to know for sure, is there?

Being a scofflaw leads to problems. You may not like all the laws we have and you may not want to follow some of them but I'm sure you can understand why there are some rules in our society.

There are no laws to stop you from contracting with an unlicensed person. You won't pay any fines or face jail. But there are laws to stop people from taking advantage of you. If you don't want to take advantage of the protection, that's your call. My suggestion is to only drive with a valid driver's license and to check contractors for theirs!

Sting nabs unlicensed contractors

January 19, 2012

The Contractors State License Board's Statewide Investigative Fraud Team has arrested 21 unlicensed contractors in a sting operation at a Fresno County home near Fig Garden.

The sting, that took place on Jan. 11-12, found contractors that were allegedly charging excessive up-front payments. The Fresno District Attorney's Office, Employment Development Department, California Highway Patrol and Fresno Police Special Investigations Bureau assisted in the two-day operation. Tips from the California Better Business Bureau as well as suspected print and online advertisements helped identify the illegal operators, a release from the Contractors State License Board reported.

Investigators posed as homeowners, contacted the suspected non-licensees seeking bids for plumbing, painting, tree trimming, fencing, landscaping and general construction projects.

The 21 suspects who bid more than \$500 for labor and materials received notices to appear in court for contracting without a license in violation of California Business and Professions Code section 7028. Contractors are also required to place their state contractor license number in all advertisements.

Of the 21, 16 individuals solicited more than the legal down payment amount of 10 percent of the contract price. The district attorney will also charge five of the sting suspects for failure to have workers' compensation insurance coverage for their employees.

Two suspects are not strangers to the license board. Hilario Ortiz, 52, of Larry's flooring and Home Repair in Fresno was caught in two stings in 2010. James Lawrence Campbell, 40, of Fresno, had an outstanding warrant for not showing up for sentencing after entering a plea of contracting without a license and illegal advertising in a prior case.

Ouch! State's sting nabs 21 in Fresno

January 19, 2012

- Accused of ripping off consumers
- Unlicensed, uninsured construction activity targeted

A two-day undercover sting operation at a Fresno County home near Fig Garden earlier this month resulted in 21 contractors being cited, the Contractors State License Board says Thursday.

Most of the 21 individuals were found to be illegally charging excessive up-front payments.

Tips from the Central California Better Business Bureau, as well as suspected illegal print and online advertisements, helped identify the illegal operators, says CSLB.

Investigators posed as homeowners, and contacted the suspected non-licensees, seeking bids for plumbing, painting, tree trimming, fencing, landscaping, and general construction projects.

The 21 suspects who bid more than \$500 for labor and materials received notices to appear in court for contracting without a license, in violation state law. Contractors are also required to place their state contractor license number in all advertisements.

Sixteen individuals solicited more than the legal down payment amount (10 percent of the contract price or \$1,000, whichever is less) and will face additional charges, the board says.

The Fresno County district attorney will also charge five of the sting suspects for failure to have workers' compensation insurance coverage for their employees, in violation of state law.

The Fresno County District Attorney's Office, the state Employment Development Department, the California Highway Patrol, and the Fresno Police Special Investigations Bureau assisted in the two-day operation.

State contractors board cites 21 in Fresno

January 18, 2012

An undercover operation in Fresno led to 21 people being cited by the Contractors State License Board on suspicion of asking for excessive upfront payments and operating a business without a contractor's license.

Investigators posed as homeowners and contacted businesses Jan. 11-12 seeking bids for plumbing, painting, tree trimming, fencing, landscaping and other projects.

The operation took place in the Fig Garden area.

California law requires all contractors to put their state license number in any advertisement.

Those cited were ordered to appear in court Feb. 28.

Charges filed in alleged elderly scam

By Julie Johnson

January 12, 2012

A 58-year-old Santa Rosa man under investigation by the state contractor's board was charged this week with bilking elderly people for promised home repairs, Petaluma police said.

Investigators linked Timothy Silva to 13 cases of either failing to complete projects or failing to even start, Lt. Tim Lyons said.

Silva had promised to complete work for residents of Petaluma's Leisure Lake Mobile Home Park last summer, Lyons said.

Residents said Silva was recommended by several people, including park managers. However, his license to work as a mobile home contractor had expired in June.

Residents collectively lost \$11,585, Lyons said.

Jim and Pat Alley Roper of the Stony Point Road mobile home neighborhood said Silva offered to level their mobile home for \$2,000. They negotiated the price down to \$800 and paid Silva \$350 to start, Lyons said.

Silva worked for about 30 minutes and then asked for another \$150 for supplies. He said he'd return but never did, Lyons said.

The state contractor's board fined Silva \$2,350 in October for similar violations not linked to the Petaluma cases.

The same month, Petaluma police detectives turned over their investigation of Silva's dealings to the Sonoma County District Attorney's Office.

Silva said at the time that he had intended to complete the jobs and was struggling with a divorce and an addiction to prescription drugs.

Sonoma County sheriff's deputies arrested Silva on Jan. 5 at his Santa Rosa home. He posted bond on \$10,000 bail the following day.

Silva pled not guilty Tuesday to seven counts of contracting without a license, six counts of theft and six counts of stealing from an elderly person, court records show.

He next appears in court Jan. 24.

Governor Brown Announces Appointments

January 9, 2012

SACRAMENTO – Governor Edmund G. Brown Jr. today announced the following appointments.

Denise Brown, 60, of Fair Oaks, has been appointed director of the California Department of Consumer Affairs. Brown was an advisor to the executive officer and staff of the California Air Resources Board from 2009 to 2011. She served in the Department of Consumer Affairs in multiple positions from 1977 to 2009, including chief deputy director. Brown was chief deputy registrar at the Contractors State License Board from 2004 to 2009, chief deputy director at the Department of Consumer Affairs from 1999 to 2004 and a program administrator at the California Architects Board from 1998 to 1999. She worked in multiple positions at the California State Board of Barbering and Cosmetology from 1994 to 1998 and from 1987 to 1991, including executive officer of the board. She was deputy chief of the Division of Consumer Affairs from 1981 to 1983 and a legislative aide from 1977 to 1981. This position requires Senate confirmation and the compensation is \$144,504. Brown is a Democrat.

Awet Kidane, 35, of Elk Grove, has been appointed chief deputy director at the California Department of Consumer Affairs. Kidane has been chief of staff to Assemblymember Steven Bradford since 2009. He was senior advisor to Speaker of the Assembly Karen Bass from 2008 to 2009, a legislative consultant for the California State Assembly from 2003 to 2009 and an associate consultant for the California State Assembly from 2002 to 2003. This position does not require Senate confirmation and the compensation is \$122,496. Kidane is a Democrat.

Reichel Everhart, 42, of Sacramento, has been appointed deputy director for board and bureau relations at the California Department of Consumer Affairs. Everhart has been senior advisor to the director at the Department of Consumer Affairs since 2011. She was chief of staff to Assemblymember Cathleen Galgiani from 2006 to 2011, legislative director to Assemblymember Sally Lieber from 2003 to 2005, legislative assistant to Assemblymember Leland Yee from 2001 to 2003 and legislative aide to Assemblymember Patricia Wiggins from 2000 to 2001. Everhart was a legislative aide to Assemblymember Elaine Alquist from 1999 to 2000 and a field representative for Assemblymember Michael Machado from 1995 to 1999. This position does not require Senate confirmation and the compensation is \$103,308. Everhart is a Democrat.

Los Angeles Times

L.A. housing inspector accused of moonlighting as unlicensed contractor

By David Zahniser and Jessica Garrison
January 8, 2012

As a senior city housing inspector, Ronald Diaz's job is to be an impartial, frontline guardian of safe and habitable apartment living in Los Angeles.

But according to testimony and statements given to city and state officials, Diaz also allegedly improperly moonlighted as an unlicensed contractor with some unorthodox billing practices: A North Hills woman accused him of offering a \$1,000 discount if she would send him a text message with a picture of her bare breasts — and upping the offer to \$2,000 when she ignored him.

Diaz, 49, was charged Dec. 30 with five misdemeanor counts, including grand theft, attempted grand theft and contracting without a license. Prosecutors contend that he collected \$5,500 from Ana Lopez, who was in trouble with building inspectors over unpermitted work on a property she operated as a day-care center.

Months earlier, the city's Civil Service Commission suspended Diaz for 20 days, saying he violated Housing Department policy and used his position for personal gain. The panel, however, agreed with Diaz that his interactions with Lopez were not sexual harassment.

The case is the latest to roil city departments charged with safeguarding the city's commercial and residential structures.

An ongoing bribery investigation at the Department of Building and Safety has resulted in the termination of four employees, two of whom pleaded guilty to federal charges. And a housing department clerk in Koreatown was convicted of bribery in 2010.

That employee, Eun Chavis, lost her job. But Diaz, who earns \$104,000 annually, kept his even after his superiors concluded that he misused his position and sexually harassed a member of the public.

Among other things, housing officials asserted that Diaz, who lives in San Fernando, intimidated Lopez, repeatedly demanded sexual favors from her and, at one point, sent her a photo of a small boy with a large exposed penis. Lopez could not be reached for comment.

Michael Posner, Diaz's attorney, said his client is innocent of the charges.

Diaz did not keep the money given to him by Lopez, forwarding it instead to an architect and a contractor — the latter also unlicensed — who worked on the day-care center, Posner said.

"He was just doing them a favor," Posner said. "In retrospect ... obviously it would have been a lot better for him if he did not accept the checks."

In paperwork filed with the city, Posner portrayed Lopez as a frequent liar who "initiated the banter of sexuality" with Diaz, going so far as to send him a photo of a woman with bare breasts. Diaz claimed that Lopez was angry because he was not interested in her.

"I'm not trying to be disrespectful but she's not even my type. I like my women voluptuous, like you," Diaz told a State Contractors' Licensing Board investigator, according to a report prepared by the agency.

City Controller Wendy Greuel, who is running for mayor, said more forceful action should have been taken against Diaz.

"Common sense would say that the consequences should have been much more severe," she said.

Greuel said there is a growing perception that residents are being "preyed upon" by city inspectors.

Rushmore Cervantes, the housing department's No. 2 executive, defended his agency's decision to recommend a 20-day suspension for Diaz.

When presenting disciplinary recommendations to the commission, "we put forth cases we think are winnable," Cervantes said. A hearing officer tried to reduce Diaz's suspension to 15 days, he said, and the department had to fight to keep it at 20.

In comments to personnel investigators, Lopez said she turned to Diaz for help in 2009 after inspectors found that she had illegally converted a garage into a play room for her child-care business.

She asked Diaz, a fellow parent at her child's school, for help in bringing the structure into compliance with city laws, according to a report submitted to the Civil Service Commission.

Diaz arranged for Anthony Nuñez, a repairman who lacked a contracting license, to handle the work.

Nuñez later told state investigators that Diaz repeatedly lied to Lopez — and arranged for \$1,500 in concrete work that she did not need.

"I told him ... the concrete slab was already there. He said, 'No just do it the way I asked you to. That way I can get more money from her,'" said Nuñez, according to a report prepared by state officials.

Lopez told investigators that Diaz repeatedly asked her out, suggested at one point that they have a massage, and sent her text messages asking for pictures of her breasts. She said she feared that if she stopped working with him, he would make her permitting problems with the city worse.

Eventually, disturbed by the rising cost of the repairs, she filed a complaint, according to city documents.

Other previous disciplinary matters involving Diaz at the Housing Department are noted in city records. Among them was a 10-day suspension in 2007 after agency officials accused him of threatening a subordinate who reported him for playing computer solitaire during work hours.

Records show that some co-workers have defended Diaz, describing him as efficient and conscientious. One colleague said Diaz has "a big heart" but "just gets mixed up."

If another co-worker complained that Diaz bragged of having sex while on the job — and told other inspectors they should too.

Unlicensed South Bay contractor gets 3 months in jail

By Mike Rosenberg

January 6, 2012

An unlicensed contractor who duped a company into hiring him will serve three months in jail and must pay \$68,000 after pleading guilty to fraud charges in Santa Clara County court, authorities said Friday.

San Jose resident Sergio Gayton Gonzales, Sr., 57, used his son's real contractor's license to get work as a subcontractor, though in reality he was not insured, the District Attorney's Office said. This resulted in \$68,000 in lost workers' compensation insurance premiums, left his workers without the proper coverage if they got injured on the job and gave the company an unfair competitive advantage by lowering its operating costs, prosecutors said.

Gonzales in October pleaded guilty to two felony counts, one each for insurance premium fraud and fraudulent use of a contractor's number. He was sentenced Wednesday, and will also serve three years probation and has already paid \$48,000 of the lost premiums to the State Compensation Insurance Fund.

Carl Kanowsky: A look at some legal surprises to start off 2012

By Carl Kanowsky

January 6, 2012

This year brings some changes to the business environment. Here's some of the more significant or controversial ones:

* If you already provide health insurance for your employees and you have more than five of them, then be prepared if one of them gets pregnant. Under SB299, the employer must maintain insurance for female employees who take a pregnancy-related leave for a period of up to four months.

* For my faithful readers, you all know how I have urged you to avoid misclassifying workers as independent contractors rather than as employees.

Apparently, the problem has become so serious the state legislature has made willful misclassification of such individuals subject to some pretty intense fines. The penalties are between \$5000 and \$25,000 and a referral to the State Contractors License Board for potential violations.

* This is a warning to all you employers who pay their employees by commission. Labor Code section 2751 requires that by January 2013 (next year, that is), all such employment arrangements must be reduced to a writing explaining all aspects of how the commission payment system works. My advice — get it done now.

* California already has a reputation as a state that offers more employee protections than others. With AB 469, we step that up another notch.

Employers who don't follow wage laws are subject to criminal penalties and can be made to pay make-up pay. The Labor Commissioner now has three years (rather than the original one year) to go after miscreant employers.

So, that short-term hire who you didn't pay properly, you now have to look over your shoulder for three years to see if there's any action by the Labor Commissioner.

Also, you know those billboard-size notices you post in the employee break room that talks about minimum wage, workers compensation carriers and a variety of other employment-related information? Now all employers have to provide new employees essentially the same information in document form (8 1/2" x 11") on their first day.

* Gov. Arnold Schwarzenegger's ghost from 2010 returns and haunts major retailers with a bill he signed in 2010, SB 657.

As the Senate Judiciary Committee described it, "This bill would, among other things, beginning Jan. 1, 2011, require retail sellers and manufacturers doing business in the state to develop, maintain, and implement policies related to their compliance with federal and state law regarding the eradication of slavery and human trafficking from their supply chain."

It only applies to those companies doing more than \$100 million in worldwide sales, so the local Hallmark shops are probably not covered. The retailers and manufacturers are required to have this information on their websites.

I looked recently on Wal-Mart's website and couldn't find it. Let me know the results of your individual searches in this area.

* Finally, a bill that perhaps was aimed directly at the City Council.

The county of Los Angeles was furious that Santa Clarita now gets all of the money needed to run the library. If the city tried to take the same action in 2012, it would face a host of new regulations. These include "publishing notice of the contemplated action in a specified manner, clearly demonstrating that the contract will result in actual overall cost savings to the city or library district for the duration of the entire contract, as specified, prohibiting the contract from causing existing city or library district employees to incur a loss of employment or specified benefits or an involuntary transfer, and imposing specified requirements on contracts for library services in excess of \$100,000 annually."

It might cause them to think twice about this decision.

REGISTER

California targets underground economy

By Jan Norman
January 4, 2012

Seven California state agencies and local district attorneys are joining forces to battle the underground economy in which businesses avoid buying workers compensation insurance and paying payroll taxes.

The new Labor Enforcement Task Force is the collaborative effort of the Dept. of Industrial Relations, Employment Development Dept., Contractor's State License Board, State Board of Equalization and Bureau of Automotive repair, Dept. of Insurance, California Attorney General and district attorneys at the county level, the Dept. of Industrial Relations said.

Alan Smith, owner of Alan Smith Pool Plastering in Orange, has been pushing for such an effort since 2010.

In 2010, Smith said that he paid \$35 an hour including taxes and workers comp insurance at a time that many competitors paid workers \$15 cash and dodging hundreds of millions of dollars in payroll taxes and workers comp insurance.

Smith and the California Spa & Pool Industry Education Council actively supported several bills in the legislature to stem this underground economy ways:

- Stop licensed contractors from getting an exemption from buying workers comp insurance because they claim not to have any employees.
- Halt companies that pay workers cash in order to avoid payroll taxes and workers comp insurance
- Stop unlicensed contractors that work for cash to avoid paying taxes
- Stop divorced dads who skip out on their child support payments by working for cash for companies in the above categories.

The Legislature passed one of the bills the industry supported but then-Gov. Arnold Schwarzenegger vetoed it, saying that existing laws were sufficient if properly enforced.

Labor and Workforce Agency Secretary Marty Morgenstern said, "The goal...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. Labor law violators endanger workers and have an unfair market advantage over law-abiding businesses."

Dept. of Industrial Relations Director Christine Baker added, "Legitimate businesses grow California's economy. They are our economic backbone. 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."

Insurance Commissioner Dave Jones said his office would focus on employers who under report payroll or misclassify employees in order to obtain a lower rate for workers' compensation insurance. Previous department investigations led to the arrest of 47 business owners for insurance premium fraud involving approximately \$41 million in unpaid premiums.

In addition to that effort, the new tax force will ensure workers receive proper payment of wages and that the state gets all employment taxes, fees and penalties due from employers, Baker said. "By joining forces with other agencies conducting inspections, we can have a greater impact on stopping labor violations and the underground economy. Collaboration will also save time and money by avoiding overlapping inspections and focusing our efforts on the egregious violators."



Calif. hopes to squash revenue lost "under the table"

By Nannette Miranda

January 3, 2012

SACRAMENTO, Calif. (KGO) -- In a budget environment when the state is looking for every dollar, officials are going after \$7 billion in lost revenue caught up in the underground economy.

The state says too many business in California are cutting corners to make money. A new task force is hoping to make a dent in the underground economy.

"This is a classic example of somebody who's going to pay under the table cash," said Rick Lopes with the Contractors State License Board.

The Contractors State License Board has videotaped numerous sting operations where they catch businesses operating without a license and hiring workers under the table, meaning they aren't paying payroll taxes, workers' comp insurance or contributing to unemployment benefits like legitimate businesses and pocketing that money instead.

California's underground economy, which includes the landscaping, restaurant, farming and construction industries, is estimated to cost the state \$7 billion in lost revenue.

Shadow operators offering cheaper services have become more popular during the recession, and the construction trade says the undercutting needs to stop.

"All across the state, they're complaining about how what little work is available out there in construction today," said Brad Diede with the California Professional Association of Specialty Contractors. "It really needs to go the legitimate contractors."

For the first time, several state agencies from the Employment Development Department to the Department of Industrial Relations are exchanging information to crack down on the underground economy. They hope 2012 will recoup much of that lost \$7 billion.

By using these statistics, using data, we figure we can get the real violators, the ones who are causing big trouble, cheating lots of people, and cheating the state," said California Labor Agency Secretary Marty Morgenstern.

They didn't pay under the table because they don't want to pay taxes," said day laborer Jose, who chose not to give his last name. The crackdown is not popular among day laborers like him. Off-the-books jobs are the only ones they can get in this economy.

"I think it's going to be bad," he said. "It's not good for us."

The non-partisan legislative analyst pegs the new budget deficit at \$13 billion next fiscal year, so getting the underground economy to pay up would solve half of that.

Homeowner and Contractor Protection, Responsibility Increase in 2012

January 2, 2011

Among the new laws that take effect this year -- see our earlier overview -- are several that focus on homeowners and contractors, both in terms of their obligations and responsibilities.

SACRAMENTO – A bill sponsored by the Contractors State License Board (CSLB) and signed in the 2011 legislative session will assist homeowners in determining whether contractors they hire to work on their property have the appropriate workers' compensation coverage.

Assembly Bill 397 (Monning-Santa Cruz) requires contractors to recertify they have no employees every two years when they renew their licenses or to show proof of workers' compensation if they have them. This information is available to consumers on the Instant License Check on CSLB's website.

State law requires contractors to purchase workers' compensation insurance for all employees. C-39 roofing contractors are required to have coverage even if they certify they have no employees. Another CSLB-sponsored bill that protects consumers on the workers' comp front is Assembly Bill 878 (Berryhill-Stockton). This legislation requires workers' compensation insurers to report to CSLB if a licensee's policy is cancelled due to a premium audit or investigation, or a misrepresentation that harms the insurer and reimbursement isn't made. This bill also states that disregard and violation of workers' comp laws are cause for discipline by the CSLB Registrar.

Having uninsured workers on your property is one of the biggest risks a homeowner takes when hiring a contractor," said CSLB Registrar Steve Sands. "These two new laws reinforce for our licensees the importance of workers' comp. insurance and help demonstrate to homeowners why they need to make sure every worker is covered."

Those hoping to cash in on incentives or rebates from their utility companies will have to certify that a licensed contractor performed the work and that the proper permits were obtained in compliance with Senate Bill 454 (Pavley-Agoura Hills). This bill also authorizes the California Energy Commission to assess civil or administrative penalties to contractors who violate state energy efficiency standards.

The following laws affecting consumers, contractors, and the construction industry take effect January 1, 2012, unless otherwise noted in bold italics:

CSLB Licensing and Board Operations

Senate Bill 392 (Florez-Shaffer), which passed in 2010, authorizes CSLB to license limited liability companies (LLCs). Applications are now being accepted. A list of primary requirements to obtain a license as an LLC is listed on the CSLB website.

Assembly Bill 1091 (Morrell-Redlands) requires that CSLB be notified within 90 days of a Responsible Managing Officer's (RMO) or Employee's (RME) disassociation from the license. The bill also enables a 90-day extension in limited circumstances to replace the qualifier for the license.

Senate Bill 543 (Steinberg-Sacramento) continues CSLB's operation as a board until January 1, 2016.

Senate Bill 944 (Committee on Business, Professions and Economic Development) makes technical changes and updates to Contractor License Law.

Employment and Payroll

Assembly Bill 551 (Campos-San Jose) increases the fines for contractors who fail to pay prevailing wage on a public works project and for failure to provide certified payroll records in a timely fashion. It also requires the Labor Commissioner to notify CSLB when updates its lists for these violations, and to annually notify awarding bodies of the availability of debarred contractors.

Assembly Bill 766 (Monning-Santa Cruz), a companion to Assembly Bill 551, requires that certified copies of the payroll records be made available to members of the Joint Enforcement Strike Force on the Underground Economy or other law enforcement on request. If such records are requested by the public, information on the employees would not be included.

Senate Bill 459 (Corbett-San Leandro) authorizes the Labor and Workforce Development Agency to issue fines for the willful misclassification of employees as independent contractors, and requires the agency to notify CSLB of violators who are licensees. The legislation also requires the board to initiate actions against such licensees.

State Taxes

Assembly Bill 1307 (Skinner-Berkeley) states that CSLB may discipline a license for failure to resolve outstanding final liabilities assessed by the Board of Equalization, in addition to the current disciplinary laws coordinated between CSLB and the Franchise Tax Board, Employment Development Department, and Department of Industrial Relations.

Assembly Bill 1424 (Perea-Fresno) requires CSLB to state on its applications that the law allows the Board of Equalization and Franchise Tax Board to share information with CSLB and that a license may be suspended for failure to pay state taxes.

Mechanic's Liens

Senate Bill 190 (Lowenthal-Long Beach) makes technical changes to the mechanic's lien overhaul legislation passed last year (SB 189) that is to take effect on July 1, 2012.

Senate Bill 424 (Rubio-Bakersfield) enables a design professional lien to be converted to a mechanic's lien if the design professional lien expires and remains partially or fully unpaid. The converted lien is recorded and enforced as a mechanic's lien, except the design professional is not required to provide a preliminary notice to enforce the mechanic's lien and is done within 30 days of the design professional lien expiring.

Assembly Bill 456 (Wagner-Irvine) clarifies that the proof of service affidavit that must accompany a mechanic's lien filing to validate the lien must show the name of the property owner and the title or capacity in which the person or entity was served the claim of lien.

Indemnification Clauses

Senate Bill 474 (Evans-Santa Rosa) restricts contractors from using indemnification clauses to pass through to subcontractors the liability for certain legal damages, beginning January 1, 2013. Subcontractors would not have to pay for either accidental or deliberate harm caused by contractors, other subcontractors, or other parties. The law does not apply to certain contracts such as those governing residential homes, public buildings, workers' compensation agreements, and some insurance agreements.

Environment and Safety

Assembly Bill 341 (Chesbro-Arcata) requires businesses that generate more than four cubic yards of commercial, solid waste per week to arrange for recycling services by July 1, 2012.

Senate Bill 341 (Lowenthal-Long Beach) requires that construction vehicles with a gross vehicle weight rating of 14,000 pounds or more be equipped an automatic backup alarm audible from 200 feet under normal conditions.

Small Claims

Senate Bill 221 (Simitian-Palo Alto) raises small claims court jurisdiction from \$7,500 to \$10,000.

Certification and Training

Senate Bill 56 (Corbett-San Leandro) changes some requirements for construction trade apprenticeship programs and the Division of Apprenticeship Standards responsibilities for oversight of such programs.

Assembly Bill 1346 (Atkins-San Diego) requires those seeking electrical certification from the Division of Apprenticeship Standards to include an employment history report from the Social Security Administration when submitting an application for certification and examination.

The Contractors State License Board operates under the umbrella of the California Department of Consumer Affairs. More information and publications about hiring contractors are available on the CSLB website or by calling 800-321-CSLB (2752). You can also sign up for CSLB email alerts. CSLB licenses and regulates California's 300,000 contractors, and is regarded as one of the leading consumer protection agencies in the United States. In fiscal year 2010-11, CSLB helped recover nearly \$45 million in ordered restitution for consumers.

Homeowner Protection, Responsibility to Increase in 2012

January 2, 2012

SACRAMENTO – A bill sponsored by the Contractors State License Board (CSLB) and signed in the 2011 legislative session will assist homeowners in determining whether contractors they hire to work on their property have the appropriate workers' compensation coverage.

Assembly Bill 397 (Monning-Santa Cruz) requires contractors to recertify they have no employees every two years when they renew their licenses or to show proof of workers' compensation if they have them. This information is available to consumers on the Instant License Check on CSLB's website.

State law requires contractors to purchase workers' compensation insurance for all employees. C-39 roofing contractors are required to have coverage even if they certify they have no employees. Another CSLB-sponsored bill that protects consumers on the workers' comp front is Assembly Bill 878 (Berryhill-Stockton). This legislation requires workers' compensation insurers to report to CSLB if a licensee's policy is cancelled due to a premium audit or investigation, or a misrepresentation that harms the insurer and reimbursement isn't made. This bill also states that disregard and violation of workers' comp laws are cause for discipline by the CSLB Registrar.

"Having uninsured workers on your property is one of the biggest risks a homeowner takes when hiring a contractor," said CSLB Registrar Steve Sands. "These two new laws reinforce for our licensees the importance of workers' comp. insurance and help demonstrate to homeowners why they need to make sure every worker is covered."

Those hoping to cash in on incentives or rebates from their utility companies will have to certify that a licensed contractor performed the work and that the proper permits were obtained in compliance with Senate Bill 454 (Pavley-Agoura Hills). This bill also authorizes the California Energy Commission to assess civil or administrative penalties to contractors who violate state energy efficiency standards.

The following laws affecting consumers, contractors, and the construction industry take effect January 1, 2012, unless otherwise noted in bold italics:

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Senate Bill 392 (Florez-Shafter), which passed in 2010, authorizes CSLB to license limited liability companies (LLCs). Applications are now being accepted. A list of primary requirements to obtain a license as an LLC is listed on the CSLB website.

Assembly Bill 1091 (Morrell-Redlands) requires that CSLB be notified within 90 days of a Responsible Managing Officer's (RMO) or Employee's (RME) disassociation from the license. The bill also enables a 90-day extension in limited circumstances to replace the qualifier for the license.

Senate Bill 543 (Steinberg-Sacramento) continues CSLB's operation as a board until January 1, 2016.

Senate Bill 944 (Committee on Business, Professions and Economic Development) makes technical changes and updates to Contractor License Law.

Employment and Payroll

Assembly Bill 551 (Campos-San Jose) increases the fines for contractors who fail to pay prevailing wage on a public works project and for failure to provide certified payroll records in a timely fashion. It also requires the Labor Commissioner to notify CSLB when it updates its lists for these violations, and to annually notify awarding bodies of the availability of debarred contractors.

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Angie's List.

Worst Los Angeles Contractors of 2011

By Mayra Ayala

January 1, 2012

In November, Mayra Ayala, who operated Bastidas de Ayala in Compton, received a sentence of 36 months probation and 120 hours community labor after being convicted of grand theft, operating illegally without a license and asking for a deposit of more than \$1,000. A San Pedro couple says they had to file for bankruptcy after Ayala demolished their home.

"It's a shame the defendant didn't get jail time," says Deputy City Attorney Keith De La Rosa, who blames jail overcrowding. Along with probation and labor, Los Angeles Superior Court Judge Shelly Torrealba ordered Ayala to pay \$1,000 on Jan. 17 and \$400 monthly in restitution. A total amount hadn't been decided as of press time, but De La Rosa was seeking \$258,848.

That's what Manuel Rivas and Eteivina Moreno Rivas say they paid Ayala to build a home addition and remodel a kitchen and bathrooms. Ayala told the Rivases they needed to move out temporarily, says Venus Stromberg, spokeswoman for the Contractors State License Board.

They say they returned a few weeks later to find their home demolished. "I felt completely disgusted and offended by what she put me and my wife through," Manuel says, through a Spanish interpreter.

Stromberg says Ayala allegedly told the couple that the city requested the house be demolished but failed to provide any documentation to prove that. Already paid in full, Ayala then asked for \$138,000 more to complete the job and walked off when she didn't get it. "What's sad in this case is the incredible gravity of the damage done," Stromberg says.

She says Ayala even took the Rivases to get another loan but with no house, the Rivases couldn't get one, forcing them to file for bankruptcy. "She stole [our] money," Manuel says. Stromberg says the Rivases thought Ayala was licensed because she allegedly showed them a business card displaying another contractor's license. A notice alerts members.

Court records indicate Ayala has a 2008 felony conviction for providing false information to the California Department of Motor Vehicles. Ayala's attorney, public defender Danielle O'Sullivan, declined comment.

After serving a three-year prison term on multiple felony charges of elder abuse and grand theft, unlicensed HVAC contractor Duane Kressin returned to prison last year after pleading guilty to new felony charges related to the same type of criminal behavior, according to the Contractors State License Board.

In April, a judge sentenced Kressin to four years and four months in prison after he pleaded guilty in Orange County to theft from an elderly adult, diversion of construction funds, two counts of unlawful use of another contractor's license number and contracting without a license.

CSLB spokeswoman Venus Stromberg says the state agency obtained a warrant for Kressin's arrest on the new charges after receiving numerous complaints, including one from Santa Ana resident Gary Vandal, who says Kressin took his money to install a new heater, air conditioner and ductwork, but didn't complete the work.

At first blush, Vandal says, Kressin seemed like a teddy bear. "Very polite, not shy, he looks you right in the face," says the 70-year-old, who met Kressin as he solicited customers in his neighborhood for dry cleaning services before talk turned to heating and A/C work that Vandal needed to have done.

Vandal says Kressin and two workers did some preliminary work, then Kressin asked for more money for equipment upgrades. "It cost me \$3,000 and we don't have a [new] heater [or air conditioner]," he says, adding that Kressin's crew took his old air conditioner, and left the old heater sitting in his driveway. A notice on Kressin's profile alerts members to his felony convictions.

Vandal admits he took pity on Kressin after learning that he was working two jobs to make ends meet. "When you get a little older, you get soft," Vandal says. "He's a good con man ... and I was conned."

Orange County Deputy District Attorney James Young says Kressin has a history of targeting elderly homeowners. His previous stint in prison came after he pleaded guilty to 15 counts of felony elder abuse and three counts of felony grand theft involving 32 victims. "Same types of charges, same types of victims, same types of schemes," Young says.

Kressin's public defender, Mark Kim, didn't return messages.

In June, the Orange County district attorney filed 12 felony counts of computer access and fraud against Trevor Harwell, a computer repair technician formerly employed by La Habra-based Rezitech. He's accused of installing spyware on six women's computers to videotape and photograph them as they undressed.

Orange County investigators believe Harwell met the women in church or school, and they found no evidence that the women were Rezitech clients.

They would have system messages come up to tell them that their camera was blurry and that they needed to take it to a hot steamy area to clean it," says Fullerton police Sgt. Andrew Goodrich, adding that the victims declined to speak to media.

The Los Angeles County district attorney's office confirms it's also investigating Harwell, but declined to provide further information. Messages left at Rezitech were not returned. A notice alerts members to the felony charges.

Harwell's trial date had been set as of press time. Neither Harwell nor his attorney could be reached for comment.

When his garage door opener malfunctioned, Angie's List member David Francis of Glassell Park called Abe's Garage Doors & Gates hoping for a quick fix. Instead, says a technician arrived late and failed to correct the problem. "Basically, they left my garage door opener in worse condition and charged me \$366 for the service," says Francis, who joined Angie's List as a result of his experience with Abe's.

Abe's Garage Doors & Gates, which holds the required state contractor's license, has an F rating on Angie's List with 10 reports, all D's and F's dating back to 2008. The Los Angeles BBB gives it an F rating with 30 complaints. Calls to Abe's, which is still in operation, were not returned.

Glassell Park member Harvey Youngman says Abe's charged him more than twice what it quoted for a repair. "I would call them a definite bait-and-switch company," says Youngman, who admits he failed to check the List before hiring them. "Screwing people is their specialty."

State targeting employers that don't play by rules

By Carolyn Said

January 1, 2012

San Jose hair salon owners Tamara and Charles Welsh say they struggled to compete with businesses that paid their workers in cash under the table. "You can't compete with that when you follow labor laws," Charles said.

Charles and Tamara Welsh's San Jose hair salon offered \$15 haircuts. But nearby competitors were charging as little as \$6 or \$7.

"I said, 'How can that be?' "Charles said. "I'd walk into these salons and ask questions. I soon found out that they were paying their employees all cash under the table. It was a whole subculture. You can't compete with that when you follow labor laws."

The couple ended up selling that salon and opening another farther away from the cut-rate cash-only businesses.

Now California agencies are mobilizing to crack down on businesses paying cash under the table, saying the "underground economy" costs the state \$7 billion a year in lost tax revenue and hurts companies that abide by the law. It also puts workers at risk. Businesses paying cash wages skip getting workers' compensation insurance. They also don't withhold payroll taxes for Social Security, Medicare and unemployment insurance.

"This is an incredibly important issue for the state," said Christine Baker, director of the Department of Industrial Relations. "We want to focus on the bad performers. We now have the benefit of a lot of technology and the ability to match records through systematic data mining."

Coordinated effort

Today her department is launching a Labor Enforcement Task Force to combat the underground economy, along with the Employment Development Department, Contractors State License Board, Board of Equalization and Bureau of Automotive Repair. The new task force will also work with the Department of Insurance, state attorney general and local district attorneys. The effort will include a large outreach component to educate people about the law.

Penalties vary depending on the severity of the offense and the industry. For instance, unlicensed contractors can be fined up to \$15,000 and referred to a local district attorney; a misdemeanor conviction might net a day or two in jail. "But for a second offense, there is a mandatory 90 days sentence," said Dave Fogt, chief of enforcement for the California Contractors State License Board. "That is very effective in convincing people not to re-offend."

Some grant money is available to help district attorneys prosecute businesses for skirting workers' comp and other requirements, he said.

While various agencies have collaborated on the issue before, this time the state is trying to be as strategic as possible. "We'll do preliminary investigations before we inspect job sites so we're focusing on the projects that are in violation," Fogt said.

Contractors targeted

The underground economy is particularly pervasive in the building trades. Many contractors duck paying workers' compensation insurance, as the higher risk of on-the-job injury makes for higher premiums.

Of 305,000 licensed California contractors, about 60 percent told the board they have no employees, Fogt said.

It's very unlikely we have that many who don't ever have an employee," he said. "We rarely find contractors working by themselves - maybe for hanging wallpaper, but you wouldn't put on a roof or install a pool with one person."

Underreporting of payroll is another issue. A business with 50 workers might claim that it has just 10 to whittle down its workers' comp premiums, or might classify carpenters as office staffers for cheaper rates. Then it ends up filing more claims than it has paid for.

"Most of the time when payroll is underreported, injuries are accurately reported," said Frank Neuhauser, executive director of the Center for the Study of Social Insurance at UC Berkeley. That drives up premiums for everyone buying workers' comp insurance.

"For roofing contractors, workers' comp rates are probably two to four times what they would be if all employers in the industry were reporting honestly," he said. "It's a double whammy for honest employers. Not only are they competing against others who avoid these costs, but they pay more than they should have to."

Neuhauser's studies show that the problem is pervasive.

"In the range of 6 percent to 7 percent of payrolls in California are completely underground, so that's about \$40 billion to \$50 billion," he said.

Health care changes

When the federal health care law is fully implemented in 2014, companies with more than 50 employees must either supply health insurance or pay a percentage of their payroll into a pool for coverage. Neuhauser thinks that will exacerbate the situation.

"I have to think the underground economy sector will become larger when employers are also trying to avoid the cost of health insurance as well as workers' comp," he said. "It will double the incentive for employers to go underground. That's why it's really positive that the state is getting out in front of this now."

The underground economy is prevalent in a range of low-paying service industries, as well as in construction. Janitorial, retail, garment work, home health care, hazardous waste, car wash, automotive, hair and nail salons, restaurants, warehouses and agricultural are among the types of businesses most frequently named.

Small Business California, an advocacy group, found in a survey earlier this year that 44 percent of its members said the underground economy was a problem for them.

"Small businesses say they cannot compete if they do everything above-board," said Scott Hauge, chairman of the group. "It's a big issue for those trying to run their businesses legitimately."

One common ploy, Hauge said, is for businesses to say their workers are independent contractors, relieving them of the obligation for tax withholding and workers' comp coverage. The IRS generally says that if a business controls the "what, when and where" of a person's work, that person is an employee.

At Aunt Ann's Home Care in Daly City, which provides home health care aides for seniors, owner Denise Collins pays more than \$100,000 a year in workers' compensation insurance premiums for 50 employees, and handles required tax withholding such as Social Security and unemployment insurance.

But she has to compete with other agencies that call their workers independent contractors and thus can charge about a third less. "They don't tell the clients that they are sending out independent contractors," she said. "They say they'll handle payroll, but the client doesn't realize they're responsible for workers' comp coverage."

"There is a huge underground economy in our fast-growing industry," she said. "We are paying our fair share of taxes; we pay workers' comp, and there is no way we can compete against" companies who don't.

Homeowner protection -- and responsibility to increase in the New Year

December 30, 2011

- New state laws reduce consumer liability for worker injuries
- 'Having uninsured workers on your property is one of the biggest risks a homeowner takes'

Homeowners who hire contractors to work on their property – from roof repair to extensive landscaping – are getting new help in determining whether the contractors have the appropriate workers' compensation coverage.

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Task force aims at state's underground businesses

By Kathy Robertson
December 30, 2011

A new Labor Enforcement Task Force will launch a collaborative effort Jan. 1 to combat the underground economy in California.

Its goal is to improve California's business environment so legitimate employers can thrive, state labor officials announced midweek.

The primary partners include the Department of Industrial Relations, Employment Development Department, Contractor's State Licensing Board, Board of Equalization and Bureau of Automotive Repair.

The task force also will work with the Department of Insurance, the California Attorney General, local district attorneys and others, too. The goal is to ensure workers' rights are protected and that compliant business owners can compete fairly.

"Labor law violators endanger workers and have an unfair market advantage over law-abiding businesses," Labor and Workforce Agency Secretary Marty Morgenstern said in a news release. "We cannot tolerate businesses that skirt the law."

The focus will be on wider information-sharing and use of new technology for enforcement to ensure more effective targeting of businesses in the underground economy. The task force will do outreach and education to inform businesses of their rights and responsibilities under the law.

The goals of the task force will be to:

- Ensure workers receive lawful wages and are provided safe working conditions.
- Ensure the state receives taxes due from employers and collects penalties owed by employers who violate labor laws.
- Level the playing field so employers who comply with the law and support California's economy don't have to compete with employers who break the law.
- Eliminate the underground economy.
- Make the most efficient use of the state's resources.

Businesses operating underground typically fail to pay income taxes, unemployment insurance or disability insurance; don't carry workers' compensation coverage; fail to pay proper wages or get required licenses and permits.

The new task force replaces the Economic & Employment Enforcement Coalition (EEEC). That program focused on field surveillance and often visited employers in compliance or with minor problems, Department of Industrial Relations spokesman Dean Fryer said.

The new program will dig into data and identify targets suspected of multiple violations of employment laws," he said. "There will be more effort put into outreach to employers and employees, too. Small business owners don't always know the rules and stumble into non-compliance."

THE SACRAMENTO BEE

California Department of Insurance will join fight against underground economy

By Mark Glover

December 29, 2011

Insurance Commissioner Dave Jones today announced that the California Department of Insurance will join with the Department of Industrial Relations and other agencies to fight labor law and insurance related violations that exist in an underground economy.

The newly created Labor Enforcement Task Force, which will be headed by the Department of Industrial Relations, will launch Sunday.

Officials said the task force will be a collaborative effort, also working with the state attorney general, the Employment Development Department, the Contractor's State Licensing Board, the state Board of Equalization, the Bureau of Automotive Repair and local district attorneys.

"I am committed to fair competition for honest business owners," Jones said.

The Department of Insurance's focus will be on employers who under-report payroll or misclassify employees in order to obtain a lower rate for workers' compensation coverage.

INSURANCE JOURNAL

Jones Announces Joint Effort to Fight California's 'Underground Economy'

December 29, 2011

The California Department of Insurance (CDI) is joining with the Department of Industrial Relations (DIR) and other agencies to fight labor law and insurance-related violations in an "underground economy."

The collaboration was announced on Thursday by Insurance Commissioner Dave Jones.

As a result, the newly created Labor Enforcement Task Force (LETF), which will be headed by DIR, will launch on Jan. 1, 2012 and will be a collaborative effort along with the California Attorney General, Employment Development Department, Contractor's State Licensing Board, Board of Equalization, the Bureau of Automotive Repair and local district attorneys.

CDI's focus will be on "unscrupulous employers who under report payroll or misclassify employees in order to obtain a lower rate for workers' compensation coverage," according to a statement from Jones' office.

Such premium fraud gives business owners, "operating illegally in the underground economy," an unfair advantage over law abiding employers, according to the statement.

DIR launches new Labor Enforcement Task Force to battle California's underground economy
December 29, 2011

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, Contractor's 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 workers receive proper payment of wages and are provided a safe work environment.
- Ensure California receives all employment taxes, fees, and penalties due from employers.
- Eliminate unfair business competition by leveling the playing field.

Make efficient use of the state and federal resources in carrying out the mission of the Labor Enforcement Task Force.

"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.

KINGSBURG RECORDER

Looking forward, looking back 2011 in Kingsburg

By Mary Lou Aguirre

December 29, 2011

Things in Kingsburg 2011 were either looking up or looking down, depending on one's point of view. On the one hand, downtown Kingsburg saw longtime business Our Stuga close its doors. And the fact that the town had its annual Third of July fireworks extinguished due to lack of city funds seemed, well, sad. As with other cities, Kingsburg was faced with having to do more with less. The city had already cut expenses by \$182,000 in February and laid off three employees. In the spring, a group of Kingsburg employees agreed to a wage and benefit concessions beginning in July 1 to help the city get through a projected bleak financial picture.

Spring was a tough time for Kingsburg residents as it averaged one burglary every five days mostly in the northeast area, according to police. However, Kingsburg Police Chief Jeff Dunn reported crime in Kingsburg "slightly down" from 2010.

"The overall statistics are much better than the same period last year," he said.

The good news is that 2011 brought new businesses such as Blend, Edward Jones Investments, Diva Girls' Glass Slippers, Hip n Lil and Bella Rose.

A new venue for entertainment was filled with the opening of E & E Performing Arts Center. It presented "You're a Good Man Charlie Brown" and "Rahab."

Kingsburg residents, still showing community pride, came out for the annual Swedish Festival, car show and added the stop of the U.S. Capitol Christmas tree to its hometown festivities.

Perhaps, when looking toward 2012, it's best to have the same attitude as 2011 Swedish Festival grandmarshal, Ruth Croft, 97, who has certainly lived through tougher times: "I love it here in Kingsburg."

Here's a look back at what happened in 2011 in Kingsburg:

February

Kingsburg could lose \$100,000 for its police department and thousands more toward economic development if Gov. Jerry Brown was successful in his proposal to eliminate redevelopment agencies. The news was given to the Kingsburg City Council by Kingsburg City Manager Don Pauley. The city already had to cut expenses by \$182,000 this fiscal year and lay off three employees.

Kingsburg District Chamber of Commerce annual dinner and awards selected farmer and businessman Mark Woods for "Business of the Year." Other winners: Cathy Sanchez, Jaclyn Burge, Johnnie and Jane Thomsen, Brad Bergstrom and Reggie Gierke.

Kingsburg AnysThings gift shop closed. The slow economy was to blame. Owner Amanda Tumbiolo opened the business in 2005.

Kingsburg landscaper, Conrad Garza, was among 17 unlicensed operators who showed up for a sting operation run by fraud investigators from the Contractor's State License Board.

The U.S. Post Office in Kingsburg got a makeover that included a paint job and landscaping.

After Johnson Junior High students raised \$1,000 for the American Cancer Society's Relay for Life

Fontana Herald News

D.A.'s Office and State License Board team up to fight insurance fraud

December 28, 2011

The San Bernardino County District Attorney's Office Workers' Compensation Fraud Prosecution Unit has partnered with the California Contractors State License Board's (CSLB) Statewide Investigative Fraud Team (SWIFT) to assure contractors and those engaged in home improvement and construction activity have the proper workers' compensation insurance coverage and appropriate licensure for the job.

As a result, during the past two months, investigators from the District Attorney's office and SWIFT conducted the first of what will be many compliance checks at jobsites throughout San Bernardino County.

So far, about 70 people involved in construction type work have been visited on jobsites in Redlands and Rancho Cucamonga, with other cities and unincorporated areas to follow. Of those contacted, most were in compliance with California's Labor, Insurance, and Business and Professions Code requirements for workers' compensation insurance coverage as well as contractor licensure.

"Workers' comp fraud is crime that victimizes every honest business and taxpayer in San Bernardino County because they are forced to take on the unnecessary burden of higher premiums," said District Attorney Michael A. Ramos. "By implementing strong anti-fraud activities and prosecutions, what we are ultimately hoping for is that every contractor working in our county will be in full compliance with the law, and this partnership is just another step in that direction."

To date, four stop orders were issued to contractors during the compliance checks who had not secured workers' compensation insurance for jobsite employees. A state law that took effect in January of 2011 gives CSLB the authority to issue these orders, which stop all work on the contractor's jobsite until workers' compensation insurance is obtained.

In addition to the stop orders, three licensees without workers' compensation insurance coverage were identified; however, the appropriate insurance was obtained within days of the compliance check, which is the goal of this partnership. Those contacted who did not obtain the proper coverage are issued citations for failing to carry workers' compensation insurance, which carries stiff penalties that, if left uncorrected, could include license suspension and fines. Four individuals who were contracting without a license were also issued citations.

CSLB hopes its partnership with the DA's office puts unlicensed, uninsured operators on notice that this activity won't be tolerated in San Bernardino County," said CSLB Registrar Steve Sands. "This proactive enforcement will help assure consumers are protected from financial harm and that a level playing field exists for those legitimate licensees who follow state laws and insure their workers."

CSLB and the San Bernardino County District Attorney's Office's Workers' Compensation Insurance Fraud Prosecution Unit urge consumers to follow these tips before they hire a contractor to work on their home or property:

Only hire state-licensed contractors and ask to see their license and a photo ID to verify their identity. Always check the license number on CSLB's website at www.cslb.ca.gov or www.CheckTheLicenseFirst.com to make sure the license is in good standing.

Confirm that the licensee has workers' compensation insurance coverage if he/she has employees. C-39 Roofing contractors are required to purchase workers' compensation insurance even if they certify they have no employees.

Only pay 10 percent or \$1,000 (whichever is less) as a down payment. There is an exception for about two dozen licensees who carry special bonds to protect consumers. These exceptions are noted on CSLB's website.

Don't pay in cash, and don't let payments get ahead of the work.

Get at least three bids, check references, and get a written contract.

DIR Launches New Labor Enforcement Task Force to Battle California's Underground Economy

December 28, 2011

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, Contractor's State Licensing 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.

DAILY PRESS

DA cracks down on workers' comp insurance fraud

By Tomoya Shimura

December 25, 2011

SAN BERNARDINO • In response to some contractors failing to carry workers' compensation insurance, the San Bernardino County District Attorney's office has partnered with the California Contractors State License Board to crack down on the fraud.

Investigators from the two agencies have conducted compliance checks with about 70 people involved in construction-type work at their job sites in Redlands and Rancho Cucamonga during the past two months, according to a press release from the DA's office. Investigators haven't done checks in the High Desert yet, DA's Senior Investigator Steve Rivera said, but they plan to come up here, too.

"Workers' comp fraud is a crime that victimizes every honest business and taxpayer in San Bernardino County because they are forced to take on the unnecessary burden of higher premiums," District Attorney Michael Ramos said in a written statement.

According to the law, prosecutors can file criminal charges against any businesses owners who have employees but don't get proper workers' compensation insurance coverage. Rivera said the insurance protects both the employers and employees.

Most of the contractors checked during the investigation were in compliance so far, Rivera said. But the state license board has issued orders against four contractors to stop all work on the job site until they obtain the insurance.

"It's what I consider a white-collar crime where people, they don't feel it's a crime," Rivera said.

Contractors without the insurance will have a few days to comply, but they could face license suspension and fines if they don't, according to the release.

THE SACRAMENTO BEE

Mayor Johnson pushes arena plan, strong-mayor initiative

By Ryan Lillis

December 22, 2011

The two most important initiatives of Sacramento Mayor Kevin Johnson's political career are about to collide.

Even as he tries to gain support among his City Council colleagues for a plan to finance a new downtown sports arena, the mayor and his supporters are criticizing how those same council members operate in order to build support for a plan to give the mayor more power.

A coalition of Johnson's most loyal supporters announced Wednesday a renewed push for changes in the city constitution, a plan they have dubbed the "Checks and Balances Act of 2012."

While Johnson was absent from the announcement at downtown's Park Tower, he will ask the City Council in mid-January to place the measure on the June 2012 ballot. Just a few weeks later, the council is expected to vote on whether to move forward with an arena financing plan.

The debate over a previous proposal from Johnson to strengthen his office was incendiary, which is already worrying some who have a stake in the arena project.

Matt Kelly, head of the Sacramento-Sierra Building and Construction Trades Council, said a heated debate over the city governance structure could end up being "counterproductive to what we're trying to accomplish with the arena."

"Right now (Johnson) wants something from the City Council (on the arena), but on the backside, he's bashing them," Kelly said. "Both efforts need support from the council."

In an emailed statement, Johnson dismissed the notion that the two initiatives would work against one another. "To improve Sacramento's economic future, we must have the ability to do multiple major initiatives at the same time," he said.

Part of Johnson's governing plan would feature granting the mayor's post more authority than it has now. However, those proposed powers would be less far-reaching than those featured in Johnson's 2008 Strong Mayor Initiative, which a judge tossed off the ballot.

The latest plan would give the mayor the ability to fire the city manager, who currently makes most day-to-day decisions at City Hall. The mayor could also appoint a city manager, but would need City Council approval of that selection.

The mayor, not an unelected city manager, would propose the city budget and have veto authority over some City Council decisions.

The City Council would have final say over the budget and be able to hire and fire the city attorney, treasurer, clerk, auditor and budget analyst. It could override mayoral vetoes.

The measure would also create an independent redistricting commission and a citizens ethics committee.

Johnson needs five votes from the council, including his own, to place the measure on the June ballot. If he fails, he is expected to collect signatures to place the measure on the November 2012 ballot.

At their Wednesday press conference, Johnson's backers argued that the City Council's is a big reason Sacramento needs a stronger mayor.

The Rev. Darryl Heath, pastor of St. John Missionary Baptist Church downtown, said at Wednesday's press conference that he and others are "greatly disappointed at the behavior and conduct of the council."

"We need a city that is governed by one vision," he said. "At this time, we have eight visions dealing with one city."

The mayor's chief of staff, Kunal Merchant, said there is "a frustration with how things work at City Hall right now" and that "we have to fundamentally restructure how City Hall works."

Surrounded by business organization leaders, the head of the city's police union and other loyal Johnson supporters, Merchant said the charter proposal "is bigger than the mayor; this is about the city."

The mayor's aides said they are confident that three other council members would support placing the measure on the June 2012 ballot. That would leave Johnson one vote short.

One of those council members being counted on for his support of a June ballot measure – Councilman Steve Cohn – said last week that the city has "a lot on our plate" and that Johnson's proposal was "not really at the top of my agenda in terms of priorities."

Winning a fifth vote could present a challenge for Johnson.

Councilwoman Sandy Sheedy, a chief mayoral opponent, said last week she doesn't think Johnson has enough votes on the council to place his plan on the June ballot.

"If a mayor can be a strong mayor, he doesn't have to go to the ballot," she said. "A leader doesn't need a strong mayor."

BRIEF: Four contractors cited in workers' comp checks [Inland Valley Daily Bulletin, Calif.]
December 21, 2011

Workers' compensation fraud investigators have filed stop orders against four contractors during compliance checks in Rancho Cucamonga and Redlands since November.

The inspections are among the first conducted under a new partnership between the San Bernardino County District Attorney's Office and the California Contractors State License Board.

The four contractors ordered to stop working did not have workers' compensation insurance for jobsite employees, prosecutors said. Investigators have contacted about 70 people involved in construction work. They plan to visit more contractors in other cities and unincorporated areas.

Construction Companies established as LLCs can get their CA Contractor License Bond December 21, 2011

Previously, construction companies set up as LLCs could not get CA Contractor License bonds but now there is a new bond requirement that allows LLCs to get their CA CLB. The different is that now any LLC applying for the CA CLB must also obtain a \$100,000 employee bond in addition to the \$12,500 CA CLB bond requirement many are familiar with. On the CA Contractor License Board website, they expect the new application form for LLCs to be there by 1/1/2012. The \$100,000 bond requirement is to ensure the issuance of an LLC license for the benefit of any employee or worker damaged by the LLC's failure to pay wages, interest on wages, or fringe benefits. While this new bond requirement is meant to protect the employees of the LLC, it is required to be in place prior to applying for a CA CLB for \$12,500.

If you are considering changing the company structure to become an LLC the state does limit words allowed in the name. For example, the name of an LLC cannot include the words "bank", "trust" or "corporation". The reason for this is that the state does not want the name of the LLC to mislead the public. Be sure to check out the full list of requirements on the CA CLB website.

It became possible for LLCs to apply for CA CLB when the Senate Bill 392 was passed, and it is effective 1/1/2012. For the application forms visit the Ca CLB website and be sure to check there over the next few weeks for more information on this new bond requirement. For questions call 877-654-2327 or apply on our website to get a free quote for your \$100k employee bond.



Office of the

DISTRICT ATTORNEY

Michael A. Ramos, San Bernardino County District Attorney

DA PARTNERS WITH CALIFORNIA CONTRACTORS STATE LICENSE BOARD TO FIGHT INSURANCE FRAUD

December 21, 2011

SAN BERNARDINO, Calif. – The San Bernardino County District Attorney's Office Workers' Compensation Fraud Prosecution Unit has partnered with the California Contractors State License Board's (CSLB) Statewide Investigative Fraud Team (SWIFT) to assure contractors and those engaged in home improvement and construction activity have the proper workers' compensation insurance coverage and appropriate licensure for the job.

As a result, in November and December 2011, investigators from the District Attorney's office and SWIFT conducted the first of what will be many compliance checks at jobsites throughout San Bernardino County. So far, about 70 people involved in construction type work have been visited on jobsites in Redlands and Rancho Cucamonga, with other cities and unincorporated areas to follow. Of those contacted, most were in compliance with California's Labor, Insurance, and Business and Professions Code requirements for workers' compensation insurance coverage as well as contractor licensure.

"Workers' comp fraud is crime that victimizes every honest business and taxpayer in San Bernardino County because they are forced to take on the unnecessary burden of higher premiums," said District Attorney Michael A. Ramos. "By implementing strong anti-fraud activities and prosecutions, what we are ultimately hoping for is that every contractor working in our county will be in full compliance with the law, and this partnership is just another step in that direction." To date, four stop orders were issued to contractors during the compliance checks who had not secured workers' compensation insurance for jobsite employees. A state law that took effect in January 2011 gives CSLB the authority to issue these orders, which stop all work on the contractor's jobsite until workers' compensation insurance is obtained.

In addition to the Stop Orders, three licensees without workers' compensation insurance coverage were identified; however, the appropriate insurance was obtained within days of the compliance check, which is the goal of this partnership. Those contacted who did not obtain the proper coverage are issued citations for failing to carry workers' compensation insurance, which carries stiff penalties that, if left uncorrected, could include license suspension and fines. Four individuals who were contracting without a license were also issued citations.

"CSLB hopes its partnership with the DA's office puts unlicensed, uninsured operators on notice that this activity won't be tolerated in San Bernardino County," said CSLB Registrar Steve Sands. "This proactive enforcement will help assure consumers are protected from financial harm and that a level playing field exists for those legitimate licensees who follow state laws and insure their workers."

CSLB and the San Bernardino County District Attorney's Office's Workers' Compensation Insurance Fraud Prosecution Unit urge consumers to follow these tips before they hire a contractor to work on their home or property:

- Only hire state-licensed contractors and ask to see their license and a photo ID to verify their identity. Always check the license number on CSLB's website at www.cslb.ca.gov or www.CheckTheLicenseFirst.com to make sure the license is in good standing.
- Confirm that the licensee has workers' compensation insurance coverage if he/she has employees. C-39 Roofing contractors are required to purchase workers' compensation insurance even if they certify they have no employees.
- Only pay 10 percent or \$1,000 (whichever is less) as a down payment. There is an exception for about two dozen licensees who carry special bonds to protect consumers. These exceptions are noted on CSLB's website.
- Don't pay in cash, and don't let payments get ahead of the work.
- Get at least three bids, check references, and get a written contract.

Four contractors cited in workers' comp checks

By Melissa Pinion-Whitt

December 21, 2011

Workers' compensation fraud investigators have filed stop orders against four contractors during compliance checks in Rancho Cucamonga and Redlands since November.

The inspections are among the first conducted under a new partnership between the San Bernardino County District Attorney's Office and the California Contractors State License Board.

The partnership is called the Statewide Investigative Fraud Team, or SWIFT.

The four contractors ordered to stop working did not have workers' compensation insurance for jobsite employees, prosecutors said. Investigators have contacted about 70 people involved in construction work. They plan to visit more contractors in other cities and unincorporated areas.



New California Contractors License Bond Requirements for LLCs
December 19, 2011

Beginning January 1, 2012, the California State License Board (CSLB) will be authorized to issue Contractors License Bonds to limited liability companies (LLCs). This authorization is courtesy of Senate Bill 392. As part of the application requirements for LLCs, a \$100,000 surety bond will be required for the "issuance, reissuance, reinstatement, reactivation, and renewal of an LLC license for the benefit of any employee or worker damaged by the LLC's failure to pay wages, interest on wages, or fringe benefits, as well as other contributions (not required for inactive LLC licenses)," according to the CSLB website.

It is important to note that this \$100,000 surety bond is in addition to the standard \$12,500 California contractors license bond requirement. Most other requirements and provisions that apply to corporate licenses will also apply to LLC licenses.

How to Attack a Contractor's Bond in San Diego

December 19, 2011

The California Contractors State Licensing Board requires all contractors to secure a contractor's bond. This is a financial guarantee to the consumer that a contractor will finish a job to the consumer's approval and liking. Contractor's bonds are purchased by a contractor from a surety company. Bonds are not insurance but a form of credit. A suety is a contract made by a bond company to pay a claim made against a contractor for violating the terms of the Contractors State License Law (CSLL) up to the limits of the bond. This differs from insurance because the contractor is still liable for the amount paid by the bond company. The contractor must repay the surety for the amount of the claim paid out.

If you hired a contractor who walked off a job or failed to complete it, a contractor's bond would also cover this. It covers things like unpaid supplies or subcontractors, damage to the property caused by the construction, or any stolen or lost materials from the site.

If a contractor fails to complete a job as it was agreed upon, the agency which issued the bond will pay out to compensate the consumer. When hiring a contractor, consumers need to make sure they are bonded in case of faulty workmanship.

Making a Claim against a Contractor's Surety Bond in California

- First, you will need the name of your contractor's suety company. This can usually be found with the California Contractors State Licensing Board. You will need the surety's company contract information.
- Obtain specific instructions from the surety bond company on how they want you to file a claim. They will usually ask for written statements of all signed contracts, agreement and other paper work associated with the disputed project.
- Once all the necessary documents are received by the surety, the review of your claim will begin. The investigation of the allegations many take a few months. After this thorough evaluation, the surety bond company will make a decision as to whether it owes you compensation.
- If you are not satisfied with the decision of the surety bond company you will need to file a suit in small claims court if the amount is less than \$4,000. For higher amounts you must file with superior court. You will need expert legal guidance and experienced representation in court to contest against the large bond companies who want to protect their assets.

Call our office today at 619-819-5021 or fill out the secure mailing form to the right for a quick reply; the initial consultation is always free and confidential.

This article is for education and marketing purposes only. It does not in any way establish an attorney-client relationship.



**Office of San Francisco
District Attorney
George Gascón**

December 2011

**Unlicensed Contractor Sentenced to One Year in Jail for Wage Theft and Defrauding Homeowners
December 2011**

On December 16, DA Gascón was joined by representatives from the Contractors State License Board, La Raza Centro Legal and Chinese Progressive Association to announce that Danny Ho, age 53 of San Francisco, was sentenced to one year in county jail for felony counts of grand theft of labor, fraudulently posing as a licensed contractor, and misappropriation of construction funds. Ho was also convicted of misdemeanor counts of contracting without a license, demanding an excessive downpayment, and failing to secure workers' compensation insurance. Ho was ordered to pay \$81,778.50 in restitution to the workers and to the homeowners whom he had defrauded. La Raza Centro Legal referred complaints to the District Attorney's Office. The contractor fraud portion of the case was referred by the California Contractors State License Board (CLSB). Lt. Carlos Sanchez of the District Attorney's Office Bureau of Investigations led the investigation of this case. Assistant District Attorney Max Peltz is the prosecutor.

The 'Scarlet M': State uses shame, fines to fight misclassification

December 18, 2011

Under a new law, California employers face penalties as high as \$25,000 for willfully misclassifying employees as independent contractors.

Signed into law in October, Senate Bill 459 allows the California Labor and Workforce Development Agency (LWDA) to levy fines of at least \$5,000 against employers that misclassify workers and requires the employers to publicize their violations on their company websites.

The law authorizes fines of \$5,000 to \$15,000 for any misclassification violation. However, should the LWDA or a court find that an employer engaged in a "pattern or practice" of misclassification, the fines may range from \$10,000 to \$25,000. That's in addition to other penalties imposed, such as retroactive payment of payroll taxes and benefits.

The law also bars employers from charging fees or making deductions from compensation for any purpose—including charging workers for goods, materials, space rental, services, licenses, repairs, maintenance and fines—when such fees or deductions would not have been permitted had the individual been classified as an employee.

Should the LWDA or a court find that a business violated the new law, the employer must place a notice on its company website (or if the company does not have a website, in an area accessible to all employees and the general public) stating that:

- It has committed a serious violation of the law by engaging in the willful misclassification of employees.
- It has changed its business practices to avoid further violations.
- Any employee who believes he or she is misclassified may contact the LWDA (with the LWDA's contact information provided).

The notice must be signed by a corporate officer and posted for one year. Violations by licensed contractors under the California State License Law will be reported to the Contractors State License Board, which will initiate disciplinary proceedings.

Employers cannot duck the "Scarlet M" (for misclassification) notice requirement by changing the name of the company.

The law requires successor companies to continue to publicize past classification sins on the web. The law defines successor companies as those where one or more of the same principals or officers of the prior company are engaged in the same or similar business.

The stain can also spread to those who advise employers to misclassify employees as independent contractors. Any third-party advisor (for example, a financial advisor, accountant or HR professional) can be held jointly liable for fines and penalties. The only exceptions to the extended liability are for attorneys providing legal advice and employees providing advice to their employers.

Employee or contractor?

When the LWDA or the courts look at any employment-like relationship, the decision turns on how much control the employer exerts over the person performing the work.

Workers are free to choose the time and manner in which the work is completed, that points to independent contractor status. Courts have additionally found that contractors who are free to perform work for several employers are truly independent. Workers who are barred from doing so are usually classified as employees.

Courts consider many factors when determining whether an individual should be classified as an employee or contractor, and no single factor settles the issue. Courts look at the situation as a whole, running an "economic realities" test to determine exactly how independent a contractor is.

The new law comes fast on the heels of federal action seeking to weed out wayward employers—and let them atone for past sins.

Sept. 19, the U.S. Department of Labor and the IRS announced plans to share information to fight employee misclassification. Three days later, the IRS announced its Voluntary Classification Settlement Program (VCSP) that allows employers to self-report past misclassification in return for capping their liability at 10% of the employment tax liability on misclassified employees for the previous tax year—and no penalties or interest and liability on past years. Employers must treat the workers as employees moving forward.

Employers are eligible as long as they have consistently treated the workers as independent contractors and have filed the appropriate 1099 forms for the three years and are not currently being audited by the IRS, USDOL or state agency.

Of course, California employers that wish to come clean with the feds may still face state penalties under the new law.

Advice: If you are considering participating in the VCSP, ask your attorney to determine what ramifications the new state law may create.

Employers should re-evaluate their employee and independent contractor relationships in light of California's new law. Your attorney can help you determine which of your independent contractor relationships are legitimate and which should be changed in light of new state and federal scrutiny.



Danny Ho Sentenced to Year in Jail, Must Repay \$82K for Posing as Contractor

December 17, 2011

A man who posed as a licensed contractor and bilked San Francisco homeowners and day laborers out of thousands of dollars was sentenced to a year in county jail today and ordered to pay nearly \$82,000 in restitution, prosecutors said. Danny Ho, 53, pleaded guilty on Nov. 23 to felony charges of grand theft, misappropriation of construction funds, and fraudulently posing as a licensed contractor, district attorney's office spokesman Omid Talai said. Ho was arrested in April for fraud in February 2010 involving the owner of a house at 171 Lee Ave. in the city's Ingleside neighborhood.

He entered into a contract with the homeowner and provided a business card with the license number and business name of another contractor who happened to have the same name, prosecutor said. After being paid about \$32,000 by the homeowner, who wanted to convert an entertainment room into two bedrooms, Ho abandoned the project and also failed to pay wages to the three day laborers he had hired for the job, prosecutors said. The case was brought to the attention of the district attorney's office by the nonprofit legal organization La Raza Centro Legal, which received complaints from the day laborers.

During the district attorney's investigation into the case, a second case was revealed involving a home at 3645 Ortega St. in the city's Outer Sunset neighborhood. In that case, Ho entered into a contract in November 2007 with the son and daughter-in-law of homeowners to remodel a kitchen and bathroom. But after the son paid him more than \$30,000, Ho ultimately abandoned the job and failed to pay two workers on the project, prosecutors said. He has been in custody since his April arrest and was sentenced this morning to a year in county jail. Ho was also ordered to pay \$81,778.50 to the homeowners and workers and placed on five years probation after he is released from jail.

'Defrauding homeowners and workers of their hard earned money is a crime and will be identified and prosecuted by my office,' District Attorney George Gascon said. The Contractors State License Board encourages homeowners to check their website, www.cslb.ca.gov, or call their toll-free number at (800) 321-CSLB to make sure a contractor has the proper license and documentation.

Scammy Contractor Gets Year In Jail

By Dan McMenamin

December 16, 2011

A man who posed as a licensed contractor and bilked San Francisco homeowners and day laborers out of thousands of dollars was sentenced to a year in county jail today and ordered to pay nearly \$82,000 in restitution, prosecutors said.

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Ho was arrested in April for fraud in February 2010 involving the owner of a house at 171 Lee Ave. in the city's Ingleside neighborhood.

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Ho was also ordered to pay \$81,778.50 to the homeowners and workers and placed on five years probation after he is released from jail.

Defrauding homeowners and workers of their hard earned money is a crime and will be identified and prosecuted by my office," District Attorney George Gascon said.

The Contractors State License Board encourages homeowners to check their website, www.cslb.ca.gov, or call their toll-free number at (800) 321-CSLB to make sure a contractor has the proper license and documentation.

Phony contractor gets year in jail, must repay \$82,000 to bilked homeowners, workers

December 16, 2011

SAN FRANCISCO -- A man who posed as a licensed contractor and bilked San Francisco homeowners and day laborers out of thousands of dollars was sentenced to a year in county jail Friday and ordered to pay nearly \$82,000 in restitution, prosecutors said.

Danny Ho, 53, pleaded guilty on Nov. 23 to felony charges of grand theft, misappropriation of construction funds, and fraudulently posing as a licensed contractor, district attorney's office spokesman Omid Talai said.

Ho was arrested in April for fraud involving the owner of a house at 171 Lee Ave. in the city's Ingleside neighborhood.

He entered into a contract with the homeowner in February 2010 and provided a business card with the license number and business name of another contractor who happened to have the same name, prosecutor said.

After being paid about \$32,000 by the homeowner, who wanted to convert an entertainment room into two bedrooms, Ho abandoned the project and also failed to pay wages to the three day laborers he had hired for the job, prosecutors said.

The case was brought to the attention of the district attorney's office by the nonprofit legal organization La Raza Centro Legal, which received complaints from the day laborers.

During the district attorney's investigation into the case, a second case was revealed involving a home at 3645 Ortega St. in the city's Outer Sunset neighborhood.

In that case, Ho entered into a contract in November 2007 with the son and daughter-in-law of homeowners to remodel a kitchen and bathroom. But after the son paid him more than \$30,000, Ho ultimately abandoned the job and failed to pay two workers on the project, prosecutors said.

He has been in custody since his April arrest and was sentenced Friday to a year in county jail.

Ho was also ordered to pay \$81,778.50 to the homeowners and workers and will be on probation for five years after he is released from jail.

"Defrauding homeowners and workers of their hard earned money is a crime and will be identified and prosecuted by my office," District Attorney George Gascon said.

The Contractors State License Board encourages homeowners to check their website, www.cslb.ca.gov, or call their toll-free number at 800-321-CSLB to make sure a contractor has the proper license and documentation.

LEXOLOGY®

New independent contractor misclassification liability (SB 459)

By Michelle Dangler

December 16, 2011

The passage of SB 459 adds two new Labor Code sections, 226.8 and 2753 effective January 1, 2012. The new law prohibits the willful misclassification of individuals as independent contractors. The new law affects all industries and will have a significant impact on construction and transportation companies as well as employers using seasonal, short-term, and direct salespersons.

SB 459 defines a "willful misclassification" as "avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor." The new law also prohibits employers from charging an individual who is willfully misclassified as an independent contractor a fee or making any deductions from compensation for things such as goods, materials, space rental, services, licenses, repairs, maintenance and fines.

Section 226.8 imposes significant penalties ranging from a minimum of \$5,000 to \$25,000 for "each violation." The civil penalties for one individual could be tens of thousands of dollars depending on the interpretation of each violation" and the penalty imposed. That penalty could rise even further if a court finds a pattern and practice of willful misclassification, and possibly significantly more if a representative action is permitted against a company pursuant to the Private Attorneys General Act (PAGA). The Labor Commissioner is charged with enforcement of this new law, but like other provisions of the Labor Code, it gives affected individuals the right to file a complaint.

The new law also imposes non-monetary penalties. Section 226.8 requires offenders to post a mandatory notice on their website, or in an area accessible to all employees for one year. Additional non-monetary penalties are imposed on licensed contractors who are required to transmit a certified copy of the order finding a violation to the Contractors' State License Board which is required to initiate disciplinary action against a licensee within 30 days of receiving the order establishing a willful misclassification of anyone as an independent contractor.

Regarding the test for establishing whether a worker is an employee or an independent contractor, the California Department of Industrial Relations states on its website: "There is no set definition of the term 'independent contractor' and as such, one must look to the interpretations of the courts and enforcement agencies to decide if in a particular situation a worker is an employee or independent contractor." If the IRS determines that a worker is an employee, it will not assess back employment taxes if the employer qualifies for the so-called "safe harbor exception" (Revenue Act of 1978, Section 530). However, the IRS safe harbor does not apply to state taxes and withholding, worker's compensation, etc. The decision to engage an individual or entity as an independent contractor represents a calculated business risk. Companies must assess the risk of misclassification, including the dollar amount of payment and the duration of relationship, probability that worker will voluntarily pay income tax withholding and social security self-employment tax, risk of liability for workplace injury and other considerations.

A Reflection on California's New Employment Laws, Part II

By Stacie Yee

December 15, 2011

As previously reported here, California employers should gear up for additional legal requirements beginning next year including the following regarding compensation and classification of employees:

Senate Bill 459: Penalties for Misclassification of Employees as Independent Contractors (Effective Jan. 1, 2012): Take note of SB 459. During recent years, there has been nationwide scrutiny, at both the federal and state levels, of employers suspected of intentionally and routinely misclassifying workers as independent contractors, rather than employees, in order to cut costs. It is not surprising federal and state governments have made this a focus issue given that misclassification decreases income and payroll tax revenues. Under SB 459, employers who engage in "willful misclassification" are subject to civil penalties. "Willful misclassification" is defined as "avoiding employee status for an individual by voluntarily and knowingly misclassifying the individual as an independent contractor."

SB 459 also makes it unlawful for employers to charge a fee or deduct from the paychecks of misclassified individuals any fee or to make deductions from compensation for any reason (including for goods, materials, or space rental) unless doing so would be permitted were the employee properly classified.

The important part, of course, is the hammer. SB 459 authorizes the Labor and Workforce Development Agency ("LWDA") to determine that an employer has violated the law. If a "willful misclassification" is found by the LWDA or a court, the law creates a civil monetary penalty range of not less than \$5,000 and not more than \$15,000 per violation, in addition to any other fines or penalties permitted by law. Similarly, if either the LWDA or court determines that an employer has engaged in a pattern or practice of willful misclassification, civil penalties of not less than \$10,000 and not more than \$25,000 may be assessed for each violation, in addition to other penalties and fines permitted by law. Employers found to violate the law must display a notice prominently for one year on their websites or in an area generally accessible to employees or the public stating that: (1) it committed a serious violation of the law by engaging in willful misclassification of employees; (2) it has changed its business practices to avoid committing similar violations; (3) the notice is pursuant to court order; and; (4) that any employee who believes that he or she is being misclassified as an independent contractor may contact the LWDA.

Finally, if an employer violates the law and is a licensed contractor pursuant to the Contractors' State License Law, the LWDA or court shall transmit a certified copy of the order to the Contractors' State License Board which must initiate disciplinary action against a licensee.

The law does not stop there: it also imposes joint and several liability upon any person who, for money or anything else of value, knowingly advises an employer to treat an individual as an independent contractor to avoid employee status where that individual is later found to be an employee. Employees who provide advice to their employers and attorneys providing counsel and advice are excluded from the new provision.

The penalties under the law are very severe. Employers are advised to conduct an audit of those individuals they have classified as independent contractors.

Phony contractor to be sentenced Friday in San Francisco

December 15, 2011

SAN FRANCISCO -- A man convicted last month of posing as a licensed contractor and bilking a San Francisco homeowner and day laborers out of thousands of dollars is set to be sentenced to a year in county jail Friday, prosecutors said Thursday.

Danny Ho, 53, pleaded guilty on Nov. 23 to felony charges of grand theft, misappropriation of construction funds, and fraudulently posing as a licensed contractor, district attorney's office spokesman Omid Talai said.

Ho was arrested in April for the fraud, which involved the owner of a house at 171 Lee Ave. in the city's Ingleside neighborhood.

In February 2010, Ho entered into a contract with the homeowner and provided a business card with the license number and business name of another contractor who happened to have the same name, prosecutors said.

After being paid about \$32,000 by the homeowner, Ho abandoned the project and failed to pay wages to the three day laborers he had hired for the job, prosecutors said.

The case was brought to the attention of the district attorney's office by the nonprofit legal organization La Raza Centro Legal, which received complaints from the day laborers.

Ho had previously served time in custody for another contractor fraud case and had been cited by the California Contractor State License Board on at least six occasions for various offenses.

Ho has been in custody since his arrest on April 6 and pleaded guilty last month in a deal with prosecutors in exchange for a year in county jail, Talai said.

He is scheduled to be sentenced Friday morning at the San Francisco Hall of Justice. Following the sentencing, District Attorney George Gascon plans on holding a news conference to announce the sentence.

Surety Bond News

Bond Offers New Options for California Contractors

December 14, 2011

Many contractors that were planning on starting an LLC (Limited Liability Company) in California found that they were legally unable; but a new bill has changed that. Legislators put a new law in to place allowing contractors to operate as an LLC but in order to do so; they must obtain a large surety bond.

Senate Bill 392 requires any contractors who want to start a LLC to obtain a \$100,000 surety bond in addition to the \$12,500 contractor bond that's already required. The new bond is for the benefit of any employee affected by an LLC's failure to pay wages or fringe benefits.

In the past, contractors starting LLC's were not able to get a contractor license in the state of California. Now the only way to do so is to obtain the \$100,000 bond on top of the \$12,500 contractor license bond that is already required of California contractors. If all goes as planned, the CSLB (Contractors State License Board) should be accepting applications from LLC applicants by the January 2012 deadline.

Any contractors aspiring to start an LLC will not be taking this new \$100,000 bond requirement lightly simply because it will be costly. Surety bond pricing is based off a percentage of the bond amount (roughly 2-20%) which is calculated by the contractor's credit history and financial strength. Even if a contractor is financially sound and qualifies for a low rate e.g. 2%, they will still have to pay \$2,000 for the bond!

Although it's unclear why California contractors have been unable to open an LLC in the past, they will be able to in the near future; but it could very well end up being costly which may drive contractors from even considering the option of an LLC at all.



Coalition Continues to Convene Leaders in the Fight Against the Underground Economy

December 12, 2011

A coalition of frustrated employers, businesses, associations and labor representatives came together in late November to hear from a panel of agency chiefs on efforts to chip away at the underground construction economy. The coalition's goal is to provide public protection and level the playing field for compliant construction contractors. Facilitated by the California Professional Association of Specialty Contractors (CALPASC), 80 individuals, including principals from construction companies, representatives from labor organizations and agency personnel, attended the meeting to learn of updates and interact with agency chiefs. Panel members included Orange County District Attorney Tony Rackauckas; California Labor Commissioner Julie Su; Chief of Enforcement David Fogt for the Contractor State License Board (CSLB); and the Employment Development Department's (EDD) Chief of Underground Economy Operations Simon Ramsubhag.

Before listening to attendees' concerns about time wasted on contractors who were primarily compliant, panel members described their agencies' current and prospective efforts. "We are pleased the agency chiefs listened and acknowledged our concerns," said CALPASC Executive Director Brad Diede. "And we need to continue to see strides made in this fight. Too many violators continue to do harm by escaping the law." Diede noted further, "As another signal of support, we are delighted to see the Governor's permanent appointment of Christine Baker as the Director of the Department of Industrial Relations."

During the panel discussion, Labor Commissioner Su, who reports directly to Baker, communicated her intent to "hold staff accountable on targeting flagrant cash-pay violators" and offered a "top 10 list" of areas on which she will focus, including:

- Better state coordination and information sharing between agencies with improved technology to achieve better intelligence and identify violations.
- Education of investigators to better understand the industries they are investigating.
- Better pre-inspection surveillance or more in-depth investigation through accurate information from the start.
- Focusing on getting owed wages paid to employees who have been shorted.
- More effective worker interviews.
- More off-hour inspections.
- Better protection against retaliation, and if there is retaliation, addressing it by having employees call inspecting officers who are familiar with the issue instead of a whistleblower responding officer who may not be familiar with the issue.
- Bringing more peace officers to the department and looking at criminal violations as well as partnering more with district attorneys.
- More effective referrals between agencies.
- Using all the weapons at hand, including strong litigation to go after bad actors and cite Labor Code 2810 violations.

Both Baker and Su take our cause for enforcement in construction very seriously, and these stated steps tackle a number of the bureaucratic problems that create obstacles to efficient enforcement," said Diede.

Both CSLB Chief Fogt and EDD Chief Ramsubhag spoke to the magnitude of the problem with the underground economy. Fogt referred to concerns around the "semi-underground" licensed contractors and the value of Senate Bill 1254, which allows the agency to stop a job if workers' compensation is not in force. Fogt described a review of 300,000 licensed contractors that showed 60 percent of the contractors filed exemptions from workers' compensation insurance and mentioned that there is a pilot program underway with the State Compensation Insurance Fund to help identify fraud.

Unfortunately, under reporting the actual payroll to workers' compensation carriers and other violations are too common," said another coalition partner, Darlene Besst with the National Electrical Contractors Association (NECA). "The only way these perpetrators will be caught is through coordination among the state agencies, which is why this coalition came about and why the coalition is planning more sessions with state agency chiefs."

Diede agreed, saying, "Although we appreciate that some progress is being made on enforcement, we need to move faster, otherwise legitimate trade contractors will go out of business."

Ramsubhag described his department's work with the Labor Enforcement Task Force and specifically expressed interest in generating qualified leads to track down violators. Construction company owners and labor representatives were encouraged when Ramsubhag indicated 70 percent of his department resources will be dedicated to the construction industry in 2012, mainly focusing on HVAC, roofing and landscaping.

In addition to building the coalition, CALPASC initiated the LEVEL Program in 2010 to work closely with state agencies in cracking down on cheating contractors.

On December 5, CALPASC and coalition members continued their discussions with state leaders by attending the hearing on small business and the underground economy held by Senator Mark DeSaulnier at the State Capitol. The hearing focused on the economic impacts created by the underground economy, ways to combat it and the loss it creates to the state and small business.

The California Professional Association of Specialty Contractors is a nonprofit 501(c)6 trade association advocating on behalf of trade contractors and suppliers of building materials in California. CALPASC is committed to educating members on complex issues and advancing safety and compliance within the building industry.



THE UNDERGROUND ECONOMY

By Julius Young

December 10, 2011

California continues to suffer due to the huge underground economy.

Honest employers end up competing against employers who cut corners on workers' comp coverage, labor laws, and taxes.

This was the subject of a hearing at California's capitol this week. The hearing was the California Senate Info-Hearing on Small Business and the California Economy. You can watch it online by clicking on the California Channel:

<http://www.calchannel.com/channel/viewvideo/3182>

State Senator Mark DeSaulnier noted that these issues have been studied for some time, including by the Little Hoover Commission, and the problem seems to be getting worse.

The hearing was far too long and detailed to summarize in a blog post. Speakers included Scott Hauge from Small Business California, Dan Kurtilla of EDD, David Fogt of the California Contractors State Licensing Board, several contractors, and others.

Christine Baker, the Acting Director of the California Department of Industrial Relations, testified. Baker noted that the strategy of the department is to focus on non-compliant employers without interfering unnecessarily with compliant employers.

During the past few years there have been many publicized "sweeps" by labor standards enforcement.

Baker noted that lack of workers' comp coverage is a good indication of cheating and provides a huge competitive disadvantage.

SB 313 (sponsored by Desaulnier) provides for increased penalties for lack of coverage and Baker noted that DIR is seeing "some significant citations"

According to Baker, out of 1,498 employers randomly identified by EDD about 31% were found by the WCIRB to be lacking coverage. On followup, about 80 out of the 479 suspected scofflaws were found to have coverage and 45 got notice and then obtained coverage. 56 were cited for no coverage at the time of inspection and 46 were cited for past lapse of coverage. Baker noted that fines of over \$400k were levied.

Whatever the exact numbers and percentages, it's clear that this is a huge problem. Baker noted that they hear many stories of employers who buy just enough coverage to stay under the radar. Other employers misclassify workers.

Starting in January 2012 DIR plans a more proactive program to use data to identify cheaters "by red flags".

and she noted some changes in strategy at the department of Labor Standards Enforcement, including "surveillance before inspection".

Dan Kurtilla of EDD noted that EDD is the lead agency in the Joint Enforcement Strike Force, which is an interactive task force. They have 16 MOUs with agencies such as IRS, the Franchise Tax Board, Department of Justice, the U.S. Department of Labor, the Department of Insurance, the Department of Consumer Affairs, and DIR etc.

Kurtilla claimed that Franchise Tax Board Studies show that 11% of any California tax owed in any year is being unpaid because of the underground economy. This could amount to \$6.5 billion in unpaid taxes.

At a time when schools, universities, and aid to needy folks is being cut, that's real money.

THE SACRAMENTO BEE

New Law Reinforces Messages of CALPASC LEVEL Program California Professional Subcontractors View SB 459 as One More Tool to Address the Construction Underground Economy December 9, 2011

The California Professional Association of Specialty Contractors (CALPASC) welcomes the enactment of Senate Bill 459 (SB 459) authored by Senator Corbett (D-San Leandro) as reinforcement to the CALPASC LEVEL Program, which was developed to create a more level playing field for compliant contractors within the construction industry. SB 459 cracks down on the misclassification of employees as independent contractors by increasing the penalties and disciplinary actions on employers who voluntarily and knowingly misclassify employees. The bill calls for the California Labor and Workforce Development Agency to notify the Contractors State License Board (CSLB) of a violation and "to require the board to initiate an action against the licensee." CALPASC Chief Executive Officer Brad Diede said, "SB 459 not only assigns stiff fines for employers found to be deliberately skirting the law but also calls for coordination among state agencies, which is exactly the focus of the CALPASC LEVEL Program."

As outlined in the bill, penalties ranging from \$5,000 to \$15,000 will be assessed for each violation of willful misclassification, while penalties of between \$10,000 and \$25,000 will be assessed for each violation of willful misclassification that are found to be a repeated pattern or practice.

Additionally, SB 459 is written to provide for successor entities, or entities that continue the role or position of another, to be liable for the misconduct. In the construction industry, it is not uncommon for contractors to close a business, start a new one under another name or have multiple businesses. SB 459 directly addresses this by stating "any penalty or disciplinary action by the Labor Commissioner or the CSLB will remain in effect against any successor entity that is engaged in a similar business, and has one or more of the same principals of the prior entity."

Diiede commented, "Those contractors or employers who have been fined in accordance with the law but believe filing for bankruptcy and/or establishing new entities will provide cover will be surprised."

Diiede commented further, "While the distinction between employees and independent contractors is very difficult to define in most industries, it is much clearer in construction. The violation, in particular when there is a repeated pattern or practice, will now follow serial violators, and the trail of violations could be a deterrent for some unlawful contractors."

In 2010, CALPASC established the LEVEL Program to shine a spotlight on violators through the coordination between state agencies, other associations and legitimate contractors.

Los Angeles Times

California officials vow to crack down on underground economy

By Marc Lifsher

December 9, 2011

Reporting from Sacramento—

A burgeoning underground economy is costing California about \$7 billion annually in lost tax revenue and undercutting companies that play by the rules.

That has state officials vowing to crack down on employers who pay their workers cash under the table to avoid payroll taxes, workers' compensation insurance and other government mandates.

Agencies including the Employment Development Department and the Contractors State Licensing Board increasingly are coordinating efforts to target suspected scofflaws.

The Department of Industrial Relations is also ratcheting up efforts to find cheats, Acting Director Christine Baker said at a hearing in Sacramento this week. Computerized searches are helping the agency flag companies that file some tax and insurance documents but fail to submit other required reports.

A recent review of records from nearly 1,500 employers revealed that nearly a third lacked legally required workers' compensation insurance coverage to pay the medical bills of employees hurt on the job, Baker said.

Many of those workers seek treatment at hospital emergency rooms, a burden that ultimately falls on insured patients and taxpayers. They also seek benefits from state workers' compensation courts and money that comes from a special state fund that passes the costs along to law-abiding employers. Off-the-books laborers likewise don't pay income taxes, while their employers avoid payroll taxes to fund unemployment insurance benefits.

Bottom line: Tax-paying companies, consumers and taxpayers are stuck paying the bill for cheats.

"If everybody paid their fair share, all of us would see a reduction of 25% in our taxes," said Dan Kurttila, chief of compliance at the California Employment Development Department, who also spoke at the hearing.

California's underground economy has been growing for years, but concerns have been heightened by the economic downturn. Cash-strapped consumers and businesses increasingly have been turning to shadow operators for lower-cost roofing, cleaning, warehousing and other services.

But falling tax revenue means larger deficits for governments struggling to provide public services. And it's making it tough for legal businesses to compete.

Sacramento electrical contractor Mark Cooper said his workforce has fallen to 31 employees from a peak of 390 in 2005. Most of that reduction is due to the housing bust. But Cooper said he's now being undercut by freelance electricians who don't pay taxes or carry insurance. He estimated that he could triple his workforce if the playing field were leveled.

"There's no whistles, there's no flags, there's no penalties," he said. "Those of us playing by the rules do question why we have to play by the rules."

Unfair competition is compelling more contractors, even licensed ones, to take shortcuts to compete, according to David Fogt, enforcement chief for the California Contractors State Licensing Board.

A recent survey of 305,000 licensed California contractors showed that nearly two-thirds had filed papers with the board claiming that they should be exempt from carrying workers' compensation insurance because they had no employees. Experts said it's unusual for so many licensed contractors to have no workers on their payrolls; more likely, they said, many of those contractors are illegally misclassifying the status of their employees to avoid carrying workers' comp insurance.

State law requires that all employers carry such coverage, which is particularly important in construction, where workers are more likely to suffer injuries. In one dangerous trade, roofing, a new law mandates that small-company owners have workers' compensation insurance even if they have no direct employees.

Tax and insurance cheating is rampant in the construction, janitorial, courier, landscaping and food service fields, officials said, where cheaper shadow operators are siphoning business from legitimate firms.

Low-ball contracts are common in the commercial janitorial business, said Pete Conaty, an industry lobbyist in Sacramento.

"If someone walks in [to a big chain store] and says, 'I'll clean all your stores for 70% of what you currently are paying,' the chain says, 'That sounds good; let's sign a new contract,'" Conaty said.

Small-business owners support tough enforcement as long as it's aimed at the worst offenders and doesn't devolve into "gotcha" raids that harass companies for small infractions, said Scott Hauge, founder and chairman of Small Business California, a statewide advocacy group.

The survey showed that 44% of the group's members identified the underground economy as a major competitive problem.

"When I talk to small businesses, they are outraged because they see their taxes are higher because people aren't playing by the rules," Hauge said.

A variety of state agencies are coordinating efforts to target suspected underground economy employers and issue more citations.

In October and November, the state Department of Labor Standards Enforcement levied more than \$1 million in fines against two labor subcontractors — Premier Warehousing Ventures and Impact Logistics Inc. — for failing to maintain employee time records and for failing to provide itemized wage statements to employees. The subcontractors provided workers to a Riverside County warehouse owned by Schneider Logistics, which distributes goods for Wal-Mart Stores Inc.

Many small and medium-size business owners say they can't afford to wait too long for state action to level the playing field.

"I'd be happy if I'm here next year still in business," said Kevin Burns, a landscaper from South San Francisco. "Without enforcement it's like the wild, wild West. There won't be any legitimate contractors left to regulate."

Suspicious Solicitors

By Cassandra Morris

December 8, 2011

Several suspicious events involving solicitors have occurred in Sierra Madre since last week's wind storm.

The night after the storm knocked out power nearly everywhere in town, the police department says they received several calls from residents reporting nighttime solicitors.

"No legitimate solicitor would seek business from residents at nighttime in a city experience a complete power outage and wind devastation," City officials said in a statement.

Police are urging residents to be cautious should they be faced with a door-to-door solicitor.

Police report stopping two men who were flyering an area of town near Carter Ave. After questioning the men, officers found that both of them were on parole- one for car jacking and the other for residential burglary. One man was arrested on an L.A. Sheriff's Department no-bail residential burglary warrant.

On Wednesday evening just before the wind storm really kicked in, a resident captured an unknown man on video surveillance enter onto his property. The resident posted the video on YouTube and the incident is included in this week's police blotter. Police have indicated that the man on video is a person of interest and someone they would like to speak with.

The city says that burglars often knock on front doors to see if anyone is home. If an unknown person comes calling and you don't answer the door, it's a good idea to keep an eye on their actions.

The police department asks that residents remain vigilant and report any suspicious activity. Sierra Madre also has Neighborhood Watch programs. For more information call (626) 355-1414.

Home Repair Scams

With mounds of debris still settled in many Sierra Madre yards, police are urging residents to take precautions when dealing with home repair services and contractors that may solicit your business.

The city has indicated that unlicensed contractors are likely to go door to door in an attempt to get customers.

The city has released these tip-offs for spotting fraudulent workers and businesses:

- The suspect may take a large deposit and never return to do the work.
- The suspect may actually do the work but the victim finds out later that it is so shoddy and inferior that it must be torn out and replaced at the victim's expense.
- The suspect may also change the agreed upon price after the work is performed and intimidate a vulnerable victim into paying the higher price.
- Some suspects target victims who have impaired vision, mental states, or physical abilities, and charge repeatedly for work that has already been performed or is never actually performed.

you are thinking about hiring a contractor, you may want to check out the State of California's Department of Consumer Affairs' Contractors State Licensing Board Website.



AIR CONDITIONING SYSTEMS DISCOVER THE BEST ANSWERS!

I've been duped by a fake electrician. What can I do?
December 8, 2011

Q:

An electrical contractor gave me an estimate to fix my air conditioner. He showed me his license. He needed upfront money to buy the parts that needed replacement. Now, he is stringing me along day after day. It has been a week and he has not repaired what is needed. I looked his lic. # up and it resulted in a company in Texas with an expired license (we are in CA. I e-mailed the Better Business Bureau so far and ordered a copy of the check I gave him for the parts.

A:

pagliacci says:

File a case of estafa or swindling against the fake electrician. Under the applicable provisions of the Penal Laws, he committed the crime by presenting an expired license in order to get money from you but never repaired any of the supposed work.

patd1 says:

First of all you shouldn't have called an electrician, you should have called a heating and airconditioning man!

Sorry you got ripped. Nobody likes to get ripped off.

Constructioncommando said:

In California, the Contractors State License Board has jurisdiction over unlicensed contractors.

This guy has committed numerous violations. In particular: CA contractors may not ask for a deposit over 10% or \$1000, whichever is LESS.

Cal. Bus. & Prof. Code section 7027.3

How do you know that he is a "contractor" ? Because you "assume" so ? You obviously mistake CODE for law. Code only applies to those who are participants in the code, I.E. have signed a contractual agreement giving consent to the code. Like when you enter any other contract. How can the Contractors State License Board have jurisdiction over someone who is not a contractor and is not a party to a contract WITH the Contractors State License Board in order for the code to apply to them ? Code is not positive law, it is stipulations of a contract, wise up.

Just because people are incapable of effectively defending themselves in court, and let code be applied by default, does not mean the court acts without self serving corruption and misapplication of CODE. The primary issue here is subject matter jurisdiction. They don't have it over NON-contractors.

US Supreme court rulings uniformly acknowledge the RIGHT to work for a living. You don't need to get permission from the government to exercise a RIGHT to make a living. Maybe in Cuba or South Korea, but not under the US Constitution.

Also, what BS code did you find that says that the working man has to front any amount above 10% or \$1000 to a potential scam artist homeowner. This would easily subject anybody working for a living (non-contractor) to have to FRONT potentially LARGE sums of money in order to work for a living. All the homeowner has to do is say "the work is substandard" and make the private working man fight for months to get paid for what he has already fronted many thousands of dollars. This is obviously pro-big corporation code to give preference to those deep pocket corporations that politicians/lawyers/LDAs love. It is good that code only applies to those who are party to it.

normgri says:

In California, the Contractors State License Board has jurisdiction over unlicensed contractors.

This guy has committed numerous violations. In particular: CA contractors may not ask for a deposit over 10% or \$1000, whichever is LESS.

Cal. Bus. & Prof. Code section 7027.3:

Any person, licensed or unlicensed, who willfully and intentionally uses, with intent to defraud, a contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person, is punishable by a fine ... or by imprisonment in state prison or by both that fine and imprisonment."

Just contact him to let him know you are you know your rights as a homeowner, and are serious about resolving this problem. Tell him you want a refund or you will open up a formal complaint with the CSLB. Then take your money and hire someone you KNOW is licensed (and who works HVAC. If you are not satisfied, contact the CSLB and make a complaint. That's what they are there for.

Santa Ana Winds Pummel Calif. Homes, Giving Scammers New Hunting Grounds

By Mandi Woodruff

December 5, 2011

As California braces itself against 60 mph Santa Ana winds this week, you can bet fraudsters will be waiting in the wings to pounce on unsuspecting consumers looking to repair the damage to their homes.

Posing as contractors or public adjusters, con artists are likely to target consumers shortly after natural disasters strike, offering cheap labor and "quick fixes" for damaged homes.

But falling for their traps could be costly.

In a worst-case scenario, the supposed laborers could collect a down payment for their work and then abandon the site altogether, leaving you out of cash and still with that gaping hole in your roof.

You shouldn't pay more than 10 percent of the estimated contract price upfront, according to the Contractors State License Board. The agency also recommends getting a payment schedule and completion date in writing before you sign off with a contractor.

Use due diligence before signing with a contractor, since your insurer won't be able to step in after you've hired outside help, according to the Insurance Information Network of California.

Filter out the fakes by asking for identification and copies of their liability and worker's compensation insurance upfront, the FTC suggests. And don't be afraid to ask your friends and neighbors for references.

Some shady contractors will charge all sorts of items at the supply store and bury them in their final in-voice, so scan all charges with a fine toothed comb and ask if something seems unreasonable.

No matter what, run your contractor's information by the Better Business Bureau and National Association of Home Builders, which both maintain logs of prior complaints.

Unethical contractors

By Liza Horvath

December 5, 2011

Late on a Sunday afternoon Richard glanced out the front window of his Carmel home and noticed a pool of water forming on his lawn. The 92-year-old and his wife had lived in their home for more than 60 years and had never seen anything like this before.

As it turned out, the main water pipe running from the street to the house had ruptured and a plumber was needed to fix it.

While Richard expected the Sunday after-hours call to be expensive, he was astonished when the plumbing contractor handed him a bill for more than \$6,000. The impatient contractor stood on the doorstep waiting to be paid, so Richard wrote him a check from his line of credit — an account that he reserved for just such emergencies.

After worrying about the bill for days, Richard called the Carmel Police Department and relayed the plumbing story to Mike Calhoun, interim police chief. After investigating, Calhoun found that other plumbing contractors would have charged about \$1,400 for the work, so he contacted the California Contractors State License Board and reported the abuse.

The License Board is responsible for testing prospective licensees, issuing contractor licenses and for enforcement of the laws that govern the activities of contractors.

The board has long recognized that seniors are vulnerable and are often preyed upon by unlicensed or unscrupulous contractors. In 1999 the License Board, in conjunction with legislators, state and local agencies, law enforcement and district attorneys began the Senior Scam Stopper program that specifically seeks to educate seniors about contractors and protect them from abuse.

In addition to frequent seminars around the state, the License Board has published a brochure called "What Seniors Should Know Before Hiring a Contractor." It outlines what research a senior can do before hiring a contractor, what questions should be asked, how fees are paid and how to check to make sure your contractor is licensed and in good standing. The brochure also outlines common scams perpetrated by contractors and those posing as contractors.

To receive a copy of the brochure go to www.cslb.ca.gov and click "What Seniors Should Know" or call 800-321-2752.

Monterey County is a hotbed for contractor problems — so much so that in 2009 the License Board placed a full time enforcement representative in Carmel.

David Leary is technically part of the Statewide Investigative Fraud Team that investigates fraud and unlicensed contractor activities — but Leary is intensely dedicated to the protection of seniors. He is a welcome resource in our community.

If you have a complaint or question regarding contractors Leary can be reached at 620-1374 or on his cellphone 233-1877. He is happy to help. Leary says the main thing is to check on the license before you enter into a contract. "The agency is here to help and the consumer should never hesitate to call me" Leary says, "even if they have a simple question or just want me to look up a contractor license."

Calhoun and Leary worked together on behalf of Richard and, as a result, Richard got his money back and the License Board placed the contractor on probation.

With resources like the License Board, police departments and our district attorney's office, contractors better have second thoughts before trying to take advantage of the trusting seniors in our community.

Liza Horvath has over 25 years experience in the estate planning and trust fields and is a trust officer with a local bank.

State tells victims of windstorm to use caution in seeking help

December 3, 2011

SACRAMENTO — The Contractor's State License Board has issued a warning to victims of the recent windstorm concerning the use of non-licensed contractors for cleanup and repairs.

"A state-licensed contractor is the right choice, especially in an urgent situation," said CSLB Registrar Steve Sands.

The board is concerned that unlicensed, and often uninsured, contractors will take advantage of property owners requiring services like tree removal and roof repairs caused by the storm. Companies performing work valued at \$500 or more must be licensed by the state.

The board also recommends getting at least three estimates, even if the work is urgently needed, along with checking references.

Coast Lines: Dec. 3, 2011
December 3, 2011

COUNTY

State: Use licensed contractors for wind repairs

As gusty winds settle down, the Contractors State License Board is urging homeowners to follow the law when contracting for property cleanup or repairs.

'A state-licensed contractor is the right choice, especially in an urgent situation,' said CSLB registrar Steve Sands. "A CSLB-licensed contractor who is skilled in the specific trade you're seeking will have a license on hand, and is unlikely to leave you in the lurch when it comes to properly completing the job at a fair price."

The agency recommends getting at least three bids, checking references, and getting a written contract. Consumers can check the license status of any contractor at www.cslb.ca.gov.

Any construction job valued at \$500 or more for labor and materials must be done by a state-licensed contractor. California law requires licensees to carry workers' compensation insurance coverage for their employees, and C-39 Roofing contractors must have workers' comp even if they certify they have no employees.

It is against state law for a contractor to ask for or accept a down payment greater than 10 percent of the contract price or \$1,000, whichever is less. For information, call 800-321-2752.

THE SACRAMENTO BEE

Insurers brace for claims after winds batter Sacramento area

By Claudia Buck
December 3, 2011

The blustery winds that blew through Sacramento and throughout California this week tore off tree limbs, felled fences and crumpled some residential roofs.

That's left many homeowners – and their insurers – outdoors assessing the wind-whipped damages.

"It's one of the worst we've seen in a long time, particularly in Southern California," said Tully Lehman, spokesman for the Walnut Creek-based Insurance Information Network of California, which represents about 60 percent of California's insurers.

Lehman said the industry has received thousands of claims statewide. He expects that number to rise because the strong winds were widespread from Oregon to the Mexico border.

Sacramento's winds weren't as high as those down south, but they were still strong enough to produce a burst of damage claims. Sean Timmons, a Farmers Insurance agent in Sacramento's Greenhaven area, said he has received just one claim so far – \$1,500 for a blown-over backyard fence in Galt. He expects more damage reports to start rolling in on Monday.

"People don't always realize (they've suffered damages) until the weekend when they're doing yardwork. During the week, they come home at night and don't really see it," he said.

If your home, fences, vehicles or other property are damaged by falling limbs or trees, the first priority: "Get it covered up to protect your property from further damage," said Sheri Dickman, a State Farm employee in Sacramento. It's also a good idea to photograph the damage, in order to show your insurance company's claims adjuster.

In tree-rich communities like Sacramento, one of the most common questions to insurers following a windstorm: Who pays if my neighbor's tree hits my house or my tree damages my neighbor's home or car?

According to the Insurance Institute: "Unless negligence can be proven, the neighbor's policy covers his/her house and your policy covers your house." Generally, if a neighbor's tree topples onto your property, your insurance company covers the damages.

For many homeowners, deciding whether to file an insurance claim can be a dilemma. A typical homeowner's policy has a \$1,000 to \$1,500 deductible, said Lehman.

For a fence, you may only exceed your deductible by \$100 or so," which means filing an insurance claim may not be worthwhile, said Lehman. "Whereas if a tree fell on your house, you'll probably exceed that deductible very quickly" and want to seek reimbursement.

If you don't have insurance or are paying out of pocket, be wary of door-to-door solicitors offering to do repair work.

If somebody comes to your door unsolicited, that should be a red flag," said Lehman. "They could be somebody who'll do shoddy work or not finish the work."

Ask for a business card and be sure it has a contractor license number. Don't approve any work until you've verified that the license is valid by calling the Contractors State License Board at (800) 321-2752 or checking online at www.cslb.ca.gov.

The state Department of Insurance recommends collecting bids from several contractors and getting everything in writing.

Never pay the full amount in advance or before all repair work is completed. State law says a down payment for repair work cannot exceed \$1,000 or 10 percent of the full price. For more details: www.insurance.ca.gov

Contractors State License Board Encourages Vigilance When Making Wind Storm Repairs....CSLB tips to assure repairs don't turn into costly headaches

By Kim Hamilton

December 2, 2011

SACRAMENTO – As gusty winds settle down around California, the Contractors State License Board (CSLB) is urging home owners to be vigilant when it comes to contracting for property clean-up or repairs. Sometimes what appears to be the cheapest solution to remove a fallen tree or fix a downed fence may be much more costly in the long run. ...

"A state-licensed contractor is the right choice, especially in an urgent situation," said CSLB Registrar Steve Sands. "A CSLB-licensed contractor who is skilled in the specific trade you're seeking will have a license bond, and is unlikely to leave you in the lurch when it comes to properly completing the job at a fair price."

Consumers can use CSLB's instant license check to find the license status of any contractor they plan to hire, and to get tips on wise home repair and improvement choices in several languages. CSLB's video, "Rebuilding After a Natural Disaster," is also available online.

Any construction job valued at \$500 or more for labor and materials must be done by a state-licensed contractor. California law requires licensees to carry workers' compensation insurance coverage for their employees, and C-39 Roofing contractors must have workers' comp even if they certify they have no employees.

It is also against state law for any contractor to ask for or accept a down payment greater than 10 percent of the contract price or \$1,000, whichever is less. (There is an exception for about two dozen contractors who have special bonds that ensure consumer protection; this information is noted in the display page for those contractors on CSLB's website.)

CSLB urges consumers to follow these tips when soliciting bids from any home improvement contractor:

Hire only licensed contractors, and ask to see the license and photo identification.

Don't rush into repairs, no matter how badly they're needed.

Only pay 10 percent or \$1,000, whichever is less, as a down payment.

Never pay in cash, and don't let the payments get ahead of the work.

Get at least three bids, check references, and get a written contract. Make sure any changes to the original contract are noted in writing, and that you sign or initial them.

The Contractors State License Board operates under the umbrella of the California Department of Consumer Affairs. More information and publications about hiring contractors are available on the CSLB website or by calling 800-321-CSLB (2752). You can also sign up for CSLB email alerts. CSLB licenses and regulates California's 300,000 contractors, and is regarded as one of the leading consumer protection agencies in the United States. In fiscal year 2010-11, CSLB helped recover nearly \$45 million in ordered restitution for consumers.

Thirteen nabbed in Central Valley contractors' sting

December 2, 2011

- Charged with operating without proper licenses
- 'The lowest bid could end up costing you much more in the long run'

The small San Joaquin County farming community of Linden has fewer than 1,800 residents but more than a dozen would-be home fix-it contractors descended on the town this week.

They were drawn to a home in Linden where they were asked to bid on projects including landscaping, concrete, fencing, painting, tree service, as well as for demolition of an unattached garage and other outbuildings.

But posing as the homeowners were agents of the Contractors State License Board and San Joaquin County District Attorney's Office, who were running a sting to sweep up illegal contractors.

Thirteen of those who showed up to bid on the projects at the house near Linden High School, were unlicensed.

Instead of a job, they were cited into court to answer the allegations.

A state contractor license is required for home improvement jobs valued at \$500 or more in combined labor and material costs, and contractors must place their license number in all advertisements. Individuals without a license may advertise for work valued at less than \$500, but their ads must state that they are not a licensed contractor.

Eleven will face charges of contracting without a license. Nine of the 11 will also face a charge of illegal advertising. Two others are charged with being unregistered home improvement salespeople. All charges are misdemeanors.

Three of the unlicensed operators also received administrative citations for illegal advertising that includes an order for them to have their telephone number disconnected. The fine for each of the administrative citations issued is \$700.

It's important for consumers to take a few minutes to go to our CSLB website and check out anyone they're considering hiring for home improvement work," says CSLB Registrar Steve Sands. "Everyone caught in this sting would have either shown up as being unlicensed, or the display would have shown that their license was expired or suspended. Keep in mind that the lowest bid could end up costing you much more in the long run if the person you select for the work isn't properly licensed and bonded, or doesn't carry the proper insurance."



After the Winds, Don't Get Blown Away by Fraud

December 2, 2011

As the damage from this week's windstorms is tallied, a new peril may threaten homeowners -- con artists posing as contractors and public adjusters with offers of cheap labor and a quick damage fix.

But for homeowners seeking repairs or needing help filing insurance claims, enlisting unlicensed help can be an costly mistake.

In the worst cases, shady contractors may disappear with the homeowner's down payment or provide unsafe repairs. Unlicensed public adjusters can also promise more than the insurance policies cover. A promise from anyone for more money or services than what is specified in a policy could be an invitation to commit insurance fraud, a felony that costs consumers up to \$40 billion a year, according to FBI statistics.

'Be aware that if you sign a contract with an outside claims intermediary, your insurer is precluded from working with you directly,' said Candysse Miller, executive director of the Insurance Information Network of California. In addition, insurers often do not pay intermediaries' fees, which become the responsibility of the policyholder.

A call to your insurance agent or company can determine if your insurance covers your wind damage. Your insurer may also recommend the appropriate course of action, as well as licensed contractors with a proven track record of disaster repair.

California law requires contractors who perform work worth more than \$500 be licensed and bonded, and provide customers with proper recourse if they are dissatisfied. Public adjusters must also be licensed by the state and adhere to rules established by the California Department of Insurance.

Homeowners seeking repairs can check a contractor's license status and verify qualifications online at the Contractors State License Board or by calling (800) 321-CSLB. The agency recommends that consumers pay no more than 10 percent of the contract price or \$1,000 as a down payment and receive a written contract verifying payment schedule and completion date.

Public adjusters' licenses can also be checked by calling the Department of Insurance at (800) 927-HELP.

IINC is non-profit and non-lobbying trade association dedicated to helping the public understand insurance and manage risk. For more information, please visit the IINC Web site. You can also follow IINC on Twitter at twitter.com/iinc and on Facebook at facebook.com/iinc.org.

Devon Lynn Kile, Real Housewives Wannabe, Won't Be Trading Pradas for Prison Garb

By Matt Coker

November 30, 2011

When Laguna Hills roofing contractor Michael Vincent Petronella was convicted for one of the largest known frauds of its kind in California history, Orange County District Attorney Tony Rackauckas famously said, "Cheaters who defraud the system will be trading in their Pradas for prison garb." Sure enough, Petronella was sentenced in November 2010 to 10 years in state prison for the \$30 million Workers' Compensation Insurance scam. Fast forward a year: the other cheater, Petronella's wife Devon Lynn Kile, received the same sentence, but it will be stayed pending completion of conditions that will keep the Real Housewives of Orange County wannabe out of Pradas and prison garb.

Kile, who spent two years in county jail garb while her case was pending, must successfully complete 10 years of probation and pay around \$3 million in restitution to avoid the 10-year prison sentence her husband received.

The 46-year-old cut a deal with prosecutors accepted a court deal that had her pleading guilty last April to 36 felony counts of misrepresenting facts to the State Compensation Insurance Fund (SCIF), 15 felony counts of willful failure to pay tax to the Employment Development Department (EDD), 10 felony counts of failing to file a return with the intent to evade tax, six felony counts of willful failure to file tax returns, six felony counts of filing false tax return, one felony count of making fraudulent statements, and sentencing enhancements for excessive taking over \$2.5 million and white collar crime over \$500,000.

As part of Kile's sentence, restitution payments will total \$1.3 million to EDD, \$1.5 million to the Franchise Tax Board (FTB) and a yet-to-be determined amount to SCIF.

Kile and Petronella, who also went by Michael Constantine, owned the roofing and general building contractor businesses Petronella Corporation, Western Cleanoff, Inc., and The Reroofing Specialists, Inc. (also known as Petronella Roofing). With offices in Costa Mesa and Cathedral City, their clients included the Ocean Institute in Dana Point, Pacific Amphitheater in Costa Mesa and other commercial properties.

In March 2006, one of their employees was injured after falling from a roof. A payroll stub was submitted to the SCIF listing his employer as Western Cleanoff, Inc., which the state Legislature-created, quasi-governmental non-profit insurance company did not insure. The SCIF reported the suspected fraudulent claim to the Orange County District Attorney's office (OCDA) and the state Department of Insurance (DOI).

The Orange County Premium Fraud Task Force, a collaboration of investigators from OCDA, DOI, EDD, FTB and the Contractors State License Board investigated the couple for two years and discovered that between 2000 and 2008, they fraudulently submitted 42 claims for uninsured injured workers and underreported \$29 million in payroll to SCIF in order to avoid paying Workers' Compensation Insurance premiums. The scheme resulted in SCIF incurring more than 253,000 in uncovered injured worker claims and insurance premium losses in the millions. Petronella and Kile reported \$3 million in payroll to SCIF, while having an actual payroll of \$32 million, ten times more than reported.

When the couple was arrested at their Laguna Hills home on April 29, 2009, they owned five properties in California and Texas and multiple luxury vehicles including a Bentley, two Ferraris, and a Range Rover. Between 2005 and 2007, they spent more than \$2.1 million on their American Express credit card for personal items. They spent thousands of dollars on jewelry, shoes, clothes, and other personal items at stores including Balenciaga, Bloomingdale's, Chanel, Christian Louboutin, Gucci, Kitson, Neiman-Marcus, Nordstrom, Yves Saint Laurent and others.

A search of two residences, two businesses, a storage unit and a Certified Public Accountant's office turned up more than \$500,000 in jewelry, \$51,000 cash, and an application from Kile to be featured on Bravo's Real Housewives of Orange County.

A court-appointed Receiver later determined which properties of the couple should be sold or put up for collateral to cover their fines.

SPEC | alert

UPDATE: 11/9/11 Construction Coalition Meeting REPORT
November 29, 2011

The Construction Enforcement Coalition, of which SPEC is a member, held its latest meeting Wednesday, November 9th. In addition to approximately 50 attendees representing construction industry and labor groups, the following agency chiefs were in attendance to present the status of implementation of the Labor Enforcement Task Force and field questions: Christine Baker, Acting Director, Department of Industrial Relations (DIR); Simon Ramsubhag, Underground Operations Chief, Employee Development Department (EDD); David Fogt, Enforcement Chief, Contractor State License Board (CSLB); and Eric Weirich and Rick Plein, Fraud Division, Department of Insurance (DOI).

Acting Director of DIR, Christine Baker, was the first agency chief to speak. She provided updates on a number of important steps the agency is taking to enhance enforcement efforts. Baker reported the Governor has endorsed the reorganization of the Economic and Employment Enforcement Coalition (EEEC) unit. The unit will retain the same number of enforcement personnel from multiple agencies, but will be under the DIR, not Labor & Workforce Development Agency (LWDA). It will be renamed the Labor Enforcement Task Force (LETF). It will be streamlining its efforts to more quickly target flagrant violators in its targeted industries, and construction is one at the top of the list to address.

For all enforcement agencies, database improvements are underway so that there will be more interagency data shared. Memorandums of Understanding are being inventoried with a view to being re-written to allow faster interaction between agencies. DIR will be participating in the Automated Collection Enhancement System (ACES) database of EDD in the future. There is a careful evaluation of what enforcement personnel are needed with a partial lifting of the hiring freeze, so that 150 to 200 enforcement personnel can be hired after the first of the year, with a high priority going to the Department of Occupational Health and Safety (DOSH or Cal/OSHA) and the Division of Labor Standards and Enforcement (DLSE, Labor Commissioner). The new Compliance Monitoring Unit will be hiring 60 personnel in the near future to enforce public works projects. Baker indicated that she would appreciate input as to the mission statement for the Labor Enforcement Taskforce.

Baker also provided an example of how the DIR is interacting with EDD and the Workers' Compensation Insurance Rating Bureau. 1500 companies were identified as having questionable coverage based on their payrolls; after review, 469 were referred for investigation. 80 companies wound up having insurance already, while approximately 100 were given citations. The DIR plans to be more focused and more comprehensive in their enforcement efforts.

David Fogt (CSLB) noted that there are 487 positions at the CSLB, and only 432 are currently filled; 29 of those needing to be filled are in enforcement. He also said CSLB is working with the State Fund to prioritize data to catch violators; and in a recent sampling of roofing contractors in the Chico area, 32 of 65 roofing contractors had minimum premium policies (no reported payroll), while five had small premium policies (small reported payroll). CSLB is also working with building departments to identify violators.

Simon Ramsubhag (EDD) expressed his concern for business owners losing out to cheaters and discussed their 2012 agency plan, committing 75% of his resources to this construction effort next year. He also described working in cooperation with CLSB and specific trades; HVAC, Landscapers, Roofing, and the Pool Plastering industry. He gave an example of how out of 167 roofing licenses in Pleasanton, only 37 were legitimate. Pleasanton is now requiring the contract amount and number of employees before issuing a permit.

Rick Plein (DOI Fraud Division) discussed their hiring and training programs for new enforcement personnel, and said they are moving forward with and expressed their commitment to collaborative efforts with other agencies. DOI currently has 170 premium fraud investigations going, with over \$100 million in premium in question. He also noted that there is a new public complaint form, much simpler than the complicated complaint form that is turned into DOI from insurers. Eric Weirich, DOI Fraud Division advised that currently 95% of premium fraud referrals come from insurers, and it is hoped this new form will lead to more investigations. This form may be accessed by clicking the link: [Online Insurance Reporting Form](#) to the Department of Insurance

Completed Online Insurance Reporting Forms are to be mailed to the following address:
California Department of Insurance
Enforcement Branch Headquarters Intake Unit
3342 Tech Center Drive, Ste. 100
Sacramento, CA 95826

California Insurance Code Section 1879.5, no person shall be subject to civil liability for filing a good faith report of suspected insurance fraud to the Department of Insurance.

Lastly, it was announced that the Senate Industrial Relations Committee was going to conduct a hearing on December 5th, 1:00 – 4:00 p.m. on Small Business and the Underground Economy. In addition to planned testimony from the state's enforcement agencies, including the CSLB, CDI, ADD, and DIR, the committee is inviting trade associations representing the construction industry to attend and testify. SPEC will be on hand for this hearing.

City Warns of Phone Solicitation Scam

By Arin Mikailian

November 29, 2011

City officials are warning residents to be suspicious of phone calls from someone who is soliciting home repairs and claims to be associated with the city of Calabasas.

The city is currently not reaching out homeowners to set up meetings regarding home repairs, said city spokesman Michael Hafken.

"When asked, the person gives a fictitious address and phone number," he said.

One homeowner who recently got such a call tipped off a member of the Calabasas City Council.

"Residents who receive solicitation calls should always check information provided against the State Contractor's website for accurate licensing information," Hafken said.



California Takes Aim at Illegal Contracting

By Eric Herman

November 28, 2011

I'd like to congratulate California's State Assembly for its recent measures targeting the practice of "black market" contractors, specifically those skirting worker's compensation insurance.

The move comes in the form of two new laws: AB 397 requires contractors claiming workers' compensation exemptions to recertify their status or supply proof of insurance whenever they renew their licenses. AB 878 requires insurers to report client companies underreporting salaries to the Contractors State License Board. Both laws were written and sponsored by Assembly members Bill Monning (D-Santa Cruz) and Bill Berryhill (R-Stockton).

As a native Californian and follower of state politics, it's refreshing to see our representatives do something positive for small businesses struggling to compete in today's unstable marketplace. It's no secret that many pundits and voters alike have been deeply critical of what some characterize as California's draconian regulatory measures, particularly where small businesses are concerned.

In this case, however, the folks in Sacramento got it right. Illegal contracting practices have long been a significant problem both for consumers who have been damaged by black market contractors and law-abiding contractors who have struggled to compete against those who cut corners by not properly insuring workers.

The new laws come at a time when the California's Contractor State License Board is increasing enforcement of contracting laws, including sting operations targeting unlicensed contractors. Just last month the CSLB's Statewide Investigative Fraud Team (SWIFT) arrested eight illegal contractors in an operation in my former hometown of Murrieta, an effort conducted in conjunction with local police and the Riverside County District Attorney's office. Similar operations netted 113 violators in eight other cities, who are now facing a host of citations for illegal contracting practices.

As for how all of this applies to the pool and spa industry, let's face it, for years now it's been common knowledge that illegal contracting practices have been a problem in various markets all over the country, and in recent years the recession has only exacerbated the problem. Contractors have rightly become frustrated by the lack of enforcement and the overall destructive nature of illegal practices.

My question is this. Do you think targeting workers compensation abuses will be an effective measure in evening the playing field? I'd love to hear your comments about this and other measures that you believe government, and the private sector, should take to protect those who play by the rules.

Questions persist about Litebox founder Bob Yanagihara
 By Alex Campbell, Heather Gillers and Tim Evans
 November 26, 2011

it seemed a worthy investment: a planned community 60 miles from Los Angeles, 10 miles from the mountains and two miles from the beach at a time when California real estate was skyrocketing.

And the man asking for the money promised eye-popping returns -- in at least one case, 25 percent within a year.

But a few years later, those who loaned money to Bob Yanagihara for the Westwind real estate development have lost hundreds of thousands of dollars. And Westwind officials are left wondering why Yanagihara even sought investors for the deal when, in fact, they say he had no stake in the development.

"He used my status, my corporation, my reputation nationally," said Brian Catalde, president of Paragon Communities, the company in charge of the Westwind development, "to get what he wanted."

That was about six years ago in California. Today, Yanigahara is at the center of a very different deal -- a proposal to build mobile mega-video screens and, more important to people here, bring 1,100 jobs to Indianapolis.

His Litebox announcement, which featured Gov. Mitch Daniels and Mayor Greg Ballard, was kicked off with much fanfare, but as more details surface about Yanigahara's checkered past, some fear Indianapolis might be headed for a letdown.

In the days following that news conference, The Indianapolis Star revealed that Yanagihara had not fully repaid hundreds of thousands of dollars in liens, including several for unpaid state and federal taxes.

But further investigation by The Star has found a litany of angry creditors in California, including some who claim he misled them about his intentions with their money.

That is particularly so with the Westwind real estate development, in the mid-2000s.

The Star has attempted multiple times to get Yanagihara's response to the various allegations. At Yanagihara's request, The Star emailed him a list of questions about the Westwind development and other business dealings.

He initially did not reply. When The Star followed up a week later, he emailed a picture of a sign from the baggage claim at Indianapolis International Airport.

"Welcome to Indianapolis," the sign says. Yanagihara offered no other response.
 Westwind

According to Catalde -- the president of the company that developed Westwind -- Yanagihara sold him some property for the development. He said Yanagihara also told him that he knew owners of nearby properties, and he'd be able to help convince them to sell the land to Catalade's company, Paragon.

Paragon, though, ran a background check on Yanagihara and decided not to work with him beyond buying the land, Catalde said.

"It was determined," he explained, "that he was more talk than reality."

Yanagihara never had any financial or management responsibility with Westwind, Catalde said.

But others say that's not the impression he gave them.

Charlene DeLuca, 52, Torrance, Calif., said she loaned Yanagihara more than \$200,000 and wasn't concerned about getting repaid. After all, DeLuca explained, she had been dating Yanagihara "pretty seriously for about a year" before she gave him the money.

"I would have bet my last dollar," DeLuca said, "that he was the greatest guy in the world."

About three months after she gave Yanagihara the bulk of her life's savings, DeLuca's opinion changed.

Yanagihara had not called her for a few days, and she began to worry. So she called his direct number at his life business, Creative Environments Inc. No answer.

She then called the main number. That's when DeLuca said she was told Yanagihara was married -- and that his wife just had a baby.

A little later, DeLuca said Yanigahara called.

"He told me, 'Don't worry, it's no big deal,' that it works for him," she recalled. "I told him it didn't work for me and that I never wanted to see him again."

DeLuca said Yanagihara then delivered an ultimatum.

"He said if I stopped seeing him I would never see my money again," DeLuca said. "And I haven't."

DeLuca obtained a \$233,000 lien against Yanagihara in 2007 in Los Angeles County.

"He hasn't paid me a penny," said DeLuca. "Would I do anything with him again? Never!"

DeLuca is not alone.

Jolin McGrath loaned Yanagihara \$100,000 for the Westwind housing project. McGrath remembers Yanagihara saying the money was to buy housing deeds from people who lived where the development was planned.

A "promissory note and security agreement" shows McGrath loaned Yanagihara \$100,000 on Oct. 5, 2004.

A hand-written note on the agreement shared with The Star says McGrath would be repaid with "profits from 'Westwind' Housing development, sales of all units."

According to the agreement, Yanagihara was to give McGrath \$125,000 if he repaid the loan within 12 months. If the payment wasn't made for 18 months, he was to receive \$140,000.

The money didn't come, and a couple of years later, McGrath went to Catalde.

By then, as Catalde recalls, he already had received a phone call from a woman who said she had invested in the project. Catalde said his response was: "What?"

The woman -- possibly DeLuca, though it is not clear -- told him that she had invested through Bob Yanagihara as part of an agreement with Westwind.

"There's no such agreement," Catalde said. "Never has been, never was."

of Home Builders, had a similar response: You don't have one.

McGrath won a judgment for the unpaid loan to Yanigahara -- \$145,430 in Ventura County Superior Court, in November 2006. So far, McGrath says, he has only been repaid about \$9,000.

DeLuca, McGrath and Catalde are not the only ones who contend Yanigahara misrepresented himself about the Westwind venture. So does his uncle.

Danny Yanigahara told The Star that his nephew tried to persuade him to sell his property to Westwind. Furthermore, Danny Yanigahara's lawyer, Ted England, an attorney with the Ventura, Calif.-based firm Ferguson Case Orr Paterson, told The Star that Bob Yanigahara claimed he was a partner in the development.

Bob Yanigahara committed "fraudulent representation," England said.

England said Danny Yanigahara ultimately decided not to pursue civil or criminal action against his nephew. Instead, he worked out his problems with the actual developer.

Danny Yanigahara told The Star that his nephew is "a scammer" and "not a man of his word."

"My nephew is kind of -- I'm not saying he's a bad person -- but he's always got these big ideas and talks big and things like that," Danny Yanigahara added. "And a lot of it is bull."

The Westwind debacle, of course, does not mean that Yanigahara's Litebox venture and its promise of needed jobs is some sort of scam or cruel fiction.

But some think it's the type of thing that city and state officials should have known about before touting Yanigahara and his project. Especially since his past troubles don't end with Westwind.

The Star found a number of other troubling instances in Yanigahara's past, including:

Etile Inc., a company with Yanigahara's name attached to it, is listed with the California secretary of state as under suspension and is barred from doing business there. State officials said the company never submitted a tax return and never filed a required statement of information.

The state of California suspended and then revoked, in 2003, the contractors license for Creative Environments Inc. -- listed at the same Los Angeles address as Etile and another company run by Yanigahara. According to state officials, Creative Environments never paid a \$1,000 citation that was issued when the company asked a customer for a down payment larger than allowed under California law.

The California Contractors State License Board cited Yanigahara in 2008 for contracting without a license. State officials said the fine never has been paid back.

Beyond his troubles with the state, there is a list of people who told The Star that Yanigahara either bailed on projects after receiving money, bounced checks or had to be evicted for not paying rent.

Marilyn Miller, a former planning director for the city of Oxnard, Calif., said she hired Creative Environments to install tile in her home -- and paid \$3,000 up front.

The tiles were delivered, and Yanigahara had a guy come in and do half the job, Miller said. But the work was never finished, and Miller said he ducked her follow-up calls.

She threatened to sue but decided it wasn't worth the time for \$3,000 and hired someone else to do the tiling. She said she wasn't aware that Yanigahara couldn't even legally do the work; his license had long been revoked.

Ken Miyamoto said that about six years ago he agreed to pay Yanigahara a total of about \$6,000 for materials and installation for a granite countertop. He had known Yanigahara for years and was longtime friends with his family.

Miyamoto said he paid Yanigahara in installments, but a year after the payment, there was still no progress on the countertop. Miyamoto said he had to "more or less threaten" Yanigahara before he finally gave him the granite. Then he had to hire an outside installer, even though he said the price he paid was supposed to include installation.

"I had to really chase him down. He wouldn't return my calls," Miyamoto recalled. "He's a very good talker, but all the years I've known him all he's been looking for is a way to make some easy money."

Beverly Hills court records show that in 2006 Los Angeles real estate agent Rachel Shamash tried to evict Yanigahara from an apartment she rented him. Shamash said he owed her about \$12,000 for back rent -- and she still hasn't been paid.

When she learned Yanigahara was launching a new business venture in Indiana and could receive tax breaks and other financial incentives, Shamash had one question: "Does that mean I'm going to get my money?"

Vin Fichter, a Westlake Village, Calif.-based attorney, told The Star he met with Yanigahara for a legal consultation about a real estate matter. Yanigahara wrote a check to pay for the visit. It bounced.

When Fichter followed up, Yanigahara promised he'd make the check good. He never did.

So Fichter filed for a judgment for three times the amount of the check, which is allowed under California law. He won the judgment in 2005 for \$2,025 but said Yanigahara has not made good on the debt.

"Someday, somewhere, sometime it's gonna catch up with him," Fichter said, "and he's gonna have to pay me."

There is at least one person, however, who has successfully collected a debt from Yanigahara. Steve Schneider is an independent assets investigator who got back \$5,000 for one of his clients.

Schneider obtained a court order forcing Yanigahara to appear before a judge.

As Schneider recalls, Yanigahara didn't seem to take the court appearance too seriously at first. He cracked jokes that quickly had those in the courtroom laughing.

"I like the guy, talking to him," Schneider said. "But I would never let him borrow a penny from me."

Schneider recalls that Yanigahara's demeanor changed abruptly when Schneider asked the presiding judge for a court order requiring repayment on the spot.

The bailiff walked up to Yanigahara, Schneider said, asked for his wallet and took out \$400 in cash.

Two days later, Yanigahara settled the debt -- in cash, and in full.



How do you handle a lien on your home?

By Kari McCoy

November 23, 2011

Dear Kari,

My partner and I put our house up for sale because I am transferring with my job to another state. Our Realtor obtained a fantastic offer right away that fell within our 30-day time frame.

We started packing and making arrangements for our move. The title company called us and said we have a cloud on our home (mechanic's lien) and we cannot transfer clear title and sell our home with this condition. We need some fast answers due to the time constraints.

Answer:

The title company is correct with respect to the power of a mechanic's lien.

Let's first look at what a mechanic's lien means.

This is a legal process which seeks payment for contracted services performed typically by contractors, subcontractors and suppliers.

This mechanic's lien is recorded with the county recorder's office. The lien will stay on your property as a cloud of title until the amount is paid, mutually agreed to dismiss or until action is taken to remove it.

In case the move does not go through, this will also stop you from being able to refinance your home.

Also, if a general contractor working on your home does not pay the subcontractors he or she hired, a lien can be placed on your home. In other words, there is a hold against the property.

It would be wise to first check to see if the mechanic's lien is valid with the superior court. There are strict timeframes and guidelines that must be followed when a mechanic's lien is being conducted, otherwise the lien could be invalidated.

Send the lien claimant a written letter request (by certified mail) explaining your situation. Explain your timeframe and what consequences you may begin to suffer because of their lien.

Sometimes there is a positive outcome or a satisfactory compromise. If paying your contractor, take precautions and use one of the following forms: Conditional waiver and release upon progress payment; unconditional waiver; release upon progress payment; conditional waiver and release upon final payment; unconditional waiver or release upon final payment.

Many contractors know how to put a mechanic's lien on the property yet they don't know how to remove the lien.

Send the contractor an already filled out release of lien form for them to sign and a self-addressed stamped envelope to your address.

Then you can record it yourself. These forms can be found at the county recorder's office.

In the event you are not able to settle the lien, then the next step could be to petition the court for a decree to release the property from the lien and you may also want to enlist the help of an attorney.

Tip to avoiding a mechanic's lien: Before you sign an agreement, obtain the names with the license numbers of all the parties — general contractor, subcontractors and suppliers that will be involved with your property.

Roll up your sleeves, do a little background check on them through the Contractors State License Board. Make sure your contract has a payment schedule of when the work will commence and end.

Ask for the dollar amounts to be detailed for subcontracts and suppliers. You may even want to place a penalty if the work extends too far over the target date of completion.

Good luck on the settlement of your mechanic's lien.

San Jose Contractors Busted In Sting Operation

By Anna Duckworth

November 23, 2011

SAN JOSE (KCBS) – State investigators posing as homeowners in San Jose have cited 12 people for violating California's home improvement and consumer protection laws.

The Contractor State License Board investigative fraud team set up the two-day operation last week at a home in the Blossom Valley area of San Jose.

Spokeswoman Venus Stromberg said they pretended to be homeowners seeking bids for landscaping, painting, fencing and roofing work. Ten of the 12 people caught were accused of contracting without a license or illegal advertising.

'They were in violation of our state's advertising guidelines which do state that if you have a license you have to have that license number on any advertisement you have in a phone book, or on a business card or a t-shirt, or any form of ad it may be,' said Stromberg.

She said that three contractors were cited for not having workers compensation coverage for all of their employees.

'If somebody is injured on your property and they're not covered for workers comp, you'll be left liable for medical expenses,' said Stromberg.

She said they were able to net the suspected fraudulent contractors through local investigators, Craigslist, phone books and other advertisements.

For plumbers, it's Black Friday too

By Gretchen Wenner
November 22, 2011

Ventura plumber Jerry Feiman's truck bears a slogan that could double as a warning to Thanksgiving cooks: A flush beats a full house.

The day after the food-heavy holiday is typically the busiest of the year for residential plumbers, like a Black Friday for drains and pipes.

"People try to grind up turkey skin," said Feiman, owner of Jerry's Plumbing. "They put too many veggies down the disposal all at once."

The intense cooking combined with visiting relatives using showers, toilets and washing machines can take a toll on sinks and sewer lines.

It's probably the single busiest day of the year for us, the day after Thanksgiving," said John Heard, general manager of the Ventura County franchise of Roto-Rooter Plumbers. He plans to have a full crew of 12 on hand.

Calls typically start about 7 a.m. In the past five or six years, his staff has accommodated people who also want to get in Black Friday shopping.

We work around that," he said. "Some have us come in the evening."

The Thanksgiving-triggered business usually starts Wednesday evening. Calls tend to slow down on Thanksgiving itself, plumbers say, because many people are worried about holiday charges or just want to get through the meal if possible.

Not all plumbers count on getting swamped.

Eric Nahmias, owner of Noyes Plumbing Co. Inc. in Ventura, said with the slow economy, there's no guarantee of a Friday crush.

It's supposed to be busy because of all the extra usage of plumbing and facilities, but it doesn't always work out that way," he said. If the problem is minor, some people put it off, like they do with other expenses these days.

But Nahmias wears an iPhone on his belt, and his shop will be open.

We'll be there," he said of emergencies.

John Rowland of John Rowland Plumbing in Ventura also says Black Friday business comes and goes. "The bottom line is it varies from year to year," he said.

One thing stays constant: When relatives are gathered and a sink clogs, everybody seems to know exactly what to do.

There are a lot of experts after a bunch of wine and a nice dinner," Rowland joked. After they've made a mess of things, he said, they call in the real experts.

The plumbers all said the most common Thanksgiving problem is a clogged sink from misuse of the garbage disposal.

It's important to run lots of water when using a disposal, they said. Avoid stringy vegetables, such as celery, or starchy material like potato peelings. If you pour grease down the drain, make sure you run a lot of hot water as you do so.

If you want to avoid sink problems altogether, put throwaways in a separate container and toss them into the trash. Be sure to let any hot grease cool down first.

And just because a disposal turns on doesn't mean it's working properly, they say. Homeowners sometimes don't know a unit is on the blink and overload it on the big day.

Toilets also can stop up from heavy use. Some homeowners with low-flow toilets make the mistake of putting bricks or water displacement bags in the sinks. Others use too much toilet paper, something difficult to monitor with visiting in-laws and children. Tampons always are a no-no.

A bad sink backup, if it gets into the main line, can stop up all your plumbing and create indoor floods.

Denise Stromberg, spokeswoman for the Contractors State License Board, said emergency repairs are subject to different rules from those for other contracted work. The deals, capped at \$750 or less including materials, must be specified as "service and repair" contracts. Once papers are signed and work begins, they can't be canceled. A standard home improvement contract, needed for work costing \$500 or more, gives the customer three days to back out.

Work done beyond the replacement or repair in the initial agreement requires negotiating a standard home improvement contract, Stromberg said.

Plumbers need licenses for work costing more than \$500 for labor and materials, she said. You can check license status at <http://www.cslb.ca.gov>.

While plumbers are glad to get Thanksgiving business, they say common sense can keep them away.

"We're not a cheap date," Feiman said. "When it comes to holidays, basically, you just don't want to see a plumber."

AGENDA ITEM H

Enforcement Committee Report



AGENDA ITEM H-1

Review and Approval of January 18, 2012, Enforcement Committee Summary Report





CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT COMMITTEE SUMMARY REPORT

ENFORCEMENT COMMITTEE MEETING

January 18, 2012

Sacramento, CA

A. CALL TO ORDER

Enforcement Committee Chair Matt Kelly called the Enforcement Committee meeting to order at 10:00 a.m. in the John C. Hall Hearing Room, located at CSLB Headquarters, 9821 Business Park Drive, Sacramento, California.

Enforcement Committee Members Present:

Matt Kelly, Chair
Pastor Herrera
Ed Lang
Frank Schetter

Enforcement Committee Members Not Present:

Jim Miller
John O'Rourke

Other Board Members Present:

David Dias
Lisa Miller-Strunk
Bruce Rust

Board Staff Present:

Stephen Sands, Registrar
Cindi Christenson, Chief Deputy Registrar
Don Chang, DCA Legal Affairs
David Fogt, Enforcement Chief
Amy Cox-O'Farrell, Information Technology Chief
Rick Lopes, Public Affairs Chief
Karen Ollinger, Licensing Chief
Laura Zuniga, Legislation Chief
Jose Barajas, Enforcement Staff
Marcos Bautista, Enforcement Staff
Melanie Bedwell, Public Affairs Staff
Roseanne Colegrove, Enforcement Staff
Doug Galbraith, Enforcement Staff
Marvena Harris, Enforcement Staff
Lorie Kinder, Enforcement Staff
Carlos Marquez, Enforcement Staff
Sandra Mendez, Enforcement Staff
Jeff Miller, Enforcement Staff



Ana Rodriguez, Enforcement Staff
Jerry Romiti, Enforcement Staff
Maggie Sanchez, Enforcement Staff
Venus Stromberg, Public Affairs Staff
Bertha Todary, Enforcement Staff
Doris Velazquez, Enforcement Staff
Missy Vickrey, Enforcement Staff
Rick Villucci, Licensing Staff
Scott Weber, Enforcement Staff

Others Present:

Claudine Desmond, Association of California Surety Companies
Brad Diede, CALPASC
Michael Franklin, Attorney General's Office
Mason Gunn, Basic Craft
Ken Grossbart, Law Offices of Abdulaziz, Grossbart & Rudman
David Kalb, Capitol Services
Shauna Krause, Capitol Services
Dan Kurttila, Employment Development Department
Harry Moos, California Building Industry Association
Rick Pires, Basic Craft
Simon Ramsubhag, Employment Development Department
Larry Rohlfes, California Landscape Contractors Association

B. PUBLIC COMMENT SESSION

There was no public comment.

C. ENFORCEMENT PROGRAM UPDATE

Enforcement Committee Chair Matt Kelly and Enforcement division Chief David Fogt provided the Enforcement Program Update. CSLB received notice from the Department of Consumer Affairs on November 22, 2011, that the hiring freeze was lifted. There are currently 33 vacant positions in the Enforcement division and staff has been proactive in advertising and hiring for all positions.

Intake and Mediation Center (IMC) highlights included a CSLB Consumer Services Representative who was able to mediate a complaint between a consumer and a licensee who had built a four-unit condominium project. Even though the statute of limitations had passed, the CSR was successful in getting the licensee to perform the necessary corrective work, resulting in a \$277,000 savings to the consumer. Another highlight demonstrated the effectiveness of the Board's permit compliance education and enforcement program.

Investigative Center highlights included a solar system that failed to deliver the promised power. The licensee has refused to fix the problem due to recently filing for



bankruptcy. The complaint has now been recommended for accusation against the licensee for failing to perform per the contract.

The Case Management unit handled 540 arbitration cases that were initiated during the 2011 calendar year. Of those, 467 received decisions; 127 resulted in revoked licenses for non-compliance; and savings to the public for restitution was \$1,478,734.

Chief Fogt reviewed the general complaint handling statistics. The Enforcement division is now closing an average of nine complaints per month since the elimination of all but one furlough day. Staff achieved the goal of increasing the percentage of settled licensee complaints to 30 percent in November 2011 with an average of 32 percent, as well as accomplishing Intake and Mediation Center licensee complaint disclosure of 70 percent with an average of 70 percent in November. Other than in November 2011, staff has been able to meet the goal of reducing 270-day-old complaints to 100 or less.

Chief Fogt also provided an overview of the recent Investigative Center Audits. The internal audit of CSLB's Investigative Centers determined some areas where the staff needed improvement, but the majority of those recommendations can be undertaken by training and increased supervisory oversight. Board Member Pastor Herrera commended Enforcement Management staff for conducting the audits as good management practice.

The Public Works Investigation Unit is currently investigating three public works contractors who are pending disciplinary actions for using the same unlicensed construction clean-up contractor. The unlicensed subcontractor was also issued three non-licensee citations.

During the 2011 calendar year, 118 public works complaints were initiated. Of those complaints, 23 were citations, 18 were referred for accusation, two were referred to a prosecutor for criminal filings, and five were non-licensee citations.

D. DISCUSSION REGARDING THE IMPACT OF THE UNDERGROUND ECONOMY ON EMPLOYERS AND ANTICIPATING THE EFFECTS OF HEALTH REFORM

Frank Neuhauser, Executive Director of the Center for the Study of Social Insurance at the University of California at Berkeley, provided a PowerPoint presentation regarding the impact that the underground economy has on the construction industry. Workers' compensation is being under-reported, mis-reported and, in some instances, not reported at all, impacting the honest employer. From 1997 to 2005, it is estimated that 15 to 68 billion in wages went unreported. Honest employers pay two to three times more than the appropriate rate for high risk jobs. The conclusions he came to from research are that the PPACA (Patient Protection and Affordable Care Act) and related mandate may increase employer costs (especially for small to medium-size employers with high workers' compensation insurance costs), which will increase the importance of enforcement efforts against underground employers to protect the honest companies.



Committee Chair Matt Kelly thanked Mr. Neuhauser for his informative presentation and invited those present to attend the monthly California State Council of Laborers' Underground Economy breakfast where state agencies and those in the construction industry meet to discuss methods of improving enforcement against the underground economy.

E. REVIEW AND DISCUSSION ON PROPOSED 2012 PROACTIVE ENFORCEMENT

The Economic Employment Enforcement Coalition (EEEC) has now been reorganized as the Labor Enforcement Task Force (LETF). Chief Fogt reviewed proposed proactive enforcement strategies for 2012, which included designating identified staff in the SWIFT unit as LETF investigators. This task force, comprised of members from EDD, DLSE, DOSH, BOE, and CDI, was founded to identify construction businesses that are in violation of license, tax and workers' compensation insurance requirements through CSLB complaints, industry associations, and labor compliance organizations.

In attendance were CSLB enforcement representatives (ER) who were selected to work as part of the Labor Enforcement Task Force. These ERs met the previous day to develop strategies to make the partnering pilot a success. Instead of conducting random sweeps, LETF has established a formal process to identify offenders before visiting a project site, which should increase the number of enforcement actions for CSLB and will result in more efficient sweep operations.

The top five LETF enforcement objectives were discussed, which included meeting regularly with associations to identify flagrant construction offenders that will be subject to one or more enforcement actions and establish protocol with partnering agencies to provide for violation disclosure and outstanding liability suspension for such things as unpaid wage claims, tax liabilities and civil penalties. Enforcement also wants to create a statistical report format that identifies their actions, monies owed, and compliance (such as the impact of license suspensions, etc.). Another objective is to have ERs 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.

Dan Kurttila, Chief of EDD's Compliance Development Operations, addressed the Committee to express its continued support of CSLB in helping on the underground economy issue and stated that CSLB is their number one partner in fighting the underground economy. Simon Ramsubhag, EDD's Chief of Underground Economy Operations section, committed to providing 70 percent of his investigators to work with LETF.

Motion to Submit a Recommendation to the Full Board to Approve Designating 11 SWIFT investigators to form part of the Labor Enforcement Task Force

MOTION: A motion was made by Board Member Ed Lang and seconded by Board Member Pastor Herrera to submit a recommendation to the full Board to:



- **Designate 11 SWIFT investigators to form part of the Labor Enforcement Task Force.**
- **Designate 19 SWIFT investigators to partner with local government, law enforcement, and EDD's Economic Enforcement Task Force.**

Motion carried unanimously, 4-0.

F. REVIEW & APPROVAL OF ENHANCED ENFORCEMENT REPRESENTATIVE IDENTIFICATION

Enforcement Representative II Doug Galbraith updated the committee on his progress in leading a task force that was formed at the request of the Board to develop a new professional identification for investigators who conduct business in the field. Mr. Galbraith provided a summary of the training course he developed entitled "Proper Use of Identification." The course covers staff's responsibility to appropriately and accurately identify and introduce themselves, utilizing the metal emblem along with their photo ID card, and citing Penal Code section 538d(c), "Impersonating a peace officer; wearing uniform, insignia, badge, etc."

The Committee was asked to approve distributing the enhanced ID emblem to all enforcement representatives who have completed the PC832 course, as prescribed by the Commission on Peace Officer Standards and Training (POST) academy, and completed the "Proper Use of Identification" training and signed an acknowledgement statement.

Motion to Submit a Recommendation to the Full Board to Approve Providing the Enhanced ID Emblem to those ERs who have completed PC832 POST Academy, Completed the "Proper Use of Identification" Training and Signed an Acknowledgement Statement.

MOTION: A motion was made by Board Member Ed Lang and seconded by Board Member Pastor Herrera to submit a recommendation to the full Board to provide the enhanced ID emblem to those ERs who have completed PC832 POST academy, completed the "Proper Use of Identification" training and signed an acknowledgement statement. Motion carried unanimously, 4-0.

G. ADJOURNMENT

Having no further business, Chair Matt Kelly adjourned the meeting at 12:00 noon.

AGENDA ITEM H-2

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 25 vacant positions in the Enforcement division.

The following chart depicts Enforcement vacancies as of January 25, 2012.

UNIT	CLASSIFICATION	# OF VACANCIES	CURRENT STATUS
Norwalk IMC	Program Technician II	1	Pending DCA Approval
Sacramento IMC	Consumer Service Representative	1	Pending DCA Approval
Sacramento IMC	Program Technicians	1	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	Pending DCA Approval
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
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	Office Technician	3	Currently Advertised



INTAKE / MEDIATION CENTERS (IMC)

CONSUMER RESTITUTION
2011 Calendar Year

• \$ 9,172,007

IMC HIGHLIGHTS:

License Suspension Program Results in Workers' Compensation Compliance

A business owner filed a complaint against a contractor performing service and repair on several refrigeration units in her restaurant. The Consumer Services Representative (CSR) called the consumer who complained that she received shoddy work and poor service for her \$900 repair bill. During the interview, the consumer complained of multiple employees who performed the shoddy work. The CSR noted that the contractor had filed an exemption from workers' compensation (WC), so she obtained specific information on the number of employees and the work they performed. When the contractor was contacted, the CSR verified the work performed on the repair as well as the employees who worked. The contractor made a point of saying that he has "seven" employees and none of them were able to get along with the owner. The CSR informed the contractor that with seven employees his exemption was not valid and would be canceled, and the license would be suspended if WC was not obtained. The CSR's efforts resulted in a reduction in the consumer's bill to \$500 and, most importantly, the contractor obtained a valid WC policy.



INVESTIGATIVE CENTERS (ICs)

CONSUMER RESTITUTION
2011 Calendar Year

• \$4,454,610

INVESTIGATIVE CENTER HIGHLIGHTS:

Revoked Contractor Sentenced to Prison for Mortgage Scam

Revoked licensee Christopher Heisser scammed two consumers and a subcontractor. In November 2007, Heisser, dba Hamercop Homes Inc., contracted to build two homes for approximately \$2.5 million each in the City of La Quinta.

After two complaints were filed, the CSLB investigator determined that Heisser forged the signature of one of the homeowners on construction loan documents, resulting in him receiving hundreds of thousands of dollars illegally from the mortgage company. In addition, Heisser forged his brother's signature on a CSLB License Renewal form as well as Secretary of State forms.

The completed investigation reports were forwarded to the Riverside County District Attorney's Office. Riverside County Deputy District Attorneys (DDAs) Elise Farrell and Homan Hosseinioun filed criminal charges on a total of 46 counts against Heisser as follows:

- 42 Counts of Forgery/Corruption of Records, Penal Code (PC) § 470(d)
- 2 Counts of Grand Theft, PC § 487(a)
- 1 Count of Using the Personal Identification of Another, PC § 530.5(a)
- 1 Count of Unlicensed Business Transaction, B&P Code § 7028(a)

In a plea deal, Heisser plead guilty on December 22, 2011, to three charges: Grand Theft and Forgery/Corruption of Records (both with PC enhancements), as well as Unlicensed Business Transaction (misdemeanor). On January 5, 2012, Heisser was sentenced to serve two years in state prison and 180 days in county jail with the sentences to run concurrently, and he was ordered to pay \$652,697 in victim restitution with additional amounts to be determined by the Probation Department at a later date. Following the hearing, Heisser was taken into the custody of the Riverside County Sheriff for immediate delivery to Chino State Prison.



Unlicensed Contractor Sentenced to One Year in Jail

In February 2010, unlicensed contractor Danny Ho entered into a contract with a homeowner to perform a remodel by converting an entertainment room into two bedrooms. The homeowner paid over \$30,000 before Ho abandoned the project. In addition, Ho failed to pay wages to three employees he had working on the project. Along with being charged for contracting without a license, Ho was also charged with using another contractor's license number and business name, wage and labor violations, excessive down payment and failure to secure WC insurance.

Ho, who has a history of similar conduct, was serving a five-year probation term at the time of his most recent conviction. The terms of Ho's probation required that he obtain a contractor license and WC insurance before performing any construction work, and that he pay all of his workers in compliance with California labor laws.

On November 23, 2011, Ho was convicted by the San Francisco DA of felony counts for grand theft of labor, fraudulently posing as a licensed contractor, and misappropriation of construction funds. Ho was also convicted of misdemeanor counts of contracting without a license, demanding an excessive down payment, and failing to secure WC insurance. On December 16, 2011, Ho was sentenced to one year in jail and was ordered to pay \$81,778.50 in restitution to the workers and homeowner he had defrauded.

Discipline for Illegal Association & Pending Criminal Charges

Michael Nguyen's contractor license as Elite Conservation Services, #750199, was revoked on April 25, 2011, pursuant to the stipulation he signed on March 4, 2011. On April 7, 2011, Nguyen prepared for the revocation of his license by convincing William Hill, sole owner of license #365598, to change his business name to Lucent Energy Group (the name of Nguyen's new company), change his address of record to Nguyen's office location, and allow Nguyen to conduct business under his license.

The CSLB investigation of a consumer complaint against Hill's license during the time period of his association with Nguyen resulted in a referral to citation for violation of B&P Code sections 7114, Aiding and Abetting; 7121, Association with Revoked Licensee; 7154, Employed Unregistered Home Improvement Salesperson; 7161(a), False or Misleading Advertisement; and, 7161(b), Misrepresentation to Procure Contract. Hill stated during the investigation that he knew Nguyen was a revoked contractor but did not realize it was unlawful to employ him in other than in a non-supervisory capacity. Hill insisted he had employed Nguyen to operate his company rather than allowing Nguyen to use his license to operate Nguyen's company.



CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PROGRAM UPDATE

Regardless, Nguyen hired and trained employees, prepared contracts, and had full control of the business operations. After being enlightened, Hill broke off his relationship with Nguyen on August 1, 2011.

During his association with Hill, the San Mateo County DA's Office filed a criminal case against Nguyen in February 2011, based on CSLB referrals for five victims. Nguyen is facing criminal charges of Construction Theft, Grand Theft, Elder Abuse, Obtaining Personal Information to Commit a Crime, False or Misleading Advertisement, and Misrepresentation to Procure Contract. A preliminary hearing was held on December 14, 2011, that concluded with Nguyen being bound over for trial. Nguyen's arraignment was continued until March 17, 2012.

Division of Apprenticeship Standards Case

A private investigator (PI) hired by an electrical trade compliance program witnessed employees of a licensed C-10 Electrical contractor pulling wire and making electrical connections at receptacles in the garage area of a residential project. The PI alleged that the employees were not listed in the Division of Apprenticeship Standards (DAS) database for Certified Electricians, which is a violation of Labor Code (LC) § 3099.2.

The PI was unable to make a positive identification on one of the alleged employees, making it impossible to determine if the employee was registered with DAS. The employee who was identified was listed with DAS as a Certified Trainee, so it appeared that the licensee would mostly receive a warning letter. However, after questioning by the CSLB investigator, the licensee willingly admitted that his trainee brought his brother to work on the day in question without company approval or authorization. The licensee admonished his employee and apologized for the situation. Due to CSLB's zero tolerance policy regarding the use of uncertified electricians, a citation was issued.



CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PROGRAM UPDATE

CASE MANAGEMENT

CALENDAR YEAR (JAN – DEC 2011)

CITATIONS ISSUED		
	Licensee	Non-Licensee
Citations Issued	701	858
Citations Appealed	292	308
Citation Compliance	416	317
MANDATORY SETTLEMENT CONFERENCES		
Scheduled		262
Settled		127
Civil Penalties Collected		\$674,939
Total Savings to the Public		\$1,105,218

ARBITRATION	
Arbitration Cases Initiated	603
Arbitration Decisions Received	514
Licenses Revoked for Non-Compliance	151
Arbitration Savings to the Public – Restitution	\$137,507

CSLB-Sponsored Arbitration

CSLB-sponsored arbitration was productive in 2011, successfully resolving 610 complaints. Arbitrations were held in 51 locations across the state; 499 were mandatory and 111 were voluntary, resulting in awards totaling more than \$3.7 million to the prevailing party. The arbitration process proved to be fair and efficient, with an average time from arbitration assignment to award of 47 days.

The Arbitration Mediation Conciliation Center (AMCC) continues to administer the arbitration program for the sixth consecutive year, working closely with CSLB to accomplish high satisfaction ratings and quick resolutions. Consumers and contractors alike evaluated the AMCC administration with a 4.8 rating out of a possible 5.0, with a notable 93 percent satisfaction rate with the process. The Arbitrators achieved an impressive 4.85 out of 5.0 rating for their professionalism, courtesy, and industry knowledge. Several new arbitrators were added to the roster, each with trade specific knowledge and exceptional procedural expertise.



CONTRACTORS STATE LICENSE BOARD

ENFORCEMENT PROGRAM UPDATE

ACCUSATIONS / STATEMENT OF ISSUES	
Revocations by Accusation (Applicants Revoked)	358
Restitution for Accusations	\$158,356
Statement of Issues (Applicants Denied)	46
Cost Recovery Received	\$133,713
Number of Cases Opened	408
Number of Accusations/Statement of Issues Filed	260
Number of Proposed Decisions Received	97
Number of Stipulations Received	73
Number of Defaults Received	177
Number of Decisions Mailed	329

STATEWIDE INVESTIGATIVE FRAUD TEAM (SWIFT)

CSLB Enforcement's Statewide Investigative Fraud Team (SWIFT) proactively combats illegal contractors that operate in the underground economy. SWIFT enforcement representatives (ERs) routinely partner with other state and local regulatory and law enforcement agencies to conduct undercover sting and sweep operations, targeting egregious offenders who pose a threat to consumers, employees, businesses, and legitimate licensed contractors. Suspects caught violating the law can be issued administrative citations or, if criminal violations exist, issued Notices to Appear (NTAs) that require an appearance before a criminal judge to answer to the charges associated with their illegal activities. Eleven (11) of the 30 positions were assigned to the Economic and Employment Enforcement Coalition (EEEC), and the remaining 19 SWIFT positions partnered with other local agencies to perform undercover operations.

During 2011, SWIFT conducted many successful undercover sweep and sting operations as well as developed new strategies and partnerships to combat the underground economy as follows:

- **STINGS / SWEEPS**

Each month, undercover sting and sweep operations are conducted throughout the state. During 2011, SWIFT conducted 261 sting and sweep days, resulting in over 1,100 legal actions, including NTAs and citations.

- SWIFT performed 72 sting days during 2011, partnering with law enforcement, DAs, building departments and code enforcement officials, industry leaders, and



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ENFORCEMENT PROGRAM UPDATE

- other state agencies. The sting operations targeted unlicensed repeat offenders and wanted criminals working in the construction industry.
- SWIFT also conducted 189 sweep days during 2011, including 5 sweeps as a member of the Economic and Employment Enforcement Coalition (EEEC).

As a result of the extensive efforts to combat unlicensed operators, SWIFT was able to achieve the following results:

647	Suspects received NTAs for contracting without a license, illegal advertising and workers' compensation (WC) insurance violations.
528	Licensed and unlicensed individuals received administrative citations for licensure, advertising, aiding and abetting, and WC violations.

Partnering Sting in Fresno

Central SWIFT investigators partnered with the Fresno County District Attorney, Employment Development Department (EDD), California Highway Patrol, and Fresno Police Department to conduct a two-day sting in Fresno. The sting targeted the landscaping and painting industries, among others, and resulted in 21 Notices to Appear, including one to a three-time repeat offender.

Partnering Sweep in Sherman Oaks

A Southern SWIFT investigator partnered with the Division of Labor Standards Enforcement (DLSE), EDD, and the Van Nuys City Attorney to conduct a proactive sweep of the Sherman Oaks area. CSLB investigators issued three citations to unlicensed operators during the sweep, and opened an investigation into a licensee contracting with an unlicensed contractor—both observed to have employees without a valid workers' compensation policy on file. DLSE issued two stop orders/penalty assessments. EDD opened three audits for investigation of failure to withhold payroll taxes. Investigators also approached a paint store (in an undercover capacity) and found two unlicensed contractors soliciting customers near the entrance. The suspects fled after investigators identified themselves, but not before staff was able to ID the vehicles. Investigators are now working to identify the suspects.

GENERAL COMPLAINT-HANDLING STATISTICS

It has been determined that a manageable level of pending complaints for all current CSLB staff is **4,291**. As of December 31, 2011, the pending caseload was **3,683**.



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In July 2011, monthly closure goals were increased from 8 to 9 after the elimination of furlough days and the implementation of a personal development day. However, with the inability to fill vacancies, the Enforcement division loses an average of one ER per month.

It is anticipated that caseloads will rise with time and possibly exceed current manageable levels. An increase in caseloads will lead to a longer investigation process for consumers.

The following chart outlines how CSLB determines manageable caseloads:

Job Classification	Current Number of Staff	Closure Goal per Month	Preferred Cycle Time (months)	Preferred Caseload per ER	Current Average Caseload per ER	Maximum Number of Cases per Classification
ER I	46	9	4	36	36	1656
ER I (APP)	2	20	3	60	46	120
ER II	20	5	4	20	25	400
SWIFT	17	15	1	15	13	255
CSR	31	30	2	60	38	1860
TOTAL						4,291



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In February 2006, the Board adopted the following Enforcement Objectives regarding complaint-handling.

- **MAINTAIN ER 1 PRODUCTION OF CLOSING 10 COMPLAINTS PER MONTH**

Pursuant to elimination of furlough days and implementation of a personal leave day, the Board increased the average number of complaints closed per ER to nine (9) closures per month. In October 2011, ERs closed an average of 9.3 complaints.

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

Licensee complaints settled in October 2011 averaged 36%.

- **ACCOMPLISH IMC LICENSEE COMPLAINT DISCLOSURE OF 70%**

The licensee disposition average in October 2011 was 74%.

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

Staff's effective management of pending complaints has resulted in consistently maintaining the Board's goal. At the end of October 2011 there were only 92 aged cases.



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ENFORCEMENT PROGRAM UPDATE

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, a mentoring program and specialized training.

Below is a list of the 11 training courses provided to staff in 2011, followed by a proposed training schedule for the rest of fiscal year (FY) 2011-12:

Type of Training	Conducted	Description
Stop Order Training	February 2011	Staff from around the state met at Sacramento HQ for two-day course on Stop Order procedures.
Conflict Resolution	February 2011	Enforcement representatives (ERs) attended training by Instructor Lee Jay Berman on effective ways to handle difficult situations.
Hearing Officer Training	March 2011	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.
Team Building II	March 2011	The Centre for Organizational Effectiveness provided training to supervisors to develop and enhance team approaches.
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.
Fundamentals of Leadership Training	April 2011	The Centre for Organizational Effectiveness provided ERs training on public speaking techniques, leadership in action application, and performance management concepts.
Investigation Training	May 2011	Southern California Enforcement staff attended training conducted by Riverside Deputy District Attorney Homan Hosseinioun. Staff received training on taking witness statements and gathering evidence to prepare an investigation report for a criminal filing. Staff obtained "Prop 115" certification, which allows ERs to testify to hearsay evidence in preliminary criminal hearings.
National Certified Investigator/Inspector Training	June 2011	Enforcement investigators attended the National Certification Program at DCA. 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.



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Module 1: Basic Investigative Techniques	June-August 2011	<p>This course was developed by CSLB management staff in conjunction with retired annuitant Doug Galbraith and Michael Franklin, Deputy Attorney General.</p> <p>This course was an 8-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).</p>
Elder Abuse Training	October 2011	<p>CSLB Peace Officer Lydia Patron along with prosecutors from Riverside and Los Angeles County conducted an elder abuse training class for southern CSLB investigators. 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.</p>
Module 2: Interview Techniques	October-December 2011	<p>This course was designed to help 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 included a workshop for participants to test their interview skills in several CSLB-related scenarios.</p>



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ENFORCEMENT PROGRAM UPDATE

PROPOSED TRAINING

Type of Training	Conducted	Overview
Module 3: Effective Report Writing	1 st /2 nd Quarter of 2012	<p>This one-day course developed by Doug Galbraith and Michael Franklin is designed to enhance ERs' writing skills and create a professional, accurate, and complete investigative report.</p> <p>Emphasis will be placed on credibility, proof-reading, and ensuring findings will pass scrutiny during a trial or hearing. The class includes a practical report-writing exercise and an exercise where participants engage in a mock trial.</p>
Bankruptcy Case Law & Impact on Enforcement	February 2012	<p>This one-day course will be provided by Supervising Deputy Attorney General (SDAG) Marc Greenbaum and his staff. 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 gain financial restitution.</p>
Workers' Compensation Requirements & Enforcement Strategies	February 2012	<p>This one-day course will be provided by SDAG Greenbaum and representatives from State Compensation Insurance Fund (SCIF) and the Department of Insurance. Training will include an overview of workers' compensation insurance requirements, investigation strategies, and elements needed to support prosecution of uninsured and underinsured contractors.</p>

AGENDA ITEM H-3

Review and Approval of Changes to Proactive Enforcement Strategy





REVIEW AND DISCUSSION OF PROPOSED CHANGES TO PROACTIVE ENFORCEMENT

CSLB's 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, 11 of the 30 positions were assigned to the Economic and Employment Enforcement Coalition (EEEC), established under the Schwarzenegger Administration in 2005. The remaining 19 SWIFT positions were assigned to the Joint Enforcement Strike Force (JESF). Effective January 1, 2012, the EEEEC was reorganized as the Labor Enforcement Task Force (LETF) under the Department of Industrial Relations.

The following summary was presented at the January 18, 2012 Enforcement Committee meeting, held in Sacramento, where a motion was unanimously passed by the committee to present proposed changes to the full Board for adoption. Enforcement Chief David Fogt will present the proposed proactive enforcement changes to the Board; the Board will be asked for a motion to approve designating 11 SWIFT investigators to partner with the LETF.

EEEC Becomes the Labor Enforcement Task Force (LETF)

CSLB's participation in the EEEEC primarily consisted of construction sweeps and EEEEC-assigned ERs partnering with other state agencies to randomly visit construction sites to verify license, tax, and Labor Code compliance.

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.

SWIFT'S JESF Investigators Pilot Partnering Agency County Task Force (PACT)

With CSLB approval, PACT launched January 1, 2011, in 19 counties throughout California. Piloted by JESF-assigned ERs, PACT teams included CSLB ERs with District Attorney (DA) investigators, building officials, and California Department of Insurance (CDI) investigators.

Each ER was 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, ERs routinely meet with partnering agencies, industry, and the public within each assigned county.

**2012 PROPOSED ENFORCEMENT STRATEGY**

SWIFT ERs will be divided into two groups:

1. LETF-assigned ERs who partner with state agencies; and
2. JESF-assigned ERs who partner with local governments and law enforcement.

The following is a summary of what each group will achieve during 2012:

LETF-Assigned ERs (11 ERs)

- Partner with other state agencies to enforce license, tax, insurance, and Labor Code requirements;
- Participate in an LETF-targeted construction site inspections every three weeks;
- Partner with EDD auditors four times per month to perform targeted construction site inspections, resulting in an estimated 56 inspections monthly. (It is anticipated that this partnership alone will result in an additional 768 completed EDD audits with violators assessed an additional \$23 million in taxes each year.)
- Participate in six undercover sting operations.

JESF-Assigned ERs (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.

MOTION:

CSLB's Enforcement division requests that the Board approve a motion to divide SWIFT ERs into two groups:

- **Designating 11 SWIFT investigators to form part of the Labor Enforcement Task Force who would partner with other state agencies to enforce license, tax, insurance, and Labor Code requirements; participate in LETF-targeted construction site inspections every three weeks; and partner with EDD auditors four times per month to perform targeted construction site inspections, resulting in an estimated 56 inspections monthly.**



- **Designate the remaining 19 SWIFT investigators to continue the PACT program with focus on building department and DA investigator partnerships; respond to vetted leads relating to unlicensed and/or uninsured contractors; conduct four sting operations per month; and achieve more than 500 criminal referrals for unlicensed practice and 200 disciplinary actions (criminal and/or administrative) for workers' compensation insurance violations.**

AGENDA ITEM H-4

Review and Approval of Enhanced Enforcement Representative Identification





At the Enforcement Committee meeting, held in Sacramento on January 18, 2012, the following summary was presented to the Enforcement Committee. A motion was passed unanimously by the committee to present the request for approval to the full board for adoption. Enforcement Representative Doug Galbraith will present the request for approval to the Board. The Board will be asked for a Motion to Approve the distribution of the enhanced ID emblem to those ERs who have completed PC832 coursework, as designated by the Commission on Peace Officer Standards and Training (POST) academy guidelines, and completed the "Proper Use of Identification" training and signed an acknowledgement.

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.

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 met at CSLB Headquarters on September 27, 2010, to develop a professional ID prototype for use by all ERs.

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.

These are the individuals who have taken, or are anticipating taking, PC832 POST academy training, to merit having the more official-looking CSLB credential.



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ENHANCED IDENTIFICATION FOR ENFORCEMENT REPRESENTATIVES

Meetings with Department of Consumer Affairs (DCA)

CSLB Management and CSLB Retired Annuitant Doug Galbraith met with DCA legal counsel and the Chief of the Division of Investigation during which CSLB was presented with a list of concerns and conditions for the enhanced ID prior to DCA granting approval. 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 are to take a course specifically designed to teach the proper use of the enhanced ID medallion.
4. After completing the course, staff is to sign an acknowledgment statement, indicating they have 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;



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ENHANCED IDENTIFICATION FOR ENFORCEMENT REPRESENTATIVES

- 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 percent 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."

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."

MOTION:

The Enforcement division requests the Board approve providing the enhanced ID emblem to those ERs who have:

- **Completed PC832 POST academy;**
- **Completed the "Proper Use of Identification" training; and,**
- **Signed an acknowledgement statement.**

AGENDA ITEM I

Executive Committee Report



AGENDA ITEM I-1

Administrative and Information Technology Program Update





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ADMINISTRATIVE AND IT PROGRAM UPDATE

ADMINISTRATIVE PROGRAM UPDATE

Personnel Update

Examinations

DIVISION	EXAM	STATUS
Enforcement	Enforcement Representative I, CSLB	Continuous merge; Statewide at CSLB testing centers.
	Enforcement Supervisor I, CSLB Enforcement Supervisor II, CSLB	Final Filing Date 1/17/2012; Structured QAP interviews scheduled during March/April 2012. Departmental Promo.
Information Technology	Assistant Information Systems Analyst	Continuous Filing; Open exam.
	Associate Information Systems Analyst	Continuous Filing; Open exam.
All CSLB	Associate Government Program Analyst	Continuous Filing; Open exam; on-line testing.
Licensing Division	Program Technician III	Final Filing Date 12/12/11; Anticipated written test date during the month of February 2012. Departmental Promo.
Testing	Test Validation & Development Specialist II	Continuous testing.
All CSLB	Staff Services Manager I	Continuous Filing; Open exam; on-line testing.
	Staff Services Manager II	Continuous Filing; Open exam; on-line testing.
	Staff Services Manager III	Continuous Filing; Open exam; on-line testing.

The hiring freeze was lifted November 2011. No information yet whether another freeze will be implemented. Associate Personnel Analyst Elizabeth Solari transferred to Air Resources Board, leaving three analysts in Personnel. Personnel is actively recruiting for two analysts.

Positions

As of January 11, 2011, there are 60.5 vacant positions at CSLB. Between November 8, 2011 and January 11, 2012, CSLB had 6 departmental transfers, 8 promotions, and 2 new hires.

The following table illustrates the vacancy breakdown as of November 8, 2011:

DIVISION	AUTHORIZED PY'S	VACANCIES
Administration	31	6
Enforcement	222	28
Executive/Public Affairs	12.5	3
Information Technology	21	2
Licensing	115	17
Testing	31	5.5
TOTALS	432.5	60.5

Note: This does not include vacant positions for which hiring commitments have been made.



Business Services Update

Space/Leasing/Facilities:

Bakersfield Office – Completed site search for a new location. DGS/RESA is negotiating the best price of the two bids that they received.

San Francisco – Completing last phase of building modifications, which is to install bulletproof glass.

Fresno – In the process of adding a public counter and installing bulletproof glass at the Enforcement Unit public counter to increase safety and security. Approval form has been submitted to RESA.

San Bernardino – Reconfiguring office to add public counter with bulletproof glass. Site visit completed January 18 to inspect and assess area.

Oxnard Investigation and Testing Office – Currently waiting on contractor pricing to reconfigure modular furniture in the Testing Center.

Contracts

Business Services Unit, in coordination Testing and Enforcement divisions, have completed 100+ contracts in support of the newly established Expert Consultants Contract requirements, which became effective January 1, 2012. This has created a significant workload for staff.

The “pre-sort” mail bid was awarded to Pitney Bowes Presort, but then retracted by DCA. DCA will notify the contractor and no further negotiations or efforts will be made to receive discount mailing services.

Fleet

DCA is currently cleaning up the Fleet Asset Management System and the Voyager Card database. Some active cards have been cancelled, inconveniencing the cardholder. Business Services Unit is working with the DCA Fleet Coordinator to minimize the disruptions.



INFORMATION TECHNOLOGY DIVISION UPDATE

Limited Liability Company

Senate Bill 392 was chaptered in 2010 and authorizes a limited liability company to lawfully render services pursuant to a license, certificate, or registration authorized by the Business and Professions Code if the provisions of that code authorize a limited liability company to hold that license, certificate, or registration. The board was authorized, commencing no later January 1, 2012, to issue a contractor license to a limited liability company and authorizes the responsible managing manager, responsible managing officer, responsible managing member, or responsible managing employee of the limited liability company to qualify for that license.

- **February 2012 Status: Project Complete.** Programming was complete in late December 2011; CSLB began accepting applications January 1, 2012.
- **December 2011 Status:** Programming staff completed phase I, and are currently working on phase II. Programming staff are conducting information-gathering sessions with Licensing staff to further refine the requirements. Some applications have been modified, new data elements/fields added, and the databases modified. IT is on target for the January 2012 production date.
- **September 2011 Status:** Programming staff are testing the changes made to our system to increase action codes on the license; this is the 1st phase of the LLC changes. Once this has been completed, phase II of the LLC project will begin. In August IT staff started working weekends in order to meet the January 2012 deadline.
- **June 2011 Status:** The individual working on this project unexpectedly retired in May; another individual was redirected to work on this project. The new person was cross-trained in May; thus, IT is back on track and working on the requirements with Licensing.
- **April 2011 Status:** Continue to work on the requirements with Licensing. IT redirected 1 ½ staff to work full-time on this project. Upon receipt of requirements, IT will determine if additional staffing needs to be added.
- **Feb 2011 Status:** CSLB Information Technology (IT) staff began working with the Licensing division to develop the business rules to apply to CSLB's automated system. IT anticipates these changes will take most of 2011 to complete; user testing is planned for November and December 2011 with implementation by January 2012.

BreEZe

BreEZe will include e-payment/online licensure, licensing and enforcement, and imaging functions as well as workflow.

DCA has signed the contract with Accenture. The vendor started in late September and is currently working with state staff in defining the requirements for Phase I as well as developing standards for various data elements and interfaces. CSLB has two business subject matter



experts (SME's) as well as two Information Technology staff working with the BreEZe team to define the requirements.

The BreEZe Change Control Board (CCB) has been established. CSLB Chief Deputy Registrar Cindi Christenson is a member of this board. The board's primary function is to review and approve changes to current systems that will impact BreEZe requirements and/or changes to BreEZe requirements that are not within the original scope.

Because we are in the design phase of BreEZe, a controlled freeze is being implemented that will require all modifications to CSLB's licensing and enforcement system to be approved by the CCB. Changes made to CSLB's current system could impact the BreEZe design; thus, it is critical that all changes be brought before the CCB.

California Email System Mail

Executive Order S-03-10 mandated that State agencies transition to the State's shared email system (AKA: California Email System (CES) Mail Project). The Departments that fall under this executive order are being moved in three waves. CSLB (Amy Cox-O'Farrell) is leading the CES Project for the Department of Consumer Affairs. CSLB and the Medical Board of California (MBC) have successfully completed the pilot. The Medical Board began its migration in late December 2011 and is targeted for completion on January 18, 2012. CSLB will begin its migration on January 29, 2012. The remainder of DCA will move to CES mail in March 2012.



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STATISTICS SUMMARY

Applications Received

	2009	2010	2011
July	3,154	2,966	2,082
August	3,105	3,137	2,801
September	2,953	2,904	2,572
October	2,914	2,702	2,688
November	2,736	2,852	2,257
December	2,453	2,531	2,269
Total	17,315	17,092	14,669

Original Licenses Issued

	2009	2010	2011
July	1,090	1,134	1,118
August	1,210	1,138	1,234
September	1,115	1,140	1,097
October	1,295	1,067	921
November	787	1,108	770
December	1,237	1,089	861
Total	6,734	6,676	6,001

Licenses Renewed

	2009	2010	2011
July	9,287	13,287	9,291
August	9,439	10,710	11,856
September	9,957	10,816	9,863
October	10,735	9,772	9,634
November	6,600	8,364	8,373
December	8,913	10,365	8,828
Total	54,931	63,314	57,845

HIS Registrations Renewed

	2009	2010	2011
July	108	132	99
August	89	110	139
September	117	113	114
October	95	82	120
November	70	117	89
December	93	100	121
Total	572	654	682



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STATISTICS SUMMARY

License Population by Status

	January 2010	January 2011	January 2012
Active	246,210	240,523	234,236
Inactive	62,855	66,705	67,909
Subtotal	309,065	307,228	302,145
Other /1	393,331	409,626	427,227
Expired	339,290	352,820	367,666
Expired % of Other	86.3%	86.1%	86.1%
Grand Total	702,396	716,854	729,372

/1 "Other" includes the following license status categories: cancelled, cancelled due to death, expired, or revoked.

HIS Registration Population by Status

	January 2010	January 2011	January 2012
Active	7,200	7,943	8,710
Other	74,739	77,346	80,184
Total	81,939	85,289	88,894

Complaints By Fiscal Year

	2008/09	2009/10	2010/11
Received	20,939	19,876	21,320
Reopened	1,088	1,010	1,076
Closed	22,523	21,532	22,483
Pending (As of June 30)	4,567	3,958	3,891

CSLB Position Vacancies

	January 2011	January 2012
Administration	3.0	6.0
Executive	1.0	1.0
Public Affairs	1.0	0.0
IT	2.5	2.0
Licensing	10.5	17.0
Enforcement	16.0	28.0
Testing	0.5	5.5
Total	34.5	59.5

AGENDA ITEM 1-2

Budget Update





CONTRACTORS STATE LICENSE BOARD

BUDGET UPDATE

❖ Fiscal Year (FY) 2011-12 CSLB Budget and Expenditures

- Through December 31, 2011, CSLB spent or encumbered \$29 million, roughly 50 percent of its FY 2011-12 final budget. The following chart provides a summary of the final FY 2011-12 CSLB budget, along with the FY 2011-12 expenditures through mid-fiscal year:

EXPENDITURE DESCRIPTION	FY 2011-12 FINAL BUDGET	DECEMBER 2011 EXPENSES	BALANCE	% OF BUDGET REMAINING
PERSONNEL SERVICES				
Salary & Wages (Staff)	21,926,048	9,564,461	12,361,587	56.4%
Board Members	15,900	4,200	11,700	73.6%
Temp Help	12,100	510,296	-498,196	-4117.3%
Exam Proctor	41,168	63,301	-22,133	-53.8%
Overtime	6,575	42,440	-35,865	-545.5%
Staff Benefits	8,684,602	4,043,426	4,641,176	53.4%
Salary Savings	-1,228,071		-1,228,071	
TOTALS, PERSONNEL	29,458,322	14,228,124	15,230,198	51.7%
OPERATING EXPENSES AND EQUIPMENT				
Operating Expenses	20,619,431	12,736,093	7,883,338	38.2%
Exams	435,882	129,897	305,985	70.2%
Enforcement	8,279,124	2,041,620	6,237,504	75.3%
TOTALS, OE&E	29,334,437	14,907,610	14,426,827	49.2%
TOTALS	58,792,759	29,135,734	29,657,025	50.4%
Scheduled Reimbursements	-353,000	-90,123	-262,877	
Unscheduled Reimbursements		-92,548	92,548	
TOTALS, NET REIMBURSEMENTS	58,439,759	28,953,063	29,486,696	50.5%

❖ Revenue

- CSLB received the following revenue amounts through December 31, 2011:

Revenue Category	Through 12/31/2011	Percent of Revenue	Change from prior year (12/31/2010)
Duplicate License/Wall Certificate Fees	\$55,023	0.2%	6.9%
New License and Application Fees	\$4,728,632	16.5%	1.8%
License and Registration Renewal Fees	\$22,206,729	77.5%	6.1%
Delinquent Renewal Fees	\$1,121,799	3.9%	-0.3%
Interest	\$19,959	0.1%	-26.3%
Penalty Assessments	\$466,792	1.6%	30.7%
Misc. Revenue	\$61,979	0.2%	-18.2%
Total	\$28,660,913	100.00%	5.3%



❖ Workforce Cap Budget Adjustment

- Per the Department of Finance Budget Letter (BL) 10-31 (issued in October 2011), state departments were required to submit plans to achieve the 5 percent workforce cap reductions as specified in the Governor’s Executive Order S-01-10. The CSLB target amount for this reduction was \$1,266,000 (not including reductions to DCA and statewide pro rata) for FY 2010-11 and ongoing. Starting in FY 2011-12, departments were directed to reduce funded positions as personnel services budgets were reduced (for FY 2010-11, departments were directed to only identify positions for potential elimination and leave them vacant). The following chart provides a summary of the Workforce Cap Adjustments in terms of incorporating the reduction in budgeted positions and personnel services funding:

EXPENDITURE DESCRIPTION	FY 2011-12 GOV'S BUDGET	WORKFORCE CAP ADJ	FY 2011-12 ADJ BUDGET
PERSONNEL SERVICES			
Budgeted Positions			
Permanent	432.5	-12.0	420.5
Blanket (Non-permanent)	7.3	-4.7	2.6
Budgeted Salary Savings (Positions)	-37.7	16.2	-21.5
Salary & Wages (Staff)	22,362,292	-438,870	21,923,422
Blanket Costs	329,689	-253,946	75,743
Staff Benefits	8,857,294	-131,661	8,725,633
Salary Savings	-2,081,340	824,477	-1,256,863
TOTALS, PERSONNEL	29,467,935	0	29,467,935
OPERATING EXPENSES AND EQUIPMENT			
Operating Expenses	30,333,065	0	30,333,065
TOTALS, OE&E	30,333,065	0	30,333,065
TOTAL EXPENSE	59,801,000	0	59,801,000
Scheduled Reimbursements	-353,000		-353,000
NET APPROPRIATION	59,448,000	0	59,448,000

- The following table lists the 12.0 permanent budgeted positions that were eliminated per BL 10-31:

POSITION CLASS	CSLB DIVISION	POSITION COUNT
Office Assistant-General	Administration	1.0
Office Services Supervisor III	Administration	1.0
Associate Information Systems Analyst	OIS	0.5
Assistant Information Systems Analyst	OIS	1.0
Staff Services Analyst	Licensing	1.0
Program Technician II	Licensing	0.5
Program Technician II	Licensing	1.0
Program Technician II	Licensing	1.0
Executive Assistant	Enforcement	1.0
Enforcement Representative II	Enforcement	1.0
Supervising Program Technician II	Enforcement	1.0
Program Technician II	Enforcement	1.0
Office Technician-Typing	Executive	1.0



❖ **FY 2011-12 CSLB Budget and Adjustments**

- The following table details the final adjustments to the FY 2011-12 CSLB budget that were authorized by the 2011 Budget Bill (Senate Bill 87, Chapter 33, Statutes of 2011) but not specifically included in the CSLB budget appropriation approved in that bill:

EXPENDITURE DESCRIPTION	FY 2011-12 ADJ BUDGET	EMP COMP ADJ	HEALTH CARE COST ADJ	MISC REDUCTION AMTS	FY 2011-12 FINAL BUDGET
PERSONNEL SERVICES					
Salary & Wages (Staff)	21,923,422		2,626		21,926,048
Board Members	15,900				15,900
Temp Help	12,100				12,100
Exam Proctor	41,168				41,168
Overtime	6,575				6,575
Staff Benefits	8,725,633	-129,765	277,625	-188,891	8,684,602
Salary Savings	-1,256,863	28,792			-1,228,071
TOTALS, PERSONNEL	29,467,935	-100,973	280,251	-188,891	29,458,322
OPERATING EXPENSES AND EQUIPMENT					
Operating Expenses	21,618,059	-589,862	15,053	-423,819	20,619,431
Exams	435,882				435,882
Enforcement	8,279,124				8,279,124
TOTALS, OE&E	30,333,065	-589,862	15,053	-423,819	29,334,437
TOTAL EXPENSE	59,801,000	-690,835	295,304	-612,710	58,792,759
Scheduled Reimbursements	-353,000				-353,000
NET APPROPRIATION	59,448,000	-690,835	295,304	-612,710	58,439,759

Misc Reduction Amounts include adjustments for 5% Cost Savings, Cell Phone Reduction, Rental Rate Reduction, and Retirement Cost Reduction (see below).

- **Miscellaneous Reduction Amounts:**

	5% Cost Savings Reduction	Cell Phone Reduction	Rental Rate Reduction	Retirement Cost Reduction	Total
Personnel Services	0	0	0	-188,891	-188,891
Operating Expenses and Equipment	-335,508	-55,427	-61,323	28,439	-423,819
Total	-335,508	-55,427	-61,323	-160,452	-612,710



❖ Fund Condition

- Attached below is the fund condition for the Contractors' License Fund, which shows the final FY 2010-11 reserve (\$14.9 million – approximately three months' reserve), along with the projected reversion amounts for FY 2011-12 through FY 2013-14:

	Final FY 2010-11	Proj. FY 2011-12	Proj. FY 2012-13	Proj. FY 2013-14
Beginning Balance	\$20,958	\$14,859	\$24,915	\$24,000
Prior Year Adjustment	\$372	\$0	\$0	\$0
Adjusted Beginning Balance	\$21,330	\$14,859	\$24,915	\$24,000
Revenues and Transfers				
Revenue	\$48,437	\$58,009	\$58,645	\$58,207
Transfer from General Fund		\$10,737		
Totals, Resources	\$69,767	\$83,605	\$83,560	\$82,207
Expenditures				
Disbursements:				
Program Expenditures (State Operations)	\$54,783	\$58,440	\$59,454	\$60,643
State Controller (State Operations)	\$89	\$64	\$57	
Financial Info System Charges	\$36	\$186	\$49	
Total Expenditures	\$54,908	\$58,690	\$59,560	\$60,643
Fund Balance				
Reserve for economic uncertainties	\$14,859	\$24,915	\$24,000	\$21,564
Months in Reserve	3.0	5.0	4.7	4.3

Note: Assumes 1.2% interest. All dollars in thousands.



❖ **Construction Management Education Account (CMEA) FY 2011-12 Budget and Expenditures**

- Through December 31, 2011, CMEA expended roughly \$6,600 in pro rata charges. The following table provides a budget and expenditure summary for CMEA:

EXPENDITURE DESCRIPTION	FY 2011-12 FINAL BUDGET	DECEMBER 2011 EXPENSES	BALANCE	% OF BUDGET REMAINING
OPERATING EXPENSES AND EQUIPMENT				
Operating Expenses	14,331	0	14,331	100.0%
Pro Rata	13,669	6,590	7,079	51.8%
TOTALS, OE&E	28,000	6,590	21,410	76.5%
GRANT AWARDS				
Grant Awards	150,000	0	150,000	100.0%
TOTALS, GRANT AWARDS	150,000	0	150,000	100.0%
TOTALS	178,000	6,590	171,410	96.3%

Note: The pro rata charges to the CMEA fund reflect “billable” costs resulting from grant disbursement beginning in FY 2009-10 (pro rata is billed on a 2-year “roll forward” basis).

❖ **CMEA Fund Condition**

- Attached below is the CMEA fund condition, which shows the final FY 2010-11 reserve, along with projected reversion amounts for FY 2011-12 through FY 2013-14:

	Final FY 2010-11	Proj. FY 2011-12	Proj. FY 2012-13	Proj. FY 2013-14
Beginning Balance	\$405	\$338	\$226	\$111
Prior Year Adjustment	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$405	\$338	\$226	\$111
Revenues and Transfers				
Revenue	\$65	\$66	\$64	\$63
Totals, Resources	\$470	\$404	\$290	\$174
Expenditures				
Disbursements:				
Grants	\$132	\$150	\$150	\$150
State Operations	\$0	\$28	\$29	\$29
Total Expenditures	\$132	\$178	\$179	\$179
Fund Balance				
Reserve for economic uncertainties	\$338	\$226	\$111	(\$5)
Months in Reserve	22.8	15.2	7.4	-0.3

Note: Assumes 1.2% interest. All dollars in thousands.

AGENDA ITEM I-3

Update of 2011-2012 Strategic Plan Objectives



CURRENT OBJECTIVES

The Board has identified the following objectives to help meet its goals:

OBJECTIVES	LEAD RESPONSIBILITY	TARGET DATE
1. Reorganize Enforcement division	Enforcement Committee	3rd quarter 2011
2. Establish Expanded Media Outreach Plan	Public Affairs Committee	3rd quarter 2011
3. Develop plan to explore licensure for solar/alternative energy contractors	Licensing and Enforcement	4th quarter 2011
4. Create new flagship consumer education publication	Public Affairs Committee	4th quarter 2011
5. Create a training curriculum for new hires that includes basic enforcement procedures, a mentoring program, and specialized training.	Staff	4th quarter 2011
6. Coordinate with state and local agencies to establish baseline measurements of the underground economy and the effectiveness of enforcement strategies.	Staff	4th quarter 2011
7. Implement online licensure tool for credit card payment	Staff	1st quarter 2012
8. Develop legislator relationship plan	Legislative Committee	1st quarter 2012
9. Implement workers' compensation insurance recertification process for contractors exempt from WC coverage	Licensing Committee	1st quarter 2012
10. Create new flagship applicant/licensee education publication	Public Affairs Committee	1st quarter 2012
11. Produce new education video to assist license applicants	Staff	1st quarter 2012
12. Review and revise all MOUs for relevancy, information sharing, and effectiveness	Staff	1st quarter 2012
13. Recruit and hire nine (9) Peace Officer ERs in designated ICs.	Staff	2nd quarter 2012
14. Staff a Subsequent Arrest Unit through the BCP process	Staff	3rd quarter 2012
15. Update Enforcement staff classification system	Staff	3rd quarter 2012
16. Implement online license exam scheduling tool	Staff	4th quarter 2013

AGENDA ITEM I-4

2012-2013 Strategic Planning Meeting



AGENDA ITEM J

Review of Tentative Schedule

THE FOLLOWING IS A LIST OF BOARD MEETINGS
SCHEDULED FOR 2012:

APRIL 17-18..... MONTEREY
STRATEGIC PLANNING SESSION
JUNE 5 ORANGE COUNTY
JOINT BOARD MEETING WITH
NEVADA STATE CONTRACTORS BOARD



AGENDA ITEM K

Adjournment

