

The CALIFORNIA LICENSED CONTRACTOR



FEBRUARY, 1948

CLASSIFICATIONS—LIMITATIONS

By E. E. ZEISS, Registrar of Contractors

The Contractors State License Board is required by law to have every applicant for license "show such degree of experience, and such general knowledge of the building, safety, health and lien laws of the State and of the rudimentary administrative principles of the contracting business as the board deems necessary for the safety and protection of the public."

The board has already established by rule that every applicant for license be possessed of four years of experience as a journeyman, foreman or superintendent in the craft or classification of contractor in which he seeks to be licensed.

To comply with the law requirement the board has established examinations for the various classifications of contractors. An incongruous situation would prevail if one be examined in a specific field and then be allowed to actually contract in other fields, as for example, one having the required experience in painting and taking the craft examination for painting contractor and receiving a license in this classification and then acting as a plumbing contractor or vice versa. The "safety and protection of the public" which the board is charged with maintaining by law would not be had were this situation to prevail.

Accordingly, the law sets up mechanics under which the board can establish rules to alleviate this condition.

Within the past six months the board has established two rules which accomplish the limitation of allowable work of contractors.

The sections of the law regarding classifications is next set forth and the two aforementioned rules. The balance of this article will then be solely interpretive of the law and rules.

SECTIONS OF THE CONTRACTORS LICENSE LAW

7055. For the purpose of classification, the contracting business in-

cludes any or all of the following branches:

- (a) General engineering contracting.
- (b) General building contracting.
- (c) Specialty contracting.

7056. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works for any or all of the following divisions or subjects: Irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and airways, sewerage and bridges.

7057. A general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.

This does not include anyone who merely furnishes materials or supplies under Section 7045 without fabricating them into, or consuming them in the performance of the work of the general building contractor.

7058. A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

7059. The registrar, with the approval of the board, may adopt rules and regulations necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage, as defined by Sections 7055, 7056, 7057, and 7058. A licensee may

make application for classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications. No additional application or license fee shall be charged for qualifying or classifying a licensee in additional classifications.

Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

BOARD RULE NO. 732 SPECIALTY CONTRACTORS CLASSIFIED

Specialty contractors are classified into the following sub-classifications:

Boilers, Hot Water Heating,	
Steam Fitting	C- 4
Cabinet and Mill Work	C- 6
Cement and Concrete	C- 8
Electric Signs	C-45
Electrical (general)	C-10
Elevator Installation	C-11
Excavating, Grading,	
Trenching, Paving, Sur-	
facing	C-12
Flooring (Wood)	C-15
Glazing	C-17
House and Building Moving,	
Wrecking	C-21
Insulation	C- 2
Landscaping	C-27
Lathing	C-26
Masonry	C-29
Ornamental Metals	C-23
Painting, Decorating,	
Paperhanging	C-33
Plastering	C-35
Plumbing	C-36
Refrigeration	C-38
Roofing	C-39

Sewer, Sewage Disposal, Drain, Cement Pipe Laying -----	C-42
Sheet Metal -----	C-43
Steel, Reinforcing -----	C-50
Steel, Structural -----	C-51
Structural Pest Control---	C-22
Tile (Ceramic and Mosaic)	C-54
Warm-Air Heating, Ventil- ating, Air Conditioning--	C-20
Welding -----	C-60
Well Drilling -----	C-57
Classified Specialists -----	C-61

Policy of Board Regarding Classified Specialists Classification (C-61)

The construction industry has untold specialized crafts requiring certain skills, which to establish separately as classifications, as set forth in this section, would require the establishment of many more classifications and hamper and confuse the enforcement of restricting operations to a certain classification. Therefore, the declared policy of the board is to place all classifications not listed herein into the classification of Classified Specialists (C-61).

The public interest is served in that those seeking a Classified Specialist classification are required to qualify therefor, meet the character requirements established by law and are subject to the disciplinary provisions of the law.

From time to time, as the occasion arises therefor, the board will establish specific classifications for those building and construction skills as are and will be licensed in the classification of Classified Specialists (C-61).

Limitation of the Classified Specialists Classification (C-61)

One licensed and classified in the classification, Classified Specialists (C-61), shall not act as a contractor in the classifications of General Engineering Contractor (A); General Building Contractor (B-1) or in any of the other sub-classifications established by this section, unless he qualifies therefor as in this chapter provided.

Nothing contained in this section shall prohibit one licensed and classified in the classification, Classified Specialists (C-61), from performing any building and construction industry skill not established by law or as established by the board.

Nothing contained in this section shall prohibit one licensed and classified in any classification established by law or as established by the board

from performing any building and construction industry skill that may be executed or performed by one licensed and classified in the classification of Classified Specialists (C-61).

BOARD RULE NO. 760
LIMITATION OF CLASSIFICATION

A licensee classified as a general engineering contractor, shall operate only within the scope as defined in Section 7056 of Chapter 9 of Division 3 of the Business and Professions Code.

A licensee classified as a general building contractor, as defined in Section 7057, shall not take a prime contract unless the same requires more than two unrelated building trades or crafts, or unless he has qualified for the particular specialty classification or classifications as established by the board.

A licensee classified as a specialty contractor, as defined in Section 7058, shall not act in the capacity of a contractor in any classification other than the one in which he is classified. Nothing contained in this rule shall prohibit the performance of work incidental or supplemental to the performance of a contract in a classification in which any contractor is licensed by the board.

Nothing in this rule shall be construed to extend the field and scope of the operations of a licensed contractor to those in which he is not classified and qualified to engage as defined in Sections 7055, 7056, 7057 and 7058. Failure on the part of a licensee to observe this rule shall constitute grounds for disciplinary action.

Section 7055 of the law sets forth three classifications of contracting; namely, General engineering contracting, General building contracting, and Specialty contracting.

Section 7056 of the law establishes and defines the class "General Engineering Contractor." Section 7057, that is the first paragraph, establishes and defines the class "General Building Contractor." Section 7058 of the law establishes and defines the class "Specialty Contractor."

Section 7059 of the law states that "the Registrar, with the approval of the Board, may adopt rules and regulations necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business * * *." The board has done this in Rule 732.

We find that there are 32 separate and distinct classifications of contractors established by law and by rule of the board. The classification of "Gen-

eral Building Contractor" is established by law, so is the classification "General Engineering Contractor" and the Board has established 30 other classifications in Rule 732. In addition the board has by rule established definitions setting forth allowable work within each of the 30 classifications established in Rule 732.

Referring to Rule 760, we find the first paragraph restricting one to those fixed works as set forth in Section 7056 of the law; namely, irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and airways, sewerage and bridges. This same section provides that the "General Engineering Contractor" can do work that is in connection with these listed works. Accordingly the erection of a weather tower at an airport would be the work of one in this classification. This very same paragraph of the rule does prohibit one classified as a "General Engineering Contractor" from undertaking the work of a "General Building Contractor" and also the work of anyone classified in any of the 30 sub-classifications established by the board with the exception of one; namely, "Classified Specialists," which will be covered later.

Paragraph two of Rule 760 is somewhat repetitious of the law but it does restrict one classified in this classification from undertaking the work of a "General Engineering Contractor" and further restricts him from undertaking the work of anyone classified in any of the sub-classifications established by the board in Rule 732 with the exception of the sub-classification "Classified Specialists."

In analyzing Section 7057 of the law, we find that the sole work of a "General Building Contractor" is the erection of a structure, which structure is built for the "support, shelter and enclosure of persons, animals, chattels or movable property of any kind * * *." This could be a house, office building, school, hospital, etc. In addition, any such structure must have, in order to make it a "General Building Contractor" project, three or more crafts used in its construction. In view of the board having established crafts or classifications, these would be those established and defined by the board. The last sentence of Section 7057 of the law provides in part, as follows: "or to do or superintend the whole or any part thereof." The intent and actual usage of these words means that a "General Building Contractor" on his own project, or the one on which he has the prime contract, can do the

entire job directly by direct employment or sub-contracting those portions of the job that he sees fit to do.

Paragraph three of Rule 760 says that anyone classified in any of the 30 classifications as established by the board in Rule 732 cannot do work in any of the other classifications as contained in this rule nor can he act as a "General Engineering Contractor" or as a "General Building Contractor."

This same paragraph is somewhat repetitious of the law as contained in Section 7058 in that it provides, as follows: "Nothing contained in this rule shall prohibit the performance of work incidental or supplemental to the performance of a contract in a classification in which any contractor is licensed by the board." Webster defines incidental as "Happening as a chance or undesigned feature of something else; not of prime concern." Let us take a hypothetical situation that would be allowable—a home owner needs a bathtub replacement, naturally a plumbing contractor is called. The removal and replacement requires carpentry, plastering and tile work, the plumbing contractor is the prime contractor and engages sub-contractors of the other classifications. This is permissible under the law. Any number of such cases can be brought to mind. In fact, the law itself is most broad in this respect and to actually draw a line as to what is actually incidental is practically impossible.

At this point, and I should have prefaced this entire article with this statement, the board is desirous of giving great liberality to the matter of classifications for the reason that so many "border line" cases can come up. In fact, it is the board's thought that the underlying purpose of this entire matter of classification and examination, namely the protection of the public, is being had in almost 100% of the matters brought before it.

Section 7059 of the law provides, as follows: "A licensee may make application for a classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications." The board has established by rule a so-called "primary" classification as one in which the majority of the licensee's business is conducted and the board has also established by rule a "supplemental" classification. Accordingly if a licensee is possessed of the experience, also established by board rule, namely, four years of actual experience as a journeyman, foreman, superintendent or contractor, he can file an application for a change of his primary

classification or can add a supplemental classification, or supplemental classifications, to his license by passing the examination established for the classification. If the licensee be an individual, it would be necessary that the experience be in this individual; if the licensee be a partnership, the experience must be in one of the partners; if the licensee be a corporation, the experience must be in one of the officers thereof. If the experience is not had in any of the persons, it can be had in a so-called "Responsible Managing Employee" which the law countenances and in this latter instance the classification can be had all the while this responsible managing employee is in the actual employ of the licensee and for a total period of 40 days after the responsible managing employee might cease employment with the licensee during which period of time another possessed of the proper experience would be qualified through examination to act in his stead.

Section 7059 of the law further provides, as follows: "No additional application or license fee shall be charged for qualifying or classifying a licensee in additional classifications." This speaks for itself and regardless of the number of classifications that one might need attached to his license for the successful conduct of his business there can be no fee charged.

The principle deterrent to one acting in a classification for which he is not licensed is due to the holding by certain jurisdictions that one so acting might be deprived of the right to bring suit or maintain a court action for the collection of money to which he might otherwise be entitled just as the law provides against one not licensed in the first instance. Undoubtedly within the very near future, we will find cases of record on this matter. However, a disciplinary proceeding can be instituted against a licensee acting without his classification and if proved would result in the suspension or revocation of his license. Such a proceeding would be brought under a disciplinary section of the law in that the law allows the board to establish rules for the protection of its licensees and a violation thereof could result in suspension or revocation.

The board recognizes one to be qualified in the particular classification whether it be a primary classification or a supplemental classification. There is no distinction between the two as regards qualification. Accordingly, one who might be licensed as an electrical contractor with such a classification as his primary one and who had the required experience in himself, or

through other members of the license or a responsible managing employee, who has passed our plumbing examination would be as qualified from the standpoint of the board as one whose sole classification was that of a plumbing contractor.

I noted in the foregoing that I would make explanation of the classification "Classified Specialists," (C-61), as contained in Rule 732. This classification, until rather recently, was entitled "Miscellaneous Specialty." The board, in its desire to give full effect to the theory of limitation of classification, consolidated many classes wherein there were but a handful of registrants. At the present time, we are making a check within this classification and at this time it is safe to guess that there are approximately 200 separate and distinct types of work that fall within this classification. For example, we find in this classification such things as vault installation, prison installation, alarm and time signal installation, awnings and canvas installation and others too numerous to set forth. This rule provides in its text that one licensed in any of the what would constitute 31 classifications of the board, General Engineering Contractor, General Building Contractor and the remaining 29 classifications set forth in Rule 732, can do any work as a contractor in any classification or in any field for which the board has not seen fit to establish a classification and definition therefor. The rule further provides that one in this "Classified Specialists" classification cannot do any work in any of the classifications established by the board or by law. The board's policy is that as a sufficient number seek license in a sphere of work for which no established classification is had that they will, for the protection of the public, subsequently establish and define additional classifications.

The entire foregoing is practically a re-statement of the law itself and the rules in connection therewith. I have endeavored to point out as I went along the relationship and tie-in between each and the predication of the rules to the existing law.

**HIGH IN REGISTRATION
THERE WERE 47,252 LICENSED
CONTRACTORS IN CALIFORNIA
AS OF DECEMBER 31, 1947. THIS
IS THE ALL TIME HIGH IN THE
HISTORY OF THE BOARD. THE
FIVE CLASSIFICATIONS IN
WHICH THE GREATEST NUMBER
OF REGISTRANTS APPEAR
FOLLOW:**

General Building	19,343
Painting	6,290
Electrical	3,389
Plumbing	3,358
General Engineering	2,033

\$250,000,000 FOR CONSTRUCTION INDUSTRY

TOP-FLIGHT CONSTRUCTION MEN WANTED

Two hundred and fifty million dollars for the California Building Program authorized by the State Legislature has brought forth a call for construction supervisors and inspectors from the State Division of Architecture. Wanted are Senior Construction Supervisors, Associate Construction Supervisors, and Assistant Construction Inspectors to take charge of the supervision or inspection on the numerous building projects throughout California.

Construction superintendents and contractors with major building experience have immediate employment opportunities as Senior Construction Supervisors, Associate Construction Supervisors, or Assistant Construction Inspectors, depending on their length and breadth of experience on major building projects. The Senior Construction Supervisor class has a monthly salary range of \$481 to \$582, the Associate Construction Supervisor ranges from \$395 to \$481, and the Assistant class from \$325 to \$395 per month. Employment in these classifications exists in such localities as Sacramento, Los Angeles, San Francisco, and at various State institutions. Accepted applicants will be given consideration for assignments to projects nearest their place of residence.

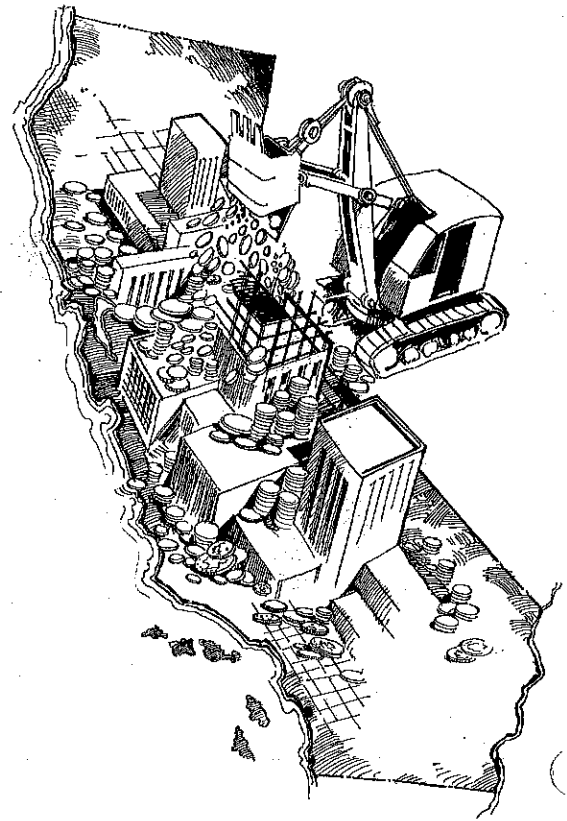
LONG RANGE PROGRAM

Of the two hundred and fifty million dollars authorized for State building projects, fifty million dollars is the estimated rate of annual expenditures. Senior Construction Supervisors will oversee the fulfillment of State building specifications on one or more of these major building projects; whereas, Associate Construction Supervisors and Assistant Construction Inspectors may have charge of the supervision or inspection on a building or assist the Senior Construction Supervisor on a project.

Building project funds were appropriated by the Legislature to meet current and the projected needs of the State with a population of 10,000,000. Statistics compiled to date point to a present population close to this figure, thus indicating continued growth in the building field to keep up with the westward trek in population.

EMPLOYMENT OPPORTUNITIES

Immediate employment may be offered by the Division of Architecture with the usual civil service examination being taken at a later date. Examinations for construction



HOW TO APPLY

Drop a card or note in the mail today addressed to Mr. J. R. Slater, State Personnel Board, 1015 L Street, Sacramento. Application and examination announcement forms will be mailed to you immediately as the final filing date for Senior Construction Supervisor is March 13, 1948, and March 20, 1948, for Associate Construction Supervisor and Assistant Construction Inspector.

All construction men now completing a construction project may be lining up their future job by writing to the State Personnel Board today.

positions have been designed by the State Personnel Board to test competitively the practical knowledge of construction men who have worked up from the bottom in their field of construction engineering. Those who satisfactorily demonstrate their practical knowledge are eligible for permanent civil service appointments and accompanying civil service benefits. Construction men unable to consider immediate employment are urged to apply for the scheduled examination for which they feel qualified.

STATE EMPLOYMENT BENEFITS

California state employees enjoy one of the outstanding employee relations programs designed to date by any organization. Three weeks' vacation per year accumulated at the rate of $1\frac{1}{4}$ days per month is granted employees, plus one day of sick leave per month. After six months' employment, all employees become members of the State Retirement System, considered by many to be the best in the United States. In addition, ten paid holidays and state-wide election days are allowed State employees.