

The CALIFORNIA LICENSED CONTRACTOR



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September, 1937

No. 3

Board Reelects Officers and Studies Prequalification Powers

Roy M. Butcher of San Jose and Ralph E. Homann of Los Angeles were reelected chairman and vice chairman, respectively, for the new fiscal year, by the State Contractors' License Board meeting in San Diego July 23. Other business transacted was consideration of the report of the Committee on Rules and Regulations dealing with procedure and amendments to the act, the registration and administrative report of the Registrar, the report of the Legislative Committee, the report of the Committee on Finance and Budget, and the report of the Personnel Committee.

Immediately upon reelection, Chairman Butcher announced that Board members will continue to serve upon the same committees as they were appointed to in 1936. The committees and their members are set forth as follows: Rules and Procedure Committee: S. G. Johnson, Chairman, Hugh W. McNulty, and William Nies; Finance and Budget Committee: Ralph E. Homann, Chairman, Stephen L. Ford and Clarence B. Eaton; Personnel Committee: Stephen L. Ford, Chairman, Hugh W. McNulty, and William Nies; Legislative Committee: Hugh W. McNulty, Chairman, S. G. Johnson and Ralph E. Homann.

The report of the Rules and Regulations Committee submitted by Chairman S. G. Johnson dealt with the amendments to the Contractors' License Law relating to the qualifica-

tions of applicants. The report recommended that a portion of existing Rule 1 for the Contractors' License Board be amended to read as follows:

"After such application has been filed, it shall be the duty of the Registrar, therefore, to examine same and, if it appears regular on its face, the Registrar shall thereupon appoint a time and place where the applicant shall appear personally for examination, either oral or in writing, or both, as the Registrar may require. Such examination shall be designed to determine whether or not the applicant has the qualifications as set forth in Section 5 of the Contractors' License Law."

The committee further recommended that the rule of the Board requiring that an applicant prove the possession of integrity be expanded to include "knowledge" and "experience," as allowed by the amended act.

The Committee on Rules was requested to draft a plan for the examination of applicants and to report to the Board at a meeting to be set shortly.

The Registrar's report for the past fiscal year was submitted and accepted. It is given elsewhere in this bulletin.

The Legislative Committee's report submit-

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LEGISLATIVE REPORT

By HUGH W. McNULTY, Chairman Legislative Committee

There was introduced in the Senate, by Senator DeLap, a bill known as Senate Bill 240 relating to amendments to the Contractors' License Law, which bill was presented by the construction industry and received the approval of this Board, also the assistance of Assemblyman Desmond in the Assembly. This bill successfully passed both houses of the Legislature and has been made a part of the Contractors' License Law by the signature of Governor Frank F. Merriam and will become effective August 27 of this year. There was only one amendment to the bill as originally presented and that was the change of the \$200 exemption clause from \$50 to \$100. In other respects no changes of consequence were necessary in

order to insure a successful passage of the amendments.

The major changes to Senate Bill 240 provided for: Reduction of the \$200 exemption to \$100; adoption by the Board of Rules requiring of applicants a reasonable degree of experience and a reasonable knowledge of "building, safety, health and lien laws of the State and of the rudimentary administrative principles of the contracting business"; prohibition of licensees from (a) knowingly entering into contracts with unlicensed contractors; (b) failing or refusing to prosecute construction projects with reasonable diligence; (c) failing or refusing to pay moneys when due for materials or services,

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The California Licensed Contractor

Department of Professional and Vocational Standards

Frank F. Merriam.....Governor
William G. Bonelli.....Director

Members and Officers of the State Board

Roy M. Butcher, Chairman.....San Jose
Ralph E. Homann, Vice Chairman...Los Angeles
S. G. Johnson.....Oakland
Hugh W. McNulty.....Fresno
William Nies.....Los Angeles
Clarence B. Eaton.....San Francisco
Stephen L. Ford.....Long Beach

Earl S. Anderson.....Registrar and
Executive Secretary
Glen V. Slater.....Assistant Registrar

Deputy Registrars

Ralph S. Bowdle.....Sacramento
I. L. Swearingen.....Los Angeles
Louis F. Erb.....San Francisco

423 State Office Building, Sacramento
Main Office

906 California State Building, Los Angeles
Branch Office

501 State Annex Building, San Francisco
Branch Office

September, 1937

NEW GROUNDS FOR SUSPENSION OR REVOCATION OF LICENSES

Amendments to section 9 of the Contractors' License Law enacted by the last Legislature and now effective adds several more acts or omissions which are grounds for suspension or revocation of licenses.

These new subdivisions of the section, which are numbered 11 to 14, read as follows:

(11) Acting in the capacity of a contractor under any license issued hereunder except: (a) in the name of the licensee as set forth upon the license, or (b) in accordance with the personnel of the licensee as set forth in the application for such license, or as later changed as in this act provided;

(12) Knowingly entering into a contract with a contractor as herein defined while such person is not licensed as in this act provided;

(13) Wilful failure or refusal without legal excuse on the part of a licensee as a contractor to prosecute a construction project or operation with reasonable diligence, causing material injury to another;

(14) Wilful or deliberate failure on the part of any person, firm, association, copartnership, corporation, agent or officer thereof, to pay any moneys when due for any materials or services rendered in connection with the operations of such person, firm or corporation as a contractor, as in this act defined, when having the capacity to pay or

when having received sufficient funds therefor as payment for the particular construction work, project, or operation for which the services or materials were rendered or purchased; or false denial of any such amount due or the validity of the claim thereof with intent to secure for himself, his employer or other person, any discount upon such indebtedness or with intent to hinder, delay, or defraud the person or persons to whom such indebtedness is due.

SUSPENSIONS AND REVOCATIONS

Since the publication of our June bulletin 160 formal complaints have been adjudicated by the Registrar and an additional 60 have been filed that have not been disposed of as yet. This latter group has either been set for hearing, or a hearing has been held and the evidence is being studied.

Forty-four licenses were suspended and 7 were revoked as the result of cases, and following formal hearings three licenses were denied because of the lack of reputation of the applicant or of a member of the applicant firm.

During the same period of time 53 criminal complaints were secured for contractors operating without licenses and 52 of these cases resulted in "guilty" decisions.

Three of the offenders received jail sentences ranging from 30 days to four and one-half months.

UNLICENSED "SUBS" ENDANGER GENERAL CONTRACTORS

A recent District Court of Appeal case of major interest to licensed contractors was recently handed down causing the loss of \$1,108.63 to a general contractor.

The general contractor had employed a subcontractor who was not licensed. The subcontractor satisfactorily completed his subcontract and the general contractor paid him \$1,108.63.

The general contractor was later unable to secure all of his payments from the owner and therefore filed a lien. The owner refused to pay the lien for several reasons, one of which was that the general contractor had awarded a subcontract for materials and labor to an unlicensed subcontractor, which subcontract was contrary to law and therefore invalid.

The lien was brought into court under foreclosure proceedings and the general contractor recovered the entire amount of the lien from the owner with the exception of the \$1,108.63. This the court refused to allow him on the grounds it was based upon an illegal contract.

This decision has received rather wide notice from the legal profession and the Registrar has heard many expressions to the effect that it is very sound law. It would therefore appear that a general contractor who awards a job to an unlicensed man and then pays that unlicensed subcontractor is faced with a certain loss of the amount paid out in case the owner desires to save himself the amount of the subcontract payment.

Across the Registrar's Desk

By Earl S. Anderson

Over five hundred contractors sent us renewal applications at the end of June without enclosing checks. About fifteen hundred sent checks, but did not send the renewal application. Cases such as these, which happen in such large quantities despite our instructions, are a contributing cause to the tremendous amount of work which our Board handles yearly during the forepart of July.

Licenses will recall that their renewal applications were mailed them this year and carried a statement of the address and the personnel, if the licensee was a partnership or a corporation. This was the first time that licensees had ever been advised of the manner in which their registration stood in Sacramento.

RESULT: Thirty-five hundred licensees found they had changed their personnel, or the form of their organization, without notification to the Registrar. In most of these cases they were operating illegally and could not have sued in court to collect for their jobs.

Next year the changes of this sort reported to this office at renewal time will be cut down materially and will save us much time.

Licenses, forced to wait for correspondence from the Board during the June and July rush often ask why additional help is not employed.

Many business men have found that it is not safe to employ so much temporary help upon a job requiring some knowledge of the processes involved that the temporary help can not be supervised by persons who are well acquainted with the work. We employ as many temporary people as we can possibly handle, but we reached a point where it is not safe to employ additional help.

Incidentally our office force worked from one to four hours overtime for several weeks and we also maintained a second shift for about a week in our Sacramento office.

As a matter of fact, we could not have put on more permanent employees because our desk space was filled and even then we set out forty feet of library tables in the basement of the State Office Building.

A resolution commending the cooperation of building and permit departments of various municipalities of the State was recently mailed out to all building inspectors by the Contractors' License Board.

From reports received from our inspectors, almost every city having a building ordinance requires a contractor to be licensed before a permit or a city license will be issued.

Our "question and answer column" has not been well patronized in the past two and one-half months. We hope this means the contractors are all so busy they do not have time

JUDGE DECLARES WAR

War on irresponsible transient contractors was recently declared by Police Judge Caragher of Sacramento when he sent a plastering contractor to jail for thirty days upon the complaint of an inspector of the Board. The sentence followed on the heels of another commitment to jail for four and one-half months on similar charges.

LEGISLATIVE REPORT

(Continued from page 1)

when having the ability to pay; (d) falsely deny any amount due in order to secure a discount or in order to hinder, delay or defraud a creditor.

Assembly Bill 293, introduced by Assemblyman Desmond, relating to the amendments to the Contractors' License Law, and which was a companion bill to S. B. 240, was passed by the Assembly after it was amended changing the \$200 exemption clause from \$50 back to \$200. Due to this change in the bill it was deemed advisable to let it die in the Senate committee.

Senate Bills 933, 934 and 935, introduced by Senator McColl, and which were disapproved by the Board, were never moved out of the committee to which they were originally sent, with the exception of S. B. 935. S. B. 935, however, was amended so that its provisions conformed with section 4 of S. B. 240, with the exception that S. B. 935 provided for payment of \$20 per diem to members of this Board. This bill was not signed by the Governor before the expiration of the statutory time for signing of bills and hence does not become a law. The failure of the Governor to act upon this bill was, of course, foreseen by your committee inasmuch as His Excellency has consistently opposed any legislative measures which would increase the cost of the government or of any of its branches.

Senate Bill 884, introduced by Senator Nielsen and known as the "State Officers and Employees Defense Bill," also failed to receive the Governor's approval. We are advised that there was considerable doubt in the minds of many persons as to whether or not the State and its various departments would become legally liable to an extent far beyond that contemplated by the persons who drafted the bill.

Senate Bills 250, 251 and 252 providing for the construction of a State building in Sacramento to house the Department of Professional and Vocational Standards and other departments were successful and were signed by the Governor. Your committee is advised that the Director of this Department, and the Director of Finance, are proceeding with all possible speed to take care of necessary details leading to actual construction.

to send us in their questions. Be that as it may, the column will be resumed as soon as we receive further questions of general interest.

REGISTRAR'S ANNUAL REPORT

The report for the fiscal year ending June 30, submitted to the Contractors' State License Board July 23 by Registrar Earl S. Anderson showed a total registration at the close of the fiscal year of 29,431 as against 26,234 for the previous year. The increase of 3,197 represents a 12 per cent gain.

Licensees renewing before July 1 totaled 24,710, topping by 2,250 the 1936 renewal figure of 22,460, for a ten per cent increase.

Through use of the new mechanical addressograph system for the first time, the Registrar reported the bulk of the renewal licenses was written and mailed several days earlier than previously, despite the ten per cent increase. Also at the same time the license fees were credited and new certificates were issued, a complete entry of the renewal had been made on permanent office records and the file of each licensee was posted to show whether or not he reported satisfactory compensation insurance.

Furthermore, a list of all unexpired licenses has been stricken off from the rolls and already distributed to the inspectors for checking.

The Registrar's report brought to the attention of the Board the fact that Governor Merriam had signed appropriation bills for the next two years of major interest to contractors. Building appropriations amounted to approximately \$25,000,000 all of which will be used for building and construction work. The bill includes \$2,000,000 for a State prison in southern California, \$1,500,000 for a State office building in Sacramento, and the balance to be spent on State hospitals, veterans' institutions, and similar projects.

Ten thousand "special handling" cases were reported by the Registrar to have resulted from the filing of improper applications or applications which were so incomplete the licensee could not be correctly credited. Included in this group were about two thousand cases where licensees sent in a renewal application, but no fee, or vice versa.

In addition, about fifteen per cent of the renewal applicants reported changes of name or address which required the making of new addressograph plates before the renewal license could be issued. These changes in many cases should have been reported long before, but had not been done so due to the fact that the licensee had overlooked notifying the Registrar at the proper time and the matter had then slipped his mind until the renewal application form brought the omission to his attention.

REPORT CHANGES OF ADDRESS

Licensees are warned that the failure to change their address of record may cause them difficulties.

The Contractors' License Law requires the Registrar to send all legal or official notices to the last address of record at the Sacramento Office of the Registrar.

Contractors failing to answer to a complaint when notified by mail must be deemed guilty

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IN MEMORIAM

The State Board adjourned its meeting of July 23, 1937, at San Diego in honor of the memory of Inspector Haberland, whose work had been characterized by the highest sincerity at all times.

The resolution of the Board, in taking official cognizance of the passing of Inspector Haberland, reads as follows:

"WHEREAS, The allotted time upon this earth of Adam Haberland, an inspector for the Contractors' State License Board, has now expired, and

"WHEREAS, The Board realizes that it and the State has lost a loyal officer; now, therefore be it

"Resolved, That the Contractors' State License Board stands adjourned from this its meeting of the 23rd day of July, 1937, in respect to the memory of Adam Haberland."

DIRECTORY ON THE PRESS

The alphabetical edition of the 1937-38 directory service published by the Registrar is now on the press at the State Printing Plant.

Within a few weeks after the publication of the alphabetical, the geographical directory will also be issued and thereafter supplements to the alphabetical directory will be printed, at intervals regulated by the rate of registration.

Excess copies of the directory service will be sold at \$3.88 plus \$.12 sales tax or a total of \$4. The directory service will this year be printed instead of multilithed in order to give a more pleasing appearance. The geographical directory set-up will also be changed for the benefit of the users.

BOARD REELECTS OFFICERS AND STUDIES PREQUALIFICATION POWERS

(Continued from page 1)

ted by Chairman Hugh W. McNulty reported the successful passage of Senate Bill 240, reducing the License Law exemption clause to \$100, providing for examination and qualification of applicants, and extending the power of the Registrar in respect to suspension or revocation of licenses.

The report of the Committee on Finance and Budget submitted by Chairman Ralph E. Homann, stated that the budget for the ensuing year would be increased \$14,881 to provide for additional inspectors and for salary adjustments.

The Personnel Committee's report submitted by Chairman Stephen L. Ford, recommended that additional inspectors be procured due to the increased activity in building construction.

for failure to respond. Do not endanger your license by failing to immediately report a change of address.