

APRIL 12-13, 2018  
SAN DIEGO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

Amended Content





# CONTRACTORS STATE LICENSE BOARD

## BOARD MEETING MINUTES

### A. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM AND CHAIR'S INTRODUCTORY REMARKS

Board Chair Kevin Albanese called the meeting of the Contractors State License Board (CSLB) to order at 1:00 p.m. Thursday, December 7, 2017, at Doubletree by Hilton San Francisco Airport North Hotel, 5000 Sierra Point Parkway, Brisbane, CA 94005.

Board member Johnny Simpson led the Board in the Pledge of Allegiance. A quorum was established.

#### Board Members Present

Kevin Albanese, Chair  
Marlo Richardson, Vice Chair  
Johnny Simpson, Secretary  
Augie Beltran  
Linda Clifford  
David De La Torre  
David Dias

Susan Granzella  
Joan Hancock  
Pastor Herrera Jr.  
Michael Layton  
Ed Lang  
Frank Schetter  
Nancy Springer

#### Staff Present

David Fogt, Registrar  
Tonya Corcoran, Chief Deputy Registrar  
Ashley Caldwell, Public Affairs Staff  
Michael Jamnetski, Chief of Legislation  
Gina Zayas, Chief of IT  
Rick Lopes, Chief of Public Affairs  
Jessie Flores, Deputy Chief of Enforcement

Michael Melliza, Chief of Administration  
Tara Maggi, CSLB Staff  
Stacey Paul, Budget Analyst  
Kristy Schieldge, DCA Legal Counsel  
Missy Vickrey, Chief of Enforcement  
Laura Zuniga, Chief of Licensing

#### DCA Staff Present

Dean Grafilo, Director Department of Consumer Affairs (DCA)  
Karen Nelson, DCA Assistant Deputy Director

#### Public Visitors

Larry Abernathy, Davy Tree Company  
Pat Mahoney, West Coast Arborists  
John Callahan, Consulate General of Ireland  
Ernesto Marcias  
Simon Dimitroff  
Richard Markuson, Pacific Advocacy Group  
Jackie Donahue  
Mike Pallett, San Diego Regional Forest Council  
Nancy Hughes, California Urban Forest Council Arturo Signs, Foundation for Fair Contracting



Casey Kelly, Local Union 1245  
Peter Sharwall  
Brandon Lopez, Center for Contract Compliance  
Mark Ship, Hub International Insurance  
Shawn Lopez, Center for Contract Compliance  
Jimmy Shy, Cal Fire  
Benny Yee

## **B. STAFF RECOGNITION**

Board Chair Kevin Albanese recognized Santa Clara County prosecutor Johnene Stebbins for her dedication in prosecuting CSLB cases. Ms. Stebbins was presented with a certificate of appreciation. Mr. Albanese also recognized CSLB employee Gina Zayas, Chief of Information Technology, for her service to CSLB and her 36 years of state service upon her retirement. Ms. Zayas was presented with a certificate of appreciation.

## **C. PUBLIC COMMENT**

Benny Yee, former CSLB Board member, congratulated David Fogt on his appointment as Registrar of Contractors.

## **D. DEVELOPMENTS SINCE THE FEBRUARY 2015 UNITED STATES SUPREME COURT DECISION: *NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS v. FEDERAL TRADE COMMISSION (FTC)***

Legal Counsel Kristy Schieldge provided an update of the effect on licensing boards since the Supreme Court decision in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. In the subsequent two years, lawsuits regarding various types of complaints alleging anti-trust violations have been filed against state licensing boards in federal courts across the country. Ms. Schieldge reviewed two noteworthy cases:

*Teladoc v. Texas Medical Board* resulted from an April 2015 lawsuit in which a telemedical company, Teladoc, challenged the requirement to have an in-person exam before administering remote treatment. The court did not agree with the Board's immunity arguments. The FTC and the U.S. Department of Justice filed an amicus brief in support of Teladoc.

*Robb v. Connecticut Board of Veterinary Medicine* resulted from a June 2015 lawsuit in which veterinarian John Robb challenged the Board's disciplinary action against him over vaccination procedures. The court found that the plaintiff did not prove there was an agreement or a conspiracy among the Board members to restrain



trade and that the Board did not displace competition by performing duties imposed upon board members by state law.

*Robb v. Connecticut* found that the Board members performing their duties, consistent with state law, were immune from prosecution.

Ms. Schiedge reported that the FTC has established an Economic Liberty Task Force to discuss boards' regulation in the marketplace and claims of anticompetitive behavior by boards. The Department of Consumer Affairs (DCA) is tracking meetings held by the task force for potential changes to federal laws that can effect clients and the department.

Board Chair Kevin Albanese announced a change to the order of agenda items: J-8 (Update from DCA) would be heard next, followed by item G-7 (Tree Service Classification), and that the closed session would commence at the end of the public meeting.

Board Member Comment:

Joan Hancock requested a moment of silence to commemorate the 76th anniversary of Pearl Harbor and to honor those who have served and lost their lives. Those serving on Cal Fire and California Highway Patrol were also honored.

## **J. EXECUTIVE**

### **8. Update from the Department of Consumer Affairs, Which May Include Updates on the Department's Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory, and Policy Matters**

Department of Consumer Affairs (DCA) Director Dean Grafilo expressed appreciation for the chance to work collaboratively with CSLB and to discuss the plans that Registrar David Fogt has for the Board. Mr. Grafilo also commended the recent appointment of Chief Deputy Registrar Tonya Corcoran for her dedication to DCA and CSLB.

Director Grafilo reported on staffing changes at the Department: Christine Lally left her position as Deputy Director of Board and Bureau Relations to serve as Deputy Director of the Medical Board. DCA welcomes the new Chief Deputy Director, Christopher Schultz, Deputy Director of Administration, Natalie Daniel, Board and Bureau Services welcomes new Deputy Director, Christopher Castillo; Assistant Deputy Directors, Karen Nelson and Patrick Le.

DCA Assistant Deputy Director Karen Nelson gave a brief summary of her past experience and how she will apply it to her new position at the Department.



Director Grafilo reported that DCA will continue to hold an annual meeting with the executive officers of all boards and bureaus to discuss issues facing DCA and its programs. He also reviewed the topics discussed at the Director's September quarterly meeting, which included BreEZe, the Future Leadership Development Program, establishment of a pro rata workgroup, DCA's updated strategic plan, and a board member orientation training.

## **G. LICENSING**

### **7. Review and Discussion on Creating a "C" Classification Category for the Existing Limited Specialty C-61/D-49 (Tree Service) Contractor License**

Chief of Licensing Laura Zuniga provided a summary of issues related to license classifications for tree care services and workers' compensation insurance. Currently the C-27 landscaping and C-61/D-49 tree service licenses can perform tree maintenance service.

#### Board Member Comment:

Board member David De La Torre moved the staff recommendation that the Board refer the question of creating a new specialty "C" classification for tree service to the Licensing Committee for further review and discussion. Augie Beltran seconded.

#### Public Comment:

Pat Mahoney, President of West Coast Arborists, expressed concern about the lack of training for D-49 licensees, and noted that CSLB does not require a trade exam for the D-49 classification and that the C-27 Landscaping exam does not cover tree care skills. Insufficient training, he said, has led to an increased number of accidents and fatalities related to tree care services. Mr. Mahoney suggested creation of a "C" license classification for tree care. He also noted that a high percentage of C-61/D-49 licensees claim an exemption from workers' compensation, but the work is too difficult without employee assistance. The result it to raise workers' compensation premiums for legitimate licensees.

Board member Pastor Herrera Jr. asked Mr. Mahoney if he would support mandatory workers' compensation insurance should a new tree care service classification be created. Mr. Mahoney agreed with the idea.

Board member Joan Hancock asked Mr. Mahoney to clarify his request for a new tree service license. Mr. Mahoney responded that the tree industry would like a license for tree maintenance separate from a landscaping license, and for landscape licensees to undergo a trade exam for tree maintenance.

Mark Ship of Hub International Insurance emphasized the need for mandatory workers' compensation insurance because of the injury rate and its effect on rates for others in the industry. He also said that C-27 Landscaping licensees mainly perform work on the



ground and are not qualified to perform maintenance in trees ten to a hundred feet tall, which leads to fatalities.

Peter Sharwall, CEO of a Hayward tree maintenance company; Larry Abernathy, Responsible Managing Employee of Davy Tree Company; and Mike Pallett, Chair of San Diego Regional Forest Council, further emphasized the need to separate the landscaping and tree maintenance classifications and agreed with the statements of the previous speakers.

Ernesto Marcias, an ISA certified arborist and TCI certified tree care professional, reported on the Department of Industrial Relation's statement about the difference between the landscape and tree care industry and the differing pay rates. Mr. Marcias noted that insurance companies charge tree trimmers rates as much as 100 percent higher than for landscapers. He expressed his support for an exam to obtain either a C-27 or D-49 license.

Nancy Hughes, Executive Director of the California Urban Forest Council commented on the tree industry's interest in promoting safety for tree maintenance workers and the public.

Arturo Signs from the Foundation for Fair Contracting stated that Northern California, in particular, has seen an increase in injuries related to unqualified individuals performing tree maintenance service.

Jimmy Shy, a Regional Urban Forester for Cal Fire, commented that in following the Urban Forestry Act, Cal Fire seeks to protect urban forests and ensure their longevity. Cal Fire provides grants to promote tree planting and their maintenance and wishes to ensure that the people maintaining those trees are qualified to perform the work. Contractors without knowledge about proper tree maintenance create unsafe environments for the trees, which increases the costs and work needed for their maintenance.

Brandon Lopez, the Executive Director of the Center for Contract Compliance, reported that because insurance rates for landscapers are lower they tend to underreport the hours of tree maintenance services completed. Separating the classifications for landscapers and tree maintenance workers will ease enforcement by limiting the scope of licensees monitored for performing tree maintenance. Additionally, to avoid higher costs for tree maintenance, public agencies, which previously requested separate bids for landscaping and tree maintenance, are beginning to contract with landscapers for both services.

Casey Kelly, business representative of Local Union 1245, reported that their local union began developing an apprenticeship program for tree maintenance to assure that contractors receive proper training.



Shawn Lopez, an investigator for the Center of Contract Compliance, shared an example of a tree maintenance company which completes heavy-duty tree services but claims no employees and an exemption from workers' compensation insurance. Mr. Lopez emphasized the need for mandatory workers' compensation in the tree service industry.

Board Member Comment:

Board member Frank Schetter asked about the possible involvement of subcontractors in the case described by Shawn Lopez.

Board member Joan Hancock requested information about how many fatalities result from working in trees of a certain height. Mr. Kelly informed the Board that a recent fatality resulted from someone falling from a tree approximately 15 feet tall.

Board Chair Kevin Albanese stated that generating a new classification, which includes a trade exam, may resolve many of the issues being raised. Mr. Albanese expressed his agreement with the staff recommendation to move this issue to the Licensing Committee and noted that the issue of workers' compensation would be discussed later in the meeting.

**MOTION:** To refer to the Licensing Committee further review and discussion of the need to create a new specialty "C" classification for tree service. David De La Torre moved; Augie Beltran seconded. The motion carried unanimously, 13-0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson				✓	
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

The Board recessed at 2:17 p.m.



The Board reconvened at 2:26 p.m.

F. LEGISLATION

1. Review and Possible Approval of November 8, 2017, Legislative Committee Summary Report

MOTION: To approve the November 8, 2017, Legislative Committee Meeting Summary Report. Linda Clifford moved; Augie Beltran seconded. The motion carried unanimously, 11-0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock				✓	
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson				✓	
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer				✓	

2. Review, Discussion, and Possible Approval of Study and Legislative Report (SB 465 – Hill, 2016) Regarding Judgments, Arbitration Awards, and Settlements (BPC section 7071.18)

Legislative Committee Chair Augie Beltran presented this study, which resulted from legislation passed in response to a fatal balcony collapse in Berkeley to determine if requiring licensees to report to CSLB civil settlements, judgments, arbitration awards and/or pay outs regarding defective construction would enhance public protection.

Public Comment:

Jackie Donahue, the mother and aunt of two victims of the balcony collapse, stated that both the architects and engineering boards require the reporting of settlement information and asked why contractors are exempt from the same requirement. She noted that the architects and engineering boards take action on only 3-5% of the reported settlements and said that CSLB cannot effectively protect the public without



the proper tools. She noted that most consumer complaints relate to single family dwellings and that less information is reported from multifamily dwellings because they tend to settle, and insurance will cover the payments. Ms. Donahue commented that CSLB's study showed that the annual reporting of settlements would lead to enforcement actions in 10-15% of investigations, which could potentially prevent another tragedy like the balcony collapse. She concluded by saying that CSLB's failure to require mandatory settlement reporting means it is willing to allow contractors to complete defective work.

John Callahan, Vice Counsel at the Consulate General of Ireland to the West Coast of the United States, reported that the Consulate and the Irish government are tracking the progress of this study and subsequent actions. He also noted that the Consulate supports Ms. Donahue and agrees with her previous comments.

Legal Counsel Comment:

Kristy Schieldge stated that the purpose of SB 465 was to seek the Board's opinion about whether or not CSLB's ability to protect the public would be enhanced by this type of reporting. She reiterated the question contained in Business and Professions Code section 7071.18 as follows: "Whether the Board's ability to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards or settlement payments of those claims?" Ms. Schieldge explained that although the staff recommendation in the report is helpful it does not directly answer the question posed by SB 465 and suggested further Board deliberation before submitting the report.

Board Member Discussion:

Mr. Beltran asked the Board to consider support for mandatory settlement reporting, as it would serve as a valuable tool for CSLB.

Board member Frank Schetter commented that the study does not address the insurance requirements that contractors are subject to, and requested greater clarification about how fault would be determined and which parties would be responsible for paying out for defective construction claims.

Board member Johnny Simpson agreed with Mr. Schetter's comments and added that any resulting legislation should distinguish between cause and fault.

Board member Linda Clifford noted that the focus of legislation on this matter should center on multifamily dwellings, because defective construction in these facilities pose a greater threat than in single-family dwellings. Additionally, she noted that review of these claims should be at CSLB's discretion.

Legal Counsel Kristy Schieldge explained that all the healing arts boards within DCA have a settlement, arbitration, or judgment reporting requirement in their laws, but public disclosure of these reports typically varies depending on whether or not there are possible violations of the laws administered by the respective board (some awards and judgments may be unrelated to the practice or profession), and if any enforcement



action is taken after an investigation is conducted. Typically, the settlement, award, or judgment is only publicly disclosed if a public action is filed and enforcement action is taken as a result of the settlement, award, or judgment.

Board member Joan Hancock added that the risk of personal injury versus the risk of property damage should be a consideration in determining what types of settlements must be reported, while also considering the risk of property damage that might lead to personal injury.

Board member Frank Schetter requested assurance that these regulations would not negatively affect innocent subcontractors when action is taken against any unscrupulous subcontractors on the same project. Ms. Schieldge responded that the scope of the question before the Board is if a reporting requirement would enhance CSLB's ability to protect the public. However, it was her understanding that complaints are typically treated confidentially and are only made public if referred for legal action.

Board member Ed Lang asked if the study included information about necessary staff resources to collect the reporting data. Mr. Jamnetski replied that the study does account for additional personnel to handle an increased caseload resulting from a reporting requirement. He also noted that CSLB's policy is to hold the primary contractor responsible for problems on a project and that subcontractors are only pursued under certain circumstances.

Board Chair Kevin Albanese expressed condolences to the family of those lost in the balcony tragedy. Mr. Albanese also cautioned that the details regarding any proposed legislation are critical and noted his hesitation about moving forward with a recommendation about mandatory settlement reporting.

Public Comment:

Richard Markuson said that the contracting industry shares the concerns raised by the Board and wants to ensure that any future legislation will prevent further tragedy. Mr. Markuson agreed that the details about who is found at fault is an important component of any legislation.

Board Member Discussion:

Board member Augie Beltran encouraged the Board to approve the report because CSLB staff will work collaboratively with Senator Hill's office to ensure that the Board's concerns are heard when drafting the legislation.

Board member Joan Hancock asked why only one Board member would be designated to review the proposed legislation. Ms. Schieldge replied that under the Open Meeting Act, if two or more people are delegated authority to make a final decision (not just advisory) on an item, such action and deliberation would require holding a noticed meeting.



**Public Comment:**

Ms. Donahue added that the focus of the study is for CSLB to receive settlement information on multifamily dwellings for possible investigations, not to make this information public.

**MOTION:** Generally, that the ability to protect the public as described in BPC section 7000.6 would be enhanced by regulations requiring licensees to report judgments, arbitration awards, or settlement payments of construction defect claims for rental residential units. Requiring licensees to report judgments, arbitration awards, or settlement payments of construction defect claims is a good idea and would be a good investigative tool in the Board’s “tool box.” Additionally, the Board directs staff to work with Senator Hill’s office. Augie Beltran moved; Linda Clifford seconded. The motion carried, 13–1.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese		✓			
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson*	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

\*Board Vice Chair Marlo Richardson arrived at 2:40 p.m.

**3. Update on 2017 Legislation**

Legislative Committee Chair Augie Beltran presented the update on 2017 legislation and reported that Governor Brown signed the following legislation:

- AB 1070 (Gonzalez Fletcher) Solar Energy Systems: Contracts: Disclosures
- AB 1278 (Low) Contractor Licensing: Final Judgments
- AB 1284 (Dababneh) California Financing Law: Property Assessed Clean Energy Program: Program Administrators
- AB 1357 (Chu) Home Inspectors: Roofing Contractors: Roof Inspections
- SB 242 (Skinner) Property Assessed Clean Energy Program: Program Administrator



SB 486 (Monning) Contractors State License Law: Letter of Admonishment  
SB 800 (Business, Professions and Economic Development) Annual DCA Omnibus Bill (Clean-Up).

Mr. Beltran noted that Governor Brown vetoed AB 1190 (Obernolte) Department of Consumer Affairs: BreZE System.

Board Member Comment:

Pastor Herrera Jr. asked the meaning of “minor” in the bill analysis for AB 1278. Mr. Jamnetski answered that it refers to the labor burden that will fall on the Information Technology division as a result of this legislation.

Board member Pastor Herrera Jr. asked to what degree AB 1284 and SB 242 will affect CSLB’s budget. Mr. Jamnetski replied that it is not believed at this time that either bill will have significant impact on CSLB.

**4. Review, Discussion, and Possible Action on Potential 2018 Legislative Proposals**

**a. Remove Statutory Authority for Registrar to Accept Cash Deposit in Lieu of Bond**

Legislative Committee Chair Augie Beltran presented this proposal, which will remove the option of cash deposit in lieu of a bond. Mr. Jamnetski noted a typo on page 54 of the packet: “section 7195.5” should read “section 7159.5.”

Board Member Comment:

Board Chair Kevin Albanese mentioned that cash deposits accrue administrative costs for CSLB, and the inability to control these costs can affect consumer protection.

Board member Joan Hancock asked about section 7071.17 (c) and the automatic suspension of a license for failure to maintain a bond. Mr. Jamnetski replied that the only proposed change to section 7071.17 was elimination of subsection (k), which refers to cash deposits.

**MOTION:** To approve the Legislative Committee recommendation to sponsor a legislative bill to remove the Registrar’s authority to accept cash deposits in lieu of bond, to direct staff to revise the statutory language of the proposal, and, if necessary, to later submit any changes to the Board. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				

David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

**b. Multiple-Firm License Qualifier Requirements**

Legislative Committee Chair Augie Beltran presented this proposal, which eliminates the percent equity provision exemptions for license applicants and requires an additional bond for a qualifying individual, excluding those qualifying a sole proprietor license.

Board Member Comment:

Board member Pastor Herrera Jr. asked for clarification about concerns related to a qualifier serving on multiple licenses. Mr. Jamnetski explained that qualifiers serving on multiple licenses may not actively oversee contracting operations for each license, as required, which poses a risk to consumers.

**MOTION:** To approve the Legislative Committee recommendation to sponsor a legislative bill that requires licensed contractors to obtain a bond for qualifying individuals for all entities for which they serve as a qualifier, excluding sole proprietors; to eliminate percentage ownership provisions; and to authorize staff to revise the statutory language of the proposal and, if necessary, to later submit any changes to the Board. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				

Michael Layton	✓					
Marlo Richardson	✓					
Frank Schetter	✓					
Johnny Simpson	✓					
Nancy Springer	✓					

### c. Clarify Authority to Hold Informal Citation Appeal Conferences

Legislative Committee Chair Augie Beltran presented this proposal, which gives CSLB the statutory authority to hold informal conferences. He also reported that the Attorney General’s Office determined that CSLB cannot hold informal conferences until the proposed statutory authority is granted.

Board Member Comment:

Board member Joan Hancock asked why the Board had not previously secured the authority to hold informal conferences. Mr. Jamnetski replied that the authority was implied under case law. Ms. Schiedge added that other boards have regulations to implement informal conference authority.

**MOTION:** To approve the Legislative Committee recommendation to sponsor a legislative bill that grants the Registrar authority to hold informal citation appeal conferences. Additionally, to authorize staff to revise the statutory language of the proposal and, if necessary, to later submit any changes to the Board. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				



**d. Increase the Statute of Limitations to Prosecute a Contractor for Failure to Secure Required Workers' Compensation Coverage**

Legislative Committee Chair Augie Beltran presented this proposal, which will increase the statute of limitations to two years to prosecute an unlicensed contractor for failure to obtain workers' compensation coverage.

**MOTION:** To approve the Legislative Committee recommendation to sponsor legislation to amend Business and Professions Code section 7126 to include unlicensed contractors and extend the statute of limitations to two years for prosecution of workers' compensation violations. Additionally, to authorize staff to revise the statutory language of the proposal and, if necessary, to later submit any changes to the Board. The motion carried unanimously, 14-0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

**5. Update and Discussion Regarding Status of Previously Approved Board Initiated Rulemaking to Amend Title 16, California Code of Regulations (16 CCR) Sections 853, 858.1, 858.2, 869, 869.9, and 872 (Renewal Application Form, Blanket Performance and Payment Bond Requirements, Application for Approval of Blanket Performance and Payment Bond, Criteria for Rehabilitation, Criteria to Aid in Determining Earliest Date a Denied Applicant May Reapply for Licensure, and Disclosure of General Liability Insurance)**

Legislative Committee Chair Augie Beltran reported that DCA legal has reviewed the proposed regulatory changes the Board approved at the June 2017 Board meeting and returned the regulatory package to CSLB with suggested revisions. Staff estimates it will resubmit the package for DCA legal review by mid-December 2018.



**6. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Legislative Objectives**

Legislative Committee Chair Augie Beltran reported that the Legislative Committee moved the target dates for strategic plan items 3.1 (reorganize contractors’ state license law), 3.2 (increased penalties for predatory business practices), and 3.3 (formalize experience criteria).

**G. LICENSING**

**1. Review and Possible Approval of November 3, 2017, Licensing Committee Summary Report**

Chief of Licensing Laura Zuniga noted a correction to the “public comment” section on page 84 of the packet, which should read as follows: “Legal counsel Kristy Schiedge acknowledged Mr. Markuson’s concern about underground regulations, but noted that all responses on the current fact sheet are based solely on CSLB statute and regulations and that legal review is part of DCA’s review process.”

**MOTION:** To approve the November 3, 2017 Licensing Committee Meeting Summary Report. Ed Lang moved; Frank Schetter seconded. The motion carried unanimously, 13–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran				✓	
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				



## **2. Licensing Program Update**

Chief of Licensing Laura Zuniga reviewed updated statistics on licensing applications processed, workers' compensation, the criminal background unit, and experience verification unit. She reported that in October 2017, the number of applications CSLB received decreased from the average of prior months. Staff is tracking these numbers to determine if this is a trend or a single abnormality, as the number of applications received has increased over the last few years. Ms. Zuniga also reported an increase in the number of applications processed in October 2017, and that the number of applications processed per year has increased over the past few years. She also noted that processing times for applications are high and that CSLB is working to fill vacancies and recruit additional staff to decrease the backlog in the most affected unit, original exam applications.

Ms. Zuniga also reported that filling vacancies has reduced call center wait times and that the unit is currently fully staffed.

### Board Member Comment:

Board Chair Kevin Albanese commented that workers' compensation avoidance is an important issue and information on the number of exemptions may be relevant when the topic is discussed later in the meeting.

Board member Nancy Springer asked if there was a current backlog in recertifying workers' compensation, noting that she is aware of licensees who have submitted recertification documents but the records are not updated. Ms. Zuniga responded that the workers' compensation unit has about a one week backlog, but that the licensees' insurer can update the certification online, which will automatically update the license record.

### Public Comment:

Mr. Markuson, Pacific Advocacy Group, commented that of the 3 percent of application that undergo experience verification, only 50 percent are verified. He said that while being unable to verify experience does not mean an applicant is unqualified, CSLB should not issue a license until that experience is confirmed. Ms. Zuniga replied that staff review the experience of all applicants and that a randomly selected 3 percent of applications undergo more extensive review.

Simon Dimitroff, an applicant for licensure, raised concerns about the amount of money applicants pay while still at risk of being denied. Mr. Dimitroff was asked to speak with Mr. Jamnetski regarding his case.



**3. Update and Discussion Regarding Licensing Reciprocity with Other States and the use of the National Association of State Contractors Licensing Agencies (NASCLA) Trade Exams and Trade Exam Waivers**

Licensing Committee Chair Marlo Richardson noted that consideration of reciprocity is a Licensing Committee strategic plan objective and that the Licensing Committee had requested CSLB staff research the acceptance of California licensees by other states and collect stakeholder feedback.

Chief of Licensing Laura Zuniga reported that staff is conducting additional research and the issue will be on the next Licensing Committee agenda and further addressed at the April 2018 Board meeting.

**4. Review, Discussion, and Possible Action Regarding the Distribution of Funds from the Construction Management Education Account (CMEA)**

Licensing Committee Chair Marlo Richardson summarized the CMEA grant program and reported that at the November 3, 2017 Licensing Committee meeting, members recommended appointing an advisory committee and authorized staff begin recruitment. The Committee also recommended grants be issued in fiscal year 2018-2019.

Board Member Comment:

Board member Linda Clifford suggested moving this item forward and appointing an advisory committee, so that schools are not delayed in receiving grants.

**MOTION:** To approve the Licensing Committee recommendation to appoint a CMEA advisory committee and authorize staff to begin recruiting. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				



**5. Review and Discussion Regarding Minimum Qualification Requirements for a “B” General Building Contractor License**

Licensing Committee Chair Marlo Richardson reviewed the minimum qualifications for a “B” contractor license and noted a typo on page 111 of the Board packet: CSLB requires “B” contractors to have four total years of experience with framing and two unrelated trades combined, not four years of exclusive framing experience.

Ms. Richardson reported that in October 2017, CSLB staff met with industry representatives to discuss current practices and receive feedback. Staff confirmed that California is the only western state that requires “B” contractors to have hands-on framing experience.

Legal Counsel Comment:

Kristy Schieldge stated that she agrees with the April 3, 2014, legal opinion given by the previous legal counsel, Kurt Heppler. Ms. Schieldge said she is still collecting information for an analysis, which she hopes to have completed before the April 2018 Board meeting.

Board Member Comment:

Board member Frank Schetter said he believes the Board should reevaluate the requirements for a “B” license and Mr. Schetter does not believe having framing experience is necessary to obtain a “B” license.

Public Comment:

Mr. Markuson, on behalf of the electrical and plumbing contractors, expressed support for reevaluating the “B” license requirement to ensure that licensees are adequately experienced.

**MOTION:** To approve the Licensing Committee recommendation that CSLB staff and DCA Legal counsel review the current statutory and regulatory requirements for the “B” general building contractor license. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				

Michael Layton	✓							
Marlo Richardson	✓							
Frank Schetter	✓							
Johnny Simpson	✓							
Nancy Springer	✓							

**6. Review, Discussion, and Possible Action on Developing Publications to Address Common Licensing Questions and Industry Outreach Regarding Licensure**

Licensing Committee Chair Marlo Richardson reported that staff proposed developing a list of frequently asked questions (FAQs) about licensing to publicly post on the website. She then reviewed sample questions and responses, which are based on CSLB’s statutes and regulations.

Board Member Comment:

Board member Augie Beltran clarified that the FAQs would be only for informational purposes.

**7. Review and Discussion on Creating a “C” Classification Category for the Existing Limited Specialty C-61/D-49 (Tree Service) Contractor License**

Item discussed earlier in the meeting.

**8. Testing Program Update**

Chief of Licensing Laura Zuniga provided the Testing program update, and reviewed the number of exams scheduled per month, testing center locations, and the number of exams scheduled at each test center. She also presented information on the CSLB exams currently in development. Ms. Zuniga reported that there are no vacancies in the Exam Development unit and that a new consumer satisfaction survey is in development and will be released in spring 2018.

**9. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Licensing and Examination Objectives**

Chief of Licensing Laura Zuniga reviewed the division’s strategic plan objectives.

**H. ENFORCEMENT**

Enforcement Committee Chair Ed Lang recognized CSLB’s efforts to protect consumers effected by the recent California wildfires.



**1. Review and Possible Approval of November 3, 2017, Enforcement Committee Summary Report**

**MOTION:** To approve the November 3, 2017, Enforcement Committee Meeting Summary Report. Augie Beltran moved; Frank Schetter seconded. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

**2. Enforcement Program Update**

Chief of Enforcement Missy Vickrey presented the Enforcement program update, highlighting a number of Enforcement cases, including one that involves a garage door technician targeting seniors who pled guilty to elder financial abuse. Because this company is based in numerous states CSLB is informing other states. She also reported that CSLB’s efforts to resolve non-egregious complaints resulted in \$14 million in restitution, reviewed information about aged cases, and highlighted the number of stings and sweeps SWIFT conducted.

In response to the wildfires, CSLB Enforcement is staffing Local Assistance Centers (LACs) in Northern California. LACs will soon be established in Southern California and staffed using clerical, Consumer Services Representatives, and non-investigative staff members. Ms. Vickrey noted that if investigative staff work at the LACs, caseload cycle times and productivity will be affected.

On November 17, 2017, CSLB welcomed 18 graduates of the Enforcement Academy. Based on survey feedback from participates, the academy classes are well received.

**Board Member Comment:**

Board Chair Kevin Albanese asked about the 89 percent of contractors found out of compliance in joint operations conducted with LETF. Ms. Vickrey replied that the percentage includes violations among partnering entities, such as Cal-OSHA and EDD, not solely CSLB. Mr. Albanese requested receiving information about the CSLB-only violations for these contractors.

Board member Linda Clifford asked how SWIFT finds potential violators. Ms. Vickrey explained that certain areas are canvassed and that CSLB conducts audits collaboratively with partnering agencies. She also noted that sweeps usually target construction sites with five or more employees and are generally random.

Registrar David Fogt added that there is a form of pre-inspection to find possible violators and that EDD usually takes the lead in identifying inspection targets by checking company payroll records. Many of the violations involve workplace safety. The job sites visited are generally those CSLB or a partnering entity believes are noncompliant. Mr. Fogt also thanked the Department of Insurance for their involvement in conducting sweeps.

**Board Member Comment:**

Board member Frank Schetter asked if the Enforcement division plans to hire retired annuitants to help the LACs. Ms. Vickrey replied that is being considered.

Board member Nancy Springer thanked Enforcement staff for their work at the LACs and in the wildfire relieve effort.

Board member Pastor Herrera Jr. warned about the serious impact of the wildfires in Southern California and that the area is at high risk for fraud by unscrupulous contractors.

Board member Augie Beltran asked that staff reach out to local colleges for students who can serve as volunteers in the LACs.

Enforcement Committee Chair Ed Lang reported on two enforcement actions taken by CSLB that concluded in December 2017. One involved a homeowner who filed a complaint about structural defects on a balcony, which, after consultation with an industry expert and Placer County building official resulted in beginning the process for license revocation. The other involved a homeowner, who spoke limited English, entering into a solar contract they believed was a free government program. CSLB helped settle the case with the solar company, which canceled the contract and transferred ownership of the solar panel system to the homeowner.



### **3. Update, Discussion, and Possible Action Regarding Workers' Compensation Enforcement Strategies, Resources, and Accomplishments**

On November 3, 2017, the Enforcement Committee established a Workers' Compensation Advisory Committee, which includes Board members Kevin Albanese and Ed Lang. Mr. Albanese noted that he looks forward to working with State Fund to develop enforcement strategies.

### **4. Update and Discussion Regarding CSLB's Solar Task Force**

Chief of Enforcement Missy Vickrey provided an update on the Solar Task Force. CSLB are holding meetings with the solar contractors who received the most complaints in hopes to the contractors improve and maintain compliant business practices. Disciplinary action is taken against contractors continuing to repeat violations.

Chief of Legislation Mike Jamnetksi summarized pending solar related legislation. CSLB is working with the Public Utilities Commission and the Department of Business Oversight to implement the legislation.

### **5. Update and Discussion Regarding Strategies to Address Owner-Builder Construction Permits and Unlicensed Activity Violations**

On November 3, 2017, the Enforcement Committee established a Permit Violation Advisory Committee, which includes Board members Nancy Springer and Linda Clifford. Through this advisory committee, Ms. Clifford and Ms. Springer developed two strategies to address owner-builder permits and unlicensed activity:

- 1) Define what is considered a repeat violation and, if a repeat violation occurs, require contractors to take an educational course on proper permit procedures. The advisory committee also plans to work with CALBO to update the existing 2005 memorandum of understanding.
- 2) Have CSLB partner with building officials to have proper forms available to educate owner-builders about permit requirements and detail the consequences of failing to use a licensed contractor to perform jobs.

#### Board Member Comment:

Board member Joan Hancock asked about including representatives from counties effected by the wildfires to ensure owner-builder compliance in these areas. Nancy Springer responded that building officials and representatives from the disaster areas discussed this and plan to develop a program to educate homeowners on the proper procedures for rebuilding.

Board member Pastor Herrera Jr. asked if any jurisdictions restrict owner-builder permits. Ms. Springer answered that owner-builder permits are available in every jurisdiction.



Board member Joan Hancock asked about any current restrictions on unlicensed persons obtaining permits. Mr. Fogt replied that there are no restrictions if a general contractor is used; but if subcontractors are involved there is a limit of four single family structures intended or offered for sale in one year. CSLB wants to prevent unlicensed contractors performing work using an owner-builder permit.

## **6. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Enforcement Objectives**

Enforcement Committee Chair Ed Lang reviewed the Enforcement division strategic plan objectives, and noted that at the November 3, 2017, Enforcement Committee meeting the target date of objective 2.1 (misuse of workers' compensation exemption) was moved from March to June of 2018.

### **I. PUBLIC AFFAIRS**

Public Affairs Committee Chair Susan Granzella noted the valiant efforts of CSLB Public Affairs staff in response to wildfires across the state. Ms. Granzella requested that at next committee meeting Public Affairs provide a summary of their involvement in the relief effort, as well as detail the services provided, and information distributed. Ms. Granzella reported that at the November 3, 2017, committee meetings, dozens of staff members were recognized for their participation in the disaster relief.

Ms. Granzella also noted that Public Affairs staff are developing a program to conduct monthly licensing workshops to help educate applicants and licensees. Workshops are currently held monthly in Sacramento and will expand in January 2018 to CSLB's Norwalk office.

#### **1. Public Affairs Program Update**

Chief of Public Affairs Rick Lopes reported on the development of a new partnership with Nextdoor, a neighborhood social media site. Nextdoor granted CSLB access to the nine counties effected by the wildfires in Northern California, making it one of two agencies, along with the Governor's Office of Emergency Services, that currently partner with Nextdoor.

Mr. Lopes provided updates on Public Affairs social media outreach efforts and provided information on outreach events. He noted that the number of outreach events, such as Senior Scam Stoppers, were limited in December so that staff could assist with disaster relief but will resume normal scheduling in spring 2018.

#### **2. Update and Discussion Regarding CSLB Response to October 2017 California Wildfires**



Chief of Public Affairs Rick Lopes highlighted CSLB's commitment to disaster relief and provided information on staffing of relief centers. He reported that an unusually high number of counties required assistance and Public Affairs had to generate high volumes of new educational materials to supply meet the demand. He also noted that a system was established to assist licensed contractors or applicants who lost paperwork in the fires, including waiving certain fees.

Mr. Lopes noted that as part of its outreach effort, CSLB enforcement staff placed signs in disaster areas to warn unlicensed contractors not to work in the areas and partnered with the Department of Insurance to conduct outreach events and press conferences. Additionally, CSLB has reached out to building departments, chambers of commerce, and legislative members, supplying educational material for their constituents. CSLB also has an online disaster help center and toll-free hotline available. He also noted that there are plans to host wildfire workshops in the disaster areas to educate both survivors and contractors.

Mr. Lopes also provided the Board with details about a joint federal-state housing task force that meets weekly to discuss and coordinate efforts involving long-term housing in the various disaster areas. CSLB also participates in a North Bay Disaster Task Force, headed by the FBI to address post-disaster scams. CSLB is also represented on a working group formed by the Governor's Office of Business and Economic development (Go-Biz) focusing on shortages in the construction workforce.

Mr. Lopes also noted that there are different regulations and protections for consumers if a project is considered home improvement rather than new construction and said that much of the rebuild is expected to be considered new construction.

Lastly, Mr. Lopes updated Board Members about the four wildfires currently burning in Southern California and noted that CSLB's Valencia and Oxnard offices closed for a time because of proximity to the fires.

Board Member Comment:

Board member Augie Beltran requested that staff email Board members information about how to get involved with the Go-Biz workgroup.

### **3. Update and Discussion Regarding Applicant Outreach**

Chief of Public Affairs Rick Lopes provided an update on the monthly licensing workshops. Staff conducted the first workshop in Sacramento at CSLB headquarters, where 32 participants were in attendance. Staff will hold monthly workshops in both the Sacramento and Norwalk offices. Mr. Lopes shared flyers and examples of the information provided at the workshops.



**Board Member Comment:**

Board member Ed Lang asked about a correlation between those who attend the workshops and those who take the trade exams. Mr. Lopes replied that the program is too new to have that kind of information, but hopes to have that information in the future.

Board member Joan Hancock asked if the workshops can be video recorded and made available online. Mr. Lopes replied that the goal is to have interactive live video sessions, where participants can also submit questions online during the workshop.

**4. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Public Affairs Objectives**

Public Affairs Committee Chair Susan Granzella reviewed the Public Affairs strategic plan objectives.

**J. EXECUTIVE**

**1. Review and Possible Approval of September 29, 2017, Board Meeting Minutes**

Board member Augie Beltran noted corrections to the minutes, where Board member Mike Layton is recorded as absent but marked voting “yea” on motions.

Board Chair Kevin Albanese noted the request of public commenter William Bird to amend his statement in the meeting minutes. The minutes were not amended.

**MOTION:** To approve, as amended, the September 29, 2017, Board meeting minutes. Joan Hancock moved; Linda Clifford seconded. The motion carried unanimously, 14–0.

NAME	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Kevin J. Albanese	✓				
Augie Beltran	✓				
Linda Clifford	✓				
David De La Torre	✓				
David Dias	✓				
Susan Granzella	✓				
Joan Hancock	✓				
Pastor Herrera Jr.	✓				
Ed Lang	✓				
Michael Layton	✓				
Marlo Richardson	✓				
Frank Schetter	✓				
Johnny Simpson	✓				



## **2. Personnel, Facilities, and Administration Program Update**

Chief of Administration Mike Melliza provided the Personnel, Facilities and Administration update on personnel transactions, exams offered, contracts, and building lease renewals. He reported that vacancies were approximately 15 lower in the first quarter of the fiscal year than during the same period in the prior fiscal year. He also noted that he expects the building modifications for the Sacramento headquarters to be complete by December 2018, which involves verification that the building meets energy efficiency requirements of the Governor's executive order.

Mr. Melliza also reported that in October 2017, DCA SOLID conducted customer service training sessions at the Sacramento and Norwalk offices, which 245 CSLB staff attended.

## **3. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Administration Objectives**

Chief of Administration Mike Melliza reported that all Administrative strategic plan objectives are on track.

## **4. Information Technology Program Update**

Chief of Information Technology (IT) Gina Zayas provided the Information Technology updated and noted that staff completed the CSLB Business Modernization report in November 2017, which was approved by the Business and Consumer Housing Agency, the Department of Finance, and the Governor's Office. In collaboration with DCA, the report will be submitted to the Legislature in December 2017.

Ms. Zayas explained the Find My Licensed Contractor website search tool, which allows consumers to search for licensed contractors based on city or zip code, where randomly generated can be downloaded. The search tool is scheduled for release in January 2018.

### Board Member Comment:

Board member Susan Granzella asked if the business needs assessment will compel CSLB's involvement in BreEZe. Chief Deputy Registrar Tonya Corcoran replied that there is no statutory requirement for programs to join BreEZe and that the assessment will guide CSLB to identify an appropriate IT solution based on business needs.

Board member Ed Lang asked if staff track the number of rollovers for IVR calls. Ms. Zayas responded that IT staff can program the IVR to track this data.



## **5. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Information Technology Objectives**

Chief of Information Technology Gina Zayas reported that strategic plan objectives 5.1 (E-payment expansion) and 5.2 (updated cell phones and tablets for investigators) are complete.

## **6. Budget Update**

CSLB Budget Analyst Stacey Paul provided the budget update and explained that because DCA transferred to a new accounting system, Fi\$Cal, there is a delay on expenditure and revenue reports. Ms. Paul and Tonya Corcoran are monitoring and approving all purchases submitted to DCA, to ensure that CSLB remains fiscally responsible. Based on preliminary estimates CSLB is on track financially.

## **7. Registrar's Report**

Registrar David Fogt reported that CSLB is in the second year of a two-year strategic plan and that SOLID will distribute surveys to develop the next two-year strategic plan at the April 2018 Board meeting. He also reviewed the tentative Board meeting schedule:

- April 12-13, 2018 – San Diego, CA
- June 7-8, 2018 – Nevada
- September 20, 2018 – Sacramento, CA
- December 13, 2018 – Berkeley, CA

### **b. CSLB and the Nevada State Contractors Board Joint Board Meeting Tentatively Scheduled in Nevada and California June 2018**

David Fogt informed the Board that staff will submit a proposal to DCA for approval to have a joint Board meeting with the Nevada State Contractors Board in Nevada. He explained that for an out-of-state meeting at least two Board members and most of CSLB staff must participate via teleconference in Sacramento or Norwalk.

#### Legal Counsel Comment:

Kristy Schieldge clarified that the meeting will be via teleconference and be held in both California and Nevada so that members of the California public can attend at the California location.

Board Chair Kevin Albanese asked if there were final comments from the Board before moving into closed session.

#### Board Member Comment:

Ms. Hancock asked if CSLB plans to diminish or replace the requirement of hands-on framing experience for "B" contractors, stating she feels such action would be a mistake.



**8. Update from the Department of Consumer Affairs, Which May Include Updates on the Department’s Administrative Services, Human Resources, Enforcement, Information Technology, Communications and Outreach, as well as Legislative, Regulatory, and Policy Matters**

Item discussed earlier in the meeting.

**CLOSED SESSION**

Board Chair Kevin Albanese moved the meeting into closed session.

**E. PURSUANT TO SECTION 11126(E) OF THE GOVERNMENT CODE, THE BOARD WILL MOVE INTO CLOSED SESSION TO RECEIVE ADVICE FROM LEGAL COUNSEL IN THE FOLLOWING MATTERS:**

1. Safeco Insurance Company of America v. Alfred H. Siegel, Trustee, Contractors State License Board, et al., Adv. No. 17-03042 (KRH) (adversary proceeding related to In re Circuit City Stores, Inc. et al., U.S. Bankruptcy Ct., Eastern Dist. Virginia (Richmond Division), Case No. 08-35653 (KRH)).
2. Timothy James Dummer v. California Contractors State License Board; California Franchise Tax Board, et al., Sacramento Co. Sup. Ct, Case No. 34-2016-00200378.

**K. ADJOURNMENT**

The Board returned to open session and Board Chair Kevin Albanese adjourned the meeting at approximately 5:40 p.m.

\_\_\_\_\_  
Kevin Albanese, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
David Fogt, Registrar

\_\_\_\_\_  
Date



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

### **A. Call to Order, Roll Call, Establishment of Quorum, and Chair's Introduction**

Marlo Richardson called the meeting of the Contractors State License Board (CSLB) Licensing Committee to order at 10:12 a.m. on Friday, February 23, 2018, in the John C. Hall Hearing Room at CSLB Headquarters, 9821 Business Park Drive, Sacramento, California 95827. A quorum was established.

Ms. Richardson noted replacement text for pages 66 and 67 of the meeting packet.

#### Committee Members Present

Marlo Richardson, Chair  
David Dias  
Pastor Herrera, Jr.  
Ed Lang  
Frank Schetter  
Johnny Simpson  
Nancy Springer

#### Staff Present

David Fogt, Registrar  
Tonya Corcoran, Chief Deputy Registrar  
Jamnetski, Legislative Chief  
Jesse Flores, Deputy Enforcement Chief  
Wendi Balvanz, Chief of Testing  
Stacey Paul, CSLB Executive Office  
Claire Goldstene, CSLB Public Affairs

Laura Zuniga, Licensing Chief  
Rick Lopes, Public Affairs Chief  
Mike Kristy Schieldge, DCA Legal Counsel  
Nicole Newman, Licensing Manager  
Debbie Steffan, CSLB Executive Office  
Ashley Robinson, CSLB Public Affairs

#### Members of the Public

Karen Nelson, Department of Consumer Affairs  
Sean Lopez, Center for Contract Compliance  
Richard Markuson, Pacific Advocacy  
Pat Mahoney, West Coast Arborists  
Jeff Brown, JLM Energy  
Victor Gonzales, WCA, Inc.  
Larry Abernathy, Davey Tree  
Harlan Ode, Living Spaces  
Roxanne Hansen, CSLS  
Mario Rodriguez, Foundation for Fair Contracting  
Cory Allbritton, Foundation for Fair Contracting  
Jim Jenner, Fusion Power Design  
Shane Diller, California Association of Local Building Officials  
Sandra Giarde, California Landscape Contractors Association



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

Rick Pires, Basic Crafts  
Phil Vermulen, CLC  
Gary Gerber, Sunlight and Power  
Noemi Gallardo, SunRun  
Tom Enslow, Coalition of Utility Employees  
Mike Monagan, IBEW  
Marc Connerly, Roofing Contractors Association of California  
Eddie Bernacchi, NECA  
Pete Gregson, Advance  
Bob Ludecke, Ludecke's Electric  
Phil Tyrwhitt, Pure Energy  
Martin Herefield  
Ted Bavin, All Valley Solar  
Joe Nelson, Sustainable Energy  
Marty Brandaluck, B.E.S. Solar  
Bernie Kotlier, National Advanced Technology Battery Association

### **B. Staff Recognition**

Ms. Richardson recognized the achievements of the Licensing division in significantly reducing application processing times and for continuing to fill vacancies in the division.

### **C. Public Comment Session**

There was no public comment.

### **D. Licensing Program Update**

Chief of Licensing Laura Zuniga provided the Licensing program update. Ms. Zuniga noted that for January 2018, the number of original exam and waiver applications increased over the prior months. She also noted that at the December Board 2017 meeting, comments suggested that 50 percent of the applications directed to the Experience Verification Unit for a more thorough review of claimed work experience are denied; however, the actual rate is approximately 22 percent, which has remained relatively consistent over the last ten years.

#### Committee Member Comment:

Committee member Nancy Springer noted that Committee members had only just received the extra materials for Item H – Classifications to Install Energy Storage Systems. Chief of Licensing Laura Zuniga responded that the materials were recently submitted to CSLB.



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

### **E. Testing Program Update**

Chief of Testing Wendi Balvanz provided the Testing division Update, which included an update on staffing in the division, as well as on the exams currently undergoing occupational analysis and exam development.

### **F. Review, Discussion, and Possible Action Regarding Licensing Reciprocity with Other States and the Use of National Association of State Contractors Licensing Agencies (NASCLA) Trade Exams and Trade Exam Waivers**

Ms. Richardson introduced this item and stated that when the Committee discussed this item at the November 2017 Licensing Committee meeting, members requested additional information. She also noted that a review of existing reciprocity agreements and how other states handle CSLB licensees is a Licensing division strategic plan objective. CSLB currently has limited reciprocity with three states – Arizona, Nevada, Utah.

Ms. Richardson noted that at the November 2017 Licensing Committee meeting, members heard a presentation from the Department of Consumer Affairs' Office of Professional Examination Services (OPES) about the use of NASCLA trade exams and trade exam waivers. OPES recommended that in considering reciprocity agreements, CSLB should evaluate differences in the scope of practice, examination content, format, passing scores, and passing rates. OPES further recommended that if CSLB does adopt the NASCLA General Building exam, it should:

1. Accept that the exams are not parallel;
2. Maintain existing waiver regulations;
3. Accept the NASCLA exam only for reciprocity; and
4. Participate in the NASCLA occupational analysis process.

Ms. Zuniga provided statistical information on complaints against current licensees who were licensed through reciprocity, noting that reciprocity licensees were 40 percent less likely to receive a complaint than the general population of CSLB licensees. She also noted the staff recommendation that the Licensing Committee direct staff to continue researching experience requirements for general building licenses in six states: Alabama, Arkansas, Georgia, Louisiana, North Carolina, and Oregon.

Legal Counsel Kristy Schieldge asked if Arkansas does not recognize California licensees is because of statute or regulations. Ms. Zuniga replied that she would have to review the provisions to provide an answer.

#### Committee Member Comment:

Ms. Springer requested a chart at the next Board meeting detailing the information



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

about for the different states that use the NASCLA General Building Exam. Ms. Zuniga agreed to provide one for the next meeting.

Committee member Frank Schetter asked if CSLB would require reciprocity applicants to pass the California business and law exam. Ms. Zuniga replied that that would be a requirement. Ms. Schieldge responded you should only consider reciprocity if CSLB has determined that the qualifications are the same or similar to California's and if the other states would accept California licensees. She suggested taking a hard look at the facts to avoid any legal problems.

Committee member Johnny Simpson moved that CSLB only accept reciprocity applicants from Oregon. Committee member David Dias seconded.

Mr. Simpson said that Oregon's proximity to California made it the logical state for a reciprocity agreement, which would benefit licensees in both states. He noted that he did not see a benefit to licensees if CSLB accepted reciprocity applicants from other states.

Committee member Ed Lang asked if there are special exceptions that allow CSLB to accept out-of-state applicants during a disaster, and if CSLB is hurting fire recovery efforts by not accepting applications from out-of-state. Ms. Zuniga replied that there is no exception for out-of-state licensees to come into California following a natural disaster. Mr. Schetter added that California has enough licensees to respond to the disasters.

Ms. Schieldge stated that reciprocity is intended to license individuals who typically would not be licensed, which allows CSLB to then, as needed, take disciplinary action against these licensees to enhance consumer protection.

Mr. Simpson said these applicants can take California's trade exam to secure a license. Ms. Schieldge responded you should only consider reciprocity if CSLB has determined that the qualifications are the same or similar to California, and if the other state would accept California licensees. She suggested taking a hard look at the facts to avoid any legal problems.

Ms. Springer clarified that the staff recommendation is for staff to conduct additional research and to then bring the item to the full Board. She stated that it would be best to study all nine states that use the NASLCA General Building Exam, not just one state.

**MOTION:** To direct staff to continue researching the experience requirements for a general building license in Oregon only and Oregon's willingness to waive a general building trade exam for California licensees. Johnny Simpson moved; David Dias seconded. The motion failed, 3-4.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson		✓			



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

David Dias	✓	
Pastor Herrera, Jr		✓
Ed Lang		✓
Frank Schetter	✓	
Johnny Simpson	✓	
Nancy Springer		✓

**MOTION:** To direct staff to continue researching the experience requirements for a general building license in Alabama, Arkansas, Georgia, Louisiana, North Carolina, and Oregon, and the willingness of these state to waive a general building trade exam for California licensees. Ed Lang moved; Nancy Springer seconded. The motion passed, 7-0.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson	✓				
David Dias	✓				
Pastor Herrera, Jr	✓				
Ed Lang	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

### G. Review, Discussion and Possible Development of An Arborist Health and Safety Certification Program

Ms. Richardson presented this item. In August 2017, CSLB staff met with members of the tree care industry who expressed concerns with the current classification structure, accidents and fatalities, and prevailing wages.

At the December 2017 Board meeting, CSLB received letters of support to create a new license classification for tree service, and members of the tree care industry offered public testimony on this issue. The majority of public comment centered on worker safety. At that time, the Board referred this matter to the Licensing Committee for further review and discussion to determine if there is a need for a new “C” specialty license for tree service.

Staff have since had further discussions with members of the tree service industry about how best to address worker safety. Based on these discussions, staff recommended development of an arborist health and safety certification program, rather than creating a new “C” specialty license.



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

### Committee Member Comment:

Mr. Herrera Jr. asked if staff had discussed this recommendation with industry, as the motion from the December 2017 Board meeting was to review creation of a new specialty classification. Registrar David Fogt said that he had discussed the recommendation with some industry representatives.

### Public Comment:

Pat Mahoney of West Coast Arborists expressed his support for certification, noting that C-27 Landscaping licensees can perform tree work and that the number of accidents is significant. He also said that workers' compensation rates are high because C-27 licensees do not pay the appropriate premiums. Mr. Mahoney offered to continue working with CSLB to create both a certification and a new specialty "C" license.

Sean Lopez from the Center for Contract Compliance noted his support for a new specialty license because public agencies can too easily hide tree work in large public works projects. He said that while C-27 licensees and C-61/D-40 licensees do the same work C-27s underbid the work and often switch workers' compensation insurance carriers to reduce costs. He also suggested targeting C-27 licensees, not C-61/D-40 licensees, in enforcement efforts.

Larry Abernathy of Davey Tree spoke in favor of both the certification and a new "C" specialty license and provided written material to the Committee.

Sandra Giarde of the California Landscape Contractors Association stated that the organization supports a certification, as safety is a priority. She also expressed her belief that the variety of existing methods to catch those cheating on workers' compensation insurance are sufficient.

**MOTION:** Recommend that the full Board direct CSLB staff to meet with representatives from California Occupational Safety and Health to develop an arborist health and safety certification program and pursue a possible separate license for tree service and, in the interim, hold informational meetings with various stakeholders. David Dias moved; Johnny Simpson seconded. The motion passed, 7-0.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson	✓				
David Dias	✓				
Pastor Herrera, Jr	✓				
Ed Lang	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				



# CONTRACTORS STATE LICENSE BOARD

## LICENSING COMMITTEE SUMMARY REPORT

### **H. Review, Discussion and Possible Action on License Classifications Authorized to Install Energy Storage Systems**

Ms. Richardson presented this item. Over the last year, the electrical industry has raised concerns about non-electrical classifications installing energy storage systems. Currently several classifications can install these systems, depending on the circumstances.

Staff provided Committee members letters received from the National Electrical Contractors Association, Pacific Gas and Electric Company, Southern California Edison, San Diego Gas and Electric, the Coalition of California Utility Employees, and the Electrical Safety Foundation International. Copies were made available for the public.

#### Public Comment:

Bernadette Del Chiaro from the California Solar & Storage Association spoke in support of C-46 Solar licensees continuing to install energy storage systems (ESS), which they have done for many years. She asked CSLB Chief of Testing Wendi Balvanz how many questions the C-10 Electrical and C-46 Solar exams have, respectively, about solar energy storage. Ms. Balvanz responded that the C-46 exam covers a range of photovoltaic issues, including energy storage, and has been included on the exam since at least 2002. The topic was added to the C-10 exam in 2008.

Committee member Frank Schetter asked about the license requirements for the C-46. Chief of Licensing Laura Zuniga explained they are the same for all classifications—four years of experience within the last ten years.

A representative from the Coalition of Utility Employees (CUE) spoke in support of limiting authorization to install an ESS to C-10 Electrical licensees.

Peter Gregson, a C-46 licensee, explained the scope of the C-46 license and duties, and noted that solar contractors have installed these systems for the last 40 years.

Eddie Bernacchi with the National Electrical Contractors Association commented that he believes CSLB is interpreting the C-46 regulation incorrectly and supports limiting installation of ESS to the C-10 classification.

Richard Markuson from Pacific Advocacy expressed his support for the staff recommendation to conduct public meeting(s) to determine if all of the classifications authorized to install an energy storage system should be precluded from doing so either in the case of a standalone contract or when included in the installation of a solar system, and then report any findings to the full Board to determine if policy, regulatory, or statutory changes are needed.

Mike Monagan with the California Association of Electrical Workers supported the previous statements from CUE and NECA, and said that only C-10 licensees, using certified employees (electricians) should install ESS.



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Janine Cotter, a C-46 licensee, stated C-46s have always installed energy storage, and that there could be significant consequences if CSLB limits the work to only C-10 licensees. In particular, she asked if C-46 licensees would be able to perform maintenance on previously installed energy storage systems still under warranty?

Gary Gerber, a C-46 and "B" licensee, described the scope of C-46 duties and stated that C-10 licensees do not want to work on maintaining older ESS systems.

Ted Bavin, a C-46 licensee, spoke in favor of C-46 licensees continuing to install ESS systems.

Jeff Brown, a C-46 licensee, also expressed his support for the current regulation, and stated that many of the letters in support of the work being limited to electricians submitted to the Committee contain inaccurate information.

Harlan Ode, a C-46 licensee, also noted his support for the current regulation.

Shane Diller from the California Association of Local Building Officials (CALBO), stated that CALBO is pleased with the staff recommendation to study the issue and welcomed further clarification of the language about which licensees are authorized to install ESS. He said that he will work with CALBO members to see if and how a possible change will affect local building departments.

Jim Jenner, a C-46 licensee, suggested adding a qualification (such as a certification) to either the C-10 or C-46 for the installation of ESS so that either classification can do the work.

John Nelson of the Sustainable Energy Group, spoke in support of C-46 licensees continuing to install ESS.

Bernie Kotlier of the National Advanced Technology Battery Association, spoke in support of limiting the work to C-10 licensees.

Phil Tyrwhitt, a C-46 licensee, spoke in support of the current regulation.

### Committee Member Discussion:

Mr. Dias moved that C-46 Solar licensees only be authorized to connect to electrical battery storage. Johnny Simpson seconded. Mr. Dias said that the installation of energy storage systems exceeds the scope of the C-46 classification.

Legal Counsel Kristy Schieldge said that if the Board wants to modify its interpretation of the C-46 Solar classification she would recommend promulgating regulations to amend the language. That process would involve a public hearing process to explain and defend the new interpretation.

Ms. Richardson was interested in the distinction between standalone systems and those paired with a solar energy system. Mr. Herrera Jr. suggested that Committee members needed further information and discussion on this issue.



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Ms. Springer expressed a desire for greater clarity on the issue, noting the importance of consumer protection. She also noted that the industry is growing, raising definite safety issues, and that Committee members need more information before moving forward.

Explaining his support for Mr. Dias’s motion, Committee member Johnny Simpson said that it gave something to C-46 licensees by allowing them to make the connection and that C-46 licensees can apply for a C-10 license if they want to install the system.

Ms. Schiedge reiterated her suggestions that the Board promulgate regulations to make a change to which classifications are authorized to install energy storage systems.

Mr. Herrera Jr. stated that all industries, particularly solar, are dynamic and that CSLB should take the opportunity to review its regulation in a professional and educated and postpone a decision until more information is available.

**MOTION:** To modify the interpretation of the C-46 Solar classification to provide that they can only connect a solar system to electrical battery storage. David Dias moved; Johnny Simpson seconded. The motion failed, 3-4.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson		✓			
David Dias	✓				
Pastor Herrera, Jr		✓			
Ed Lang		✓			
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer		✓			

**MOTION:** To direct staff to conduct public meeting(s) to determine if the “A” (General Engineering), “B” (General Building), C-4 (Boiler, Hot-Water Heating and Steam Fitting), C-10 (Electrical), C-20 (Warm-Air heating, Ventilating and Air Conditioning), C-36 (Plumbing), C-46 (Solar), and C-53 (Swimming Pool) classifications should be precluded from installing an energy storage system in a standalone contract or when included in the installation of a solar system. After the public/work group meetings conclude, staff will report any findings to the full Board to determine if policy, regulatory, or statutory changes are needed. Pastor Herrera Jr. moved; Ed Lang seconded. The motion passed 6-1.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson	✓				
David Dias	✓				
Pastor Herrera, Jr	✓				
Ed Lang	✓				
Frank Schetter		✓			



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Johnny Simpson ✓  
 Nancy Springer ✓

### I. Review, Discussion, and Possible Action Regarding the Distribution of Funds from the Construction Management Education Account (CMEA)

Ms. Richardson presented this item. CSLB collects a voluntary contribution from applicants and licensees to fund the CMEA, which is intended to provide grants to prepare graduates to fill positions in construction management. The 11 member CMEA advisory committee oversees the funds. CSLB last issued grants in fiscal year 2013-14.

At the December 2017 Board meeting, the Board authorized staff to begin the recruitment process for new advisory committee members and to begin issuing grants in FY 2018-19. CSLB staff reached out to each identified organization and received their respective nomination.

**MOTION:** To recommend to the full Board approval of the list of nominees from page 98 of the committee packet to serve on the 2018-2021 Construction Management Account Advisory Committee. Ed Lang moved; Nancy Springer seconded. The motion carried, 5-0, with one abstention.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson	✓				
David Dias	✓				
Pastor Herrera, Jr			✓		
Ed Lang	✓				
Frank Schetter	✓				
Johnny Simpson				✓	
Nancy Springer	✓				

### J. 2016-18 Strategic Plan Update; Discussion and Possible Action on 2017-18 Licensing and Examination Objectives

Chief of Licensing Laura Zuniga summarized the Licensing division strategic plan objectives and noted the following revisions:

- Item 1.1 – Revise Application Package – the target date was moved from March 2017 to June 2018
- Item 1.3 – Review CSLB license reciprocity agreements – the target date was moved from September 2017 to June 2018
- Item 1.4 – Review feasibility of process to review license denials – the target date was moved from December 2017 to March 2018



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Mr. Schetter asked about the process to remove the Board's attorney. Ms. Schiedge responded that the Board could request new counsel through the Department of Consumer Affairs' Legal Office.

### K. Adjournment

**MOTION:** To adjourn the February 23, 2018, CSLB Licensing Committee Meeting. David Dias moved; Ed Lang seconded. The motion carried unanimously, 7-0.

NAME	AYE	NAY	ABSTAIN	ABSENT	RECUSAL
Marlo Richardson	✓				
David Dias	✓				
Pastor Herrera, Jr	✓				
Ed Lang	✓				
Frank Schetter	✓				
Johnny Simpson	✓				
Nancy Springer	✓				

Licensing Committee Chair Marlo Richardson adjourned the CSLB Licensing Committee meeting at approximately 12:04 p.m.