

The CALIFORNIA LICENSED CONTRACTOR

OCTOBER 1951

CALIFORNIA UNEMPLOYMENT INSURANCE ACT

By CALIFORNIA DEPARTMENT OF EMPLOYMENT

Every contractor who has one or more persons in his employ and pays wages in excess of \$100 during a calendar quarter becomes an employer within the meaning of the act and is subject to the provisions of that act. Everyone who becomes an employer is required to register within 15 days with the California Department of Employment. A registration form with complete instructions may be secured upon application to the Department of Employment in Sacramento or any of its local offices.

The act establishes two interdependent systems of protection against wage loss for employees and a system of public employment offices which is designed to assist employers and workers in prompt employment of persons seeking work. The two systems of protection against wage loss are unemployment insurance for those unemployed but able to work and available for work, and unemployment compensation disability benefits (disability insurance) for those unemployed because of disability. Unemployment insurance payments vary from \$10 to \$25 a week and the maximum amount payable to a claimant during a benefit year is 26 times his weekly benefit amount, or one-half his qualifying (base period) wages, whichever is the lesser amount. Under the disability insurance system, two types of benefits are provided. "Basic" benefits consist of cash payments not to exceed \$30 a week for persons who are unemployed because of disability. "Additional" benefits consist of payments of \$8 a day for not more than 12 days in a benefit year during such time as the claimant is hospitalized because of his disability.

The act requires both employers and employees to make contributions on the basis of taxable pay rolls and wages. Employers are liable for a maximum of 2.7 percent of taxable pay rolls. Employees must pay 1 percent of their wages which the employers are required to deduct from their employees' pay. The employer is liable for the 1 percent worker contri-

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McKeon Elected Chairman of License Board

Christopher D. McKeon, prominent Bay area contractor, was elected chairman of the California State Contractors' License Board to serve for the year, ending June 30, 1952.

McKeon, who owns the McKeon Construction Co. in San Francisco, has served on the board since 1941. He also served as chairman in 1943.

The new chairman was born in San Francisco in 1895. As a boy he earned his way by running errands for a meat packing firm.

Attending San Francisco schools, McKeon graduated from Sacred Heart College and Heald's Engineering College.

The construction man is a veteran of World War I, serving in the intelligence department. He started a general contracting business in 1929 and has developed residential tracts in San Francisco, Berkeley, Alameda, San Carlos, and San Mateo. The firm presently is putting finishing touches on an 1,800-home tract in San Jose.

Always active in organization work, the builder is a past president of Associated Home Builders of San Francisco and a past director of the National Association of Home Builders.

He also is a member of the Knights of Columbus, Elks, Eagles and the Olympic Club.

McKeon married the former Catherine Ryan, daughter of a prominent Northern California lumber family. The couple lost their son, Chris, during World War II. The largest Veterans of Foreign Wars Post in San Francisco, Chris McKeon Post, is named after their son.



Introducing Edgar L. Buttner

Edgar L. Buttner, appointed by Governor Earl Warren to the State Contractors' License Board, on July 27, 1951, is a native of San Francisco. Following his World War I service as a flying pilot, he returned to his studies at the University of California and in 1921 graduated with an electrical engineering degree. He still retains his interest in flying and holds a captaincy in the Air Corps Reserve. Married to the former Helen Mott of Sacramento, in 1928, he now resides in Piedmont, California, and their two children are attending Stanford University.

In 1920, with W. E. Scott, he founded the Scott-Buttner Electric Co., Inc., which conducts an electrical contracting business in Oakland. This concern is recognized as one of the major electrical contracting firms on the West Coast.

Among their many major projects have been the Naval Research Base at Inyokern, work for the Atomic Energy Commission at Richland, Washington, the United Airline Maintenance Base, San Francisco and the Oak Knoll Naval Base Hospital, Oakland.

Buttner takes an active part in the social and civic life of the Oakland and Piedmont area. He has held important posts in the Oakland Chamber of Commerce, California College of Arts and Crafts, Oakland Boys Clubs and the Salvation Army.

Also he is President of the Piedmont Men's Club, a Director of the Oakland Businessmen's Garden Club, a Director of the Northern California Electric Bureau, and a member of the National

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CALIFORNIA UNEMPLOYMENT INSURANCE ACT

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bution whether or not he makes the deductions from the employee.

Contractors may substitute voluntary plans of disability insurance for the state plan. Approval of the voluntary plan must be given by the California Employment Stabilization Commission before it can replace coverage of employees by the State's system. One of the requirements for approval is that the benefits afforded employees by the voluntary plan are greater than those offered by the State.

The contractor who employs eight or more employees is also required to pay a tax to the Federal Government for unemployment compensation (not to be confused with the old age benefit tax, which is entirely separate). The rate of the federal tax is 3 percent of wages paid, against which, however, the contractor will receive credit for the contributions he has paid on his own behalf to the State. This credit amounts to 2.7 percent. Therefore, the federal tax is 0.3 percent, and the return to the State will consist of the full 1 percent paid by the employee through deductions from his wages and the 2.7 percent paid by the contractor.

A contractor who has been a subject employer for more than four years may qualify for a lower state tax rate. A scale of lower tax rates has been set up for the employer who has a favorable experience with respect to unemployment suffered by his employees. A separate experience rating reserve account is maintained for each employer. This account is credited with the employer's contributions and charged with the employer's pro rata share of the unemployment insurance benefits paid to his former employees. Disability insurance payments are not charged to the reserve account.

After January 1, 1952, benefits paid to a claimant will not be charged to the employer's reserve account if the Department of Employment finds that the claimant had either voluntarily quit that employer without good cause, or had been discharged by the employer for misconduct connected with the employment.

Tax returns to the State must be made quarterly to the State Department of Employment, 1025 P Street, Sacramento, California. The quarterly contributions are required to be paid on or before the last day of the month immediately succeeding the quarter.

If paid after that time contributions are delinquent and bear interest at one-half percent per month or fraction thereof. An additional penalty of 10 percent may be assessed for failure to pay contributions on time without good cause, and a 25 percent penalty may be assessed against the employer if it is found that the employer is delinquent due to fraud or an intent to evade the act.

Contribution reporting forms are provided by the Department of Employment. The contractor is required to fill out these forms giving certain data with respect to the employees on his pay roll. These data include the name, Social Security account number, and the wages paid to each employee during the quarter. This form has been prepared to use as a carbon copy to the report which all employers are required to file with the local office of the Collector of Internal Revenue in connection with the federal old age benefit program.

Further information concerning the Unemployment Insurance Act and its administration may be obtained by writing to the State Department of Employment at 1025 P Street, Sacramento, California. Copies of the Act and the California Administrative Code, Title 22 (rules and regulations) may be obtained from the Documents Section, Division of Printing, 11th and O Streets, Sacramento, at a nominal cost.

Disciplinary Action

The Contractors' License Law provides for disciplinary action to be taken against a licensee for acts or omissions that constitute grounds for discipline under Article 7 Chapter 9 of Division 3 of the Business and Professions Code.

Like authority can be used by some 29 other state agencies under their laws, in respect to their licensees. It is interesting to note that the Contractors' License Board, during the fiscal year of 1950-51 had the second highest number of such actions taken by the various agencies.

This type of hearing is conducted by a duly appointed hearing officer, of the Division of Administrative Procedure. This hearing is handled with approximately the same procedure as a court action. Witnesses are under oath and all evidence is subject to the usual rules of evidence. The proceedings are

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In Memoriam

BILL NIES

William "Bill" Nies, 62, who passed away on July 13, 1951, at the California Lutheran Hospital in Los Angeles following a heart attack, will be sorely missed by his associates on the board and by every member of the construction industry, whom he served so faithfully for the past quarter century.

Nies, a pioneer southland plumbing contractor, has represented the plumbing industry on the board for many years, and is a past chairman.

A friendly man with a warm personality, he had legions of friends throughout the State.

He is survived by a son, Scheff Nies, who was actively associated with him in the plumbing business, a sister and brother in the east and two grandchildren.

New Reference Book

A new edition of the Contractors' Reference Book has been compiled by the board's staff and was made available on October 1st. Legislative amendments to the various laws that it contains, made by the 1951 Legislature, are included.

The "Reference Book," long deemed the "best seller" of all state publications by the State Printer, has established itself as an invaluable aid and a ready source of information to the construction industry and its many allied branches.

The subjects included are:

Contractors' License Law
Rules and Regulations of the Board
Manner of Conducting Disciplinary Hearings
Code of Ethics for Contractors
Mechanic's Lien Law—Indexed
Digest of Workman's Compensation Insurance Act
Selected Sections of the Labor Code
Safety Orders
California Unemployment Insurance Act
Federal Old Age and Survivors Insurance
Sales Tax, Rules and Regulations
Riley Act
State Housing Act
Scope of Contractors' Examinations

Copies may be obtained from the Printing Division, Documents Section, State Bureau of Printing, 11th and O Streets, Sacramento, California, for the price of \$1.03 (tax included).

Disciplinary Action

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reported by a phonographic reporter. In this manner a fair and impartial determination is arrived upon.

During the fiscal year of 1950-51 the Contractors' License Board instituted 395 such hearings with the following results:

Not guilty	0
Dismissed	99
Guilty, no penalty	2
Licenses suspended	121
Licenses revoked	153
Licenses granted after hearing	8
Licenses denied	12

The field staff of investigators during the Fiscal Year 1950-51 made investigations of 4,683 complaints of alleged violations. Of these, the investigators found that 1,981 were of no merit to warrant a formal hearing. Investigators in 2,101 of the complaints found honest disputes or misunderstandings existing and in each of these instances the contractors involved settled the disputes with the owners leaving a satisfied customer and credit to the contracting industry as a whole.

During this same period the field staff investigated the activities of 1,736 persons who were purported to be contracting without a license. Of these 1,062 were found to be working for day wages, and exempt, or contracts were over one year old, the jurisdictional time on misdemeanors or were otherwise not found to be contracting. In 275 of the cases the matter was presented to various district attorneys or prosecutors' offices and complaints were refused on the grounds of the unwillingness of complainants to act as witnesses, lack of any written evidence, borderline violations, etc. It must be understood that these prosecutors are reluctant to bring actions on doubtful cases.

The investigators were able to provide the prosecutors with convincing enough evidence to bring 399 violators to trial, of these only 45 escaped penalty and were found not guilty, and 354 were found guilty and assessed fines or imprisonment.

Another field of investigation is the checking of applications for licenses and 719 of these were investigated where there was an indication of misrepresentation on the application such as lack of experience, or on improper use of responsible managing employees and other reasons. These in many instances go to formal hearings where the licenses are denied for lack of character or experience.

Legislative Amendments to the Contractors' License Law

The 1951 Legislature made the following changes in the Contractors' License Law, which became effective September 22, 1951.

Section 7044 of the present law has been amended to read as follows (italicized words constitute addition):

"7044. This chapter does not apply to owners of property, building or improving structures thereon for the occupancy of such owner and not intended for sale if the structure is occupied and used by the owner or a tenant of the owner upon completion and is not offered for sale prior to completion."

Section 7026.5 is a new addition to the law and reads as follows:

"7026.5. The term 'sale' as used in this chapter means any arrangement between two or more persons as a result of which there is, or is to be, a transfer of property for a consideration."

The above amendment to Section 7044 and the added Section 7026.5, defining the term "sale" as used in Section 7044, will aid materially in the enforcement of the law as it pertains to the unlicensed builder, who in the past has been evading the provisions of the law, by virtue of the old wording of Section 7044.

Section 7056 has been amended to read as follows (italicized words constitute additions):

"7056. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds, and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the above mentioned fixed works."

Introducing Edgar L. Buttner

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Electrical Contractors Association and in addition being a member of the American Legion, Lions Club, and Athenian-Nile Club.

Once again the Governor has supplied the board with a man of years of experience in the contracting field, and one who has a record of public and civic duties conscientiously performed.

REGISTRATION BY CLASSIFICATION

(As of June 30, 1951)

A	General Engineering Contractors..	2,007
B 1	General Building Contractors.....	24,843
C 4	Boilers, Hot Water Heating, Steam Fitting	129
C 6	Cabinet and Mill Work.....	309
C 8	Cement and Concrete.....	1,535
C 45	Electric Signs	187
C 10	Electrical (general)	4,236
C 11	Elevator Installation	34
C 12	Excavating, Grading, Trenching, Paving, Surfacing	892
C 15	Flooring (wood)	871
C 16	Fire Protection Engineering.....	55
C 17	Glazing	291
C 21	House and Building Moving.....	201
C 2	Insulation	219
C 27	Landscaping	503
C 26	Lathing	366
C 29	Masonry	1,095
C 23	Ornamental Metals	158
C 33	Painting, Decorating	8,485
C 35	Plastering	2,225
C 36	Plumbing	4,514
C 38	Refrigeration	383
C 39	Roofing	1,302
C 42	Sewer, Sewage Disposal, Drain, Cement Pipe Laying.....	516
C 43	Sheet Metal	913
C 50	Steel, Reinforcing	71
C 51	Steel, Structural	146
C 22	Structural Pest Control.....	172
C 54	Tile (Ceramic and Mosaic).....	1,058
C 20	Warm-Air Heating, Ventilating, Air Conditioning	578
C 60	Welding	131
C 57	Well Drilling	547
C 61	Classified Specialists	2,242

61,214

The Boom Fell

Investigator Clyde Malone of the Sacramento District, on a routine check found an unlicensed painter starting a paint job on a contract basis in Red Bluff at 1 p.m. By 2.30 p.m. of the same day he procured a warrant from the district attorney for contracting without a license, a misdemeanor. The offender was hailed before the justice of the peace, who found him guilty and assessed a fine. The investigator wrapped this one up in one and one-half hours.

Investigator V. A. Hill of the Sacramento District, gathered evidence on a repeating offender who persisted in contracting without a license. This man was found guilty by a Sacramento municipal judge, who evidently recognizes the harm the public suffers from this type of operator, for he "threw the book at him," as the saying goes, giving him the maximum fine of \$500 or six months in jail. He paid the fine.

These examples are just a type of the policing all the staff of investigators are carrying on throughout the State.

District Supervisors Appointed for Contractors License Board

J. Ira Courtney and Dennis Carey were appointed to the positions of district supervisor for the Contractors' State License Board by Registrar of Contractors N. J. Morrisey, who stated that they were chosen from a promotional civil service list, created as a result of an examination conducted for the board's investigators.

Courtney is in charge of the Sacramento area office which embraces 30 counties, extending on the eastern side of the State from the Oregon line south to Bakersfield. Carey is in charge of the San Francisco area office and takes the place of former Deputy Registrar Louis F. Erb, who recently passed away. The area embraces 15 coast counties extending from the Oregon line to King City. Since Erb's death, Board Examiner Harry W. Abrahams has been in charge of the area pending the appointment of a successor.

Courtney has been an investigator for the board since 1940 in the Los Angeles area. Prior to entering the state service he conducted a successful contracting business in the southern part of the State and performed many street improvement and state highway contracts. He is a graduate of the University of Southern California Law School and is a member of the California State Bar. He is married and the father of three children. One of his sons is a practicing attorney in Fontana.

Carey entered the service of the board in 1946 as an investigator in the San Francisco area. His construction experience started with the "Sea-Bees" where he supervised the construction of highways, air fields and buildings in the Aleutians and the South Pacific. He attended the San Francisco public schools and the University of San Francisco Law School. He is married and resides in Millbrae. His affiliations include the Sea-Bee Veterans of America for which he is the state secretary.

Water Wells

The license law under Section 7049 has the following exemption:

"This chapter does not apply to any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising, or clearing or other work upon land in rural districts for fire prevention purposes, except when performed by a licensee under this chapter."

In July of 1950, the State Appellate Court in the case of *Bowline v. Gries* (97 Cal. App. 2d 741) rendered an interpretation of Section 7049 wherein it was held that one who drilled water wells for agricultural purposes was required to have a contractor's license.

This was contrary to the interpretation formerly given to that section by the board and, following the decision, the board issued warnings to drillers that a license would be required even though the well contract was performed on a farm. Following this warning many of these operators obtained licenses. Those who did not and continued to operate by drilling farm wells were then followed up by prosecutions.

In May of 1951, the same court in the case of *Kelly v. Hill* (104 A. C. A. 72), again had the interpretation of Section 7049 under consideration. This case was an appeal from a judgment of the Superior Court, Kern County, action being for the unpaid balance on a contract for trenching, laying and backfilling of a cement pipeline upon agricultural lands. The superior court had found for defendants denying the plaintiffs any relief on the grounds that the work required a contractor's license and the plaintiff was not a licensed contractor, basing its decision upon the interpretation placed on Section 7049 by the court in the *Bowline v. Gries* case.

The appellate court reversed the decision of the superior court and

THE CALIFORNIA LICENSED CONTRACTOR

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stated, "After a careful consideration of the record before us and a reconsideration of what was said by this court in *Bowline v. Gries*, relative to the construction to be placed upon Section 7049 of the Business and Professions Code, this section must be construed as exempting any construction or operation incidental to farming, dairying, agricultural, etc." In effect the court reversed its former position.

Following this decision the board is now back to its former position in that the drilling of water wells on farms is incidental to farming and is exempt from the requirements of a contractor's license.



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