

**HIGHLIGHTS OF
THE CONTRACTORS' STATE LICENSE BOARD
BOARD MEETING**

**SACRAMENTO, CALIFORNIA
AUGUST 26, 2010**

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✦ LONG BOARD MEETING

✦ LISA MILLER-STRUNK TAKES OVER CHAIR

✦ NEW BOARD MEMBERS INTRODUCED

✦ NINE BOARD MEMBERS APPEAR, ONLY ONE ABSENT

The Contractors' State License Board held a full Board Meeting on Thursday, August 26, 2010 in Sacramento, CA.

The following Board Members were present:

Chair: Lisa Miller-Strunk; Paul Schifino; Edward "Eddie" Barnes; Robert Brown; Joan Hancock; Pastor Herrera Jr.; Matthew Kelly; Louise Kirkbride; Ed Lang; James Miller; Cynthia Mitchell; Bruce Rust; Mark Thurman; and Ruben Zuniga.

Board Member that was absent was:

Vice-Chair: Robert Lamb.

There are currently no vacant positions on the Board.

Due to time and space constraints, some of the comments have not been included.

I. LEGISLATIVE COMMITTEE REPORT

1. Bills with a Support Position

a. AB 2332 (Eng) Contractors: Licenses

Amends an existing law that provides that the Board may refuse to issue, reinstate, reactivate, or renew a license or may suspend a license for the failure of a licensee to resolve all outstanding final liabilities, which include taxes. It will also authorize the Board to take such actions for a licensee's failure to resolve liabilities assessed by the Board of Equalization.

b. AB 2419 (Cook) Contractors: Workers Compensation Insurance

Renames the Contractors' State License Law to: Contractors State License Law. Renames the Contractors' State License Board to: Contractors State License Board. (The possessive apostrophes are removed to reflect common usage). Makes other technical, non-substantive, and conforming changes to related provisions.

c. SB 1254 (Leno) Contractors: Workers' Compensation Insurance

Authorizes the Registrar of Contractors to issue a Stop Work Order to any license or unlicensed contractor who, as an employer, has failed to secure workers' compensation insurance coverage for his or her employees. Makes a failure to comply with the order a misdemeanor. Sets forth procedures for the payment of employees pursuant to issuance of a stop order, and allows an employer to request a hearing to protest a Stop Work Order. Would authorize an increase the number of CSLB peace officer positions from 3 to 12.

d. SB 1491 (Senate Business, Professions & Economic Development Committee) Professions and Vocations

State Contractor's License Law cleanup provisions: modifies the method for administering the open book asbestos examination; extends the statute of limitations for filing an action to discipline unlicensed contractors so that it conforms to the statute of limitations for licensees: action must be brought within 4 years from the date of the violation for 18 months after the filing of the complaint, whichever is later.

2. Bills with a Watch Position

a. AB 2305 (Knight) Contractors: workers compensation insurance

Amends existing law that requires a contractor with a C-39 roofing classification to obtain and maintain workers' compensation insurance even if he or she has no employees. Extends the operation of those provisions. Requires license suspension for lack of workers' compensation for employees. Extends the operation of existing law that requires an insurer who issues a workers' compensation policy to a roofing contractor holding such license to perform annual payroll audits. Requires statistical data.

b. SB 294 (Negret McLeod) Department of Consumer Affairs: Regulatory Boards.

Provides for the extension of various provisions governing professions or boards.

- c. SB 392 (Florez) Contractors: Limited Liability Companies

Amends the Beverly-Killea Limited Liability Company Act and the Contractors' State License Law. Authorizes the issuance of a contractor's license to a limited liability company and authorizes specified officers to qualify for the license. Requires the limited liability company to maintain liability insurance and post a surety bonds as a condition of licensure. Provides personal liability of persons within the company is a certain instance. Adds persons prohibited from engaging in business without a license.

II. LICENSING COMMITTEE REPORT

1. Licensing Program Update

- a. License Application Workload

The number of applications continues to decline. It is currently at a ten-year low. The increase in the 2004-05 Fiscal Year is attributed to the fingerprint requirements, which went into effect in January 2005.

2. License Transaction Processing Times

- a. Processing times are continually monitored on a weekly and monthly basis for the various units.
- b. All applications and documents are stamped with the date that they are received in the CSLB mailroom and this is used to determine the number of weeks that it takes to process these documents within the various units.
- c. The Licensing Division utilized a minimal amount of overtime during Fiscal Year 2008-09 as compared to prior Fiscal Years. The Licensing Division has also maintained acceptable processing times despite the 15% reduction in staff hours due to furloughs. This is attributed to the overall 8% decrease in applications.
- d. Application processing timelines have been significantly reduced. The Original License Application, which requires an examination, now takes less than one week compared to the previous two weeks. An Original License Application, which does not require an examination and used to take just over three weeks, is now processed upon receipt. License Renewals are now taking less than one week, a cut of over one and one-half weeks.

3. Fingerprinting/Criminal Background Unit

- a. All applicants for a CSLB license have to be fingerprinted and undergo a criminal background check run by the California Department of Justice, effective January of 2005.

- b. Since the inception of the fingerprinting/criminal background checks, the CSLB has received over 218,000 transmittals from the California Department of Justice, including clear codes and conviction information.
- c. The CSLB's Criminal Background Unit has received Criminal Offender Record Information on over 35,000 applicants and the CSLB has since denied 908 applicants and issued 838 probationary licenses. 436 of the applicants that were denied have appealed their denials.
- d. Criminal Offender Record Information Triage / Review Process
 - i. The Criminal Offender Record Information is reviewed the day it is received and applicants who have minor, clearable convictions are cleared if they were honest and reported this on their application.
 - ii. If the applicants did not disclose this minor, clearable conviction on their application, they have the opportunity to withdraw the false application and honestly submit a new application and fees.

4. Licensing Information Center

- a. Although the Licensing Information Center continues to strive to provide timely, efficient, and professional services to its customers, there was a 14% increase in total call wait times in 2009. This is attributed to the fact that there has been a 15% reduction in staff hours due to the furloughs.
- b. The Licensing Information Center has established a position to serve as a trainer and expert resource to other Center staff. This position is responsible for updating internal Call Center policies, developing Call Center scripts for consistency, training new agents, and cross-training existing staff.
- c. The License Information Center continues to provide comprehensive weeklong training for all new CSLB employees and current staff members that need brushing up.

5. Judgment Unit

This Unit processes all outstanding liabilities, judgments, and payment of claims reported to the CSLB by licensees, consumers, attorneys, credit recovery firms, bonding companies, Enforcement Division, and other governmental agencies. They also process all documentation and correspondence related to resolving these issues, such as satisfactions, payment plans, bankruptcies, accords, motions to vacate, etc.

6. Testing Division Update

a. Testing Center Status

The relocation and remodeling project is complete in all test centers with the exception of Oxnard. Some corrective work is necessary and will be completed after a state budget is in place.

b. Examination Wait Time

The wait time for an exam date is 3 to 4 weeks statewide. Walk-in applicants have an excellent chance of finding an available seat in any test center.

c. Testing Division Staffing

There is currently a part-time position vacant and will remain vacant to achieve the required budget savings.

d. Examination Development

i. The CSLB has an ongoing responsibility to ensure that its licensing examinations are current and relevant and that all licensed contractors exhibit basic business competency skills. The Examination Development Unit manages this responsibility by ensuring the CSLB's 45 examinations are maintained and updated in accordance with testing standards, guidelines, and CSLB regulations.

ii. The Examination Development Unit has recently completed new examinations for the C-11 Elevator classification.

iii. There are currently numerous Occupational Analyses and New Examinations in Progress.

e. Annual Consumer Satisfaction Survey

i. The Testing Division conducts an annual survey of consumers whose complaint cases have been closed in the previous year. There is a random selection of 48000 complaints (400 per month) selected to complete a ten-question survey, which assesses overall satisfaction with the Enforcement Division's handling of complaints.

ii. The CSLB will begin e-mailing surveys to all consumers who have provided e-mail addresses. They hope this will provide more current data and will allow the CSLB to separate the results for consumers who have had positive vs. negative feedback.

III. PUBLIC AFFAIRS COMMITTEE REPORT

1. Public Affairs Program Update

The Public Affairs Office is responsible for media, industry and consumer relations for CSLB.

a. Website Highlights

i. New E-Mail Alert Feature

The Public Affairs Office is working on ways to expand publicity. On the website, people can now sign up to receive e-mail alerts for up to four different topics. There are now almost 5,000 subscriptions, practically double in two months. The topics available are:

- a. *California Licensed Contractor* newsletter
- b. Press Releases/Consumer Alerts
- c. Industry Bulletins
- d. Public Meeting Notices/Agendas

ii. E-Mail Registration on Applications/Renewals

Legal counsel has determined that it is appropriate to use the e-mail addresses from the licensee applications to contact the recipients and import their addresses into the E-Mail Alert System, especially since recipients are given the opportunity to unsubscribe from the list on each individual e-mail.

iii. License Look-Up Feature Enhancement

The CSLB's online license look-up feature has been redesigned. All search options are now together and the display and placement of the information on the results page is improved.

iv. New "Opt-In" Licensee Search System

- a. The Public Affairs Office is developing plans for a new license look-up system wherein consumers would be able to search for licensed contractors in a specific classification and geographical area.
- b. The only way licensees will appear in this new search feature is by opting in, thereby allowing them to determine where they will appear in the search as far as geographical area applies.

v. Social Media – Facebook & Twitter

There has been research done as to the feasibility of the CSLB having pages on Facebook and Twitter. If deemed feasible with respect to policies, procedures and staff time involved, this will be the CSLB's first venture into social media.

b. Disaster Outreach Highlights

- i. In July, the Public Affairs Office coordinated with the Central Valley SWIFT to respond to a wildfire in Kern County.
- ii. In August, the Central Valley SWIFT posted CSLB warning signs in the area and distributed instructional publications and DVDs to local agencies as well as fire victims.

c. Media Relations Highlights

- i. Press releases to the news media are still aggressively distributed. Especially to publicize enforcement actions and undercover sting operations.
- ii. Rick Lopes distributed a book, which contained 50 pages of media clips compiled from all over the state covering April to the present.

d. Industry/Licensee Outreach Highlights

Industry members are continually alerted as to important and interesting news by the Industry Bulletins sent out via e-mail, including those who signed up via the E-Mail Alert system.

e. Publications Highlights

Numerous publications have been completed and others moved into production. Some are also being reviewed and designed.

f. Community Outreach Highlights

Pending a new state budget, Senior Scam Stopper seminars are on-hold. Some seminars are being scheduled within driving distance of Sacramento when there is no accommodation necessary, if possible.

IV. **ENFORCEMENT COMMITTEE REPORT**

1. Enforcement Program Update

a. Vacancy Update

There are currently 13 vacant positions in the Enforcement division. The CSLB is trying to fill all but four of the vacancies; those must stay vacant due to the Governor's Executive Order.

b. CSLB Board Member Dialogue with and Response to Norwalk Enforcement Staff

There has been an effort to reach out to the non-supervisory staff in the Norwalk office. The following are portions of conversations between Norwalk and CSLB management:

c. Furloughs, Minimum Wage, Pay Issues.

i. Staff is concerned because the status of furlough days is still unknown. The furlough days have expired, but an Executive Order was issued implementing some furlough days again. CSLB staff has been advised to report to work on Fridays until further notice.

ii. If the governor implements the federal minimum wage of \$7.25 per hour, what happens to employee benefits? Can the governor do this? A court hearing was heard and the court did not require the State Controller's Office to immediately implement the Governor's order. More hearings are scheduled for the end of August.

d. Promotional Opportunities and Training

The staff is wondering if there will be a reclassification similar to one that happened at the Bureau of Automotive Repair where Customer Service Representatives were changed to Staff Service Analysts. Staff has also expressed an interest in formal training for new Enforcement Representatives. Management is looking into the feasibility of this. One of the options to help with training is to have Sam Abdulaziz and Ken Grossbart of our firm train the representatives on the mechanic's lien law and other construction related issues. It has been suggested that we can provide unique insights into how the CSLB can do a better job developing effective cases on behalf of the Board.

e. Staff Identification in the Field

It was suggested that the staff have a more professional looking ID badge than the current badges. The staff feels it will make people believe they are more legitimate when conducting business. The staff also feels the

state business cards should look more professional. CSLB management is looking into more professional business cards and possible new badges although they feel that the badges are not used that often.

f. Vehicle Issues

Staff is concerned about the need to possibly store their personal car overnight in the Norwalk parking lot in fear of damage or towing. Management has stated that if something did happen to their cars, it was the employee's own personal car insurance policy that is responsible. However, employees will be reimbursed for the deductible and vehicle storage pens are being designed for both Norwalk and Valencia.

g. CSLB Enforcement Training

Since the staff development training has been implemented, several enforcement supervisors have been trained. There have been at least 12 successful training sessions. There are six more training sessions planned for the fiscal year 2010-2011.

h. Intake / Mediation Centers

i. Overview

The main function of the Intake and Mediation Centers is to act as a mediator between the different parties to try and help reach some sort of compromise or settlement of licensee complaint issues. There are two centers, one in Sacramento and the other in Norwalk.

ii. Intake / Mediation Center Highlights

Some of the highlights deal with reimbursement for faulty floor installation, a "motorcycle gangster" being referred for investigation, a messy contractor paying for corrective work, and a negotiation, which allowed a contractor to redeem his work.

i. Investigative Centers

i. Overview

When a complaint is unable to be resolved through the Intake and Mediation Center, it is then sent to the Investigative Center and is assigned to an enforcement representative (ER). The ER then conducts a thorough investigation and provides a disposition to the complaint.

ii. Investigative Center Highlights

Some of the highlights of the Investigative Center include a revoked contractor behind bars after manipulating consumers, the wife of a revoked contractor being denied a license, citation due to excluding subcontractors on a public works contract, and a previous SWIFT sting offender is referred for prosecution.

j. Case Management

i. Overview

Case Management has three main units. The Disciplinary Services Section is responsible for processing accusations and appeals of denied license applications and monitors licensees' compliance status. The Enforcement Services Section is responsible for completing applicant experience verifications and flagging investigations and assisting in disputes through the Mandatory or Voluntary Arbitration programs, etc. The Citation Processing Center is responsible for issuing licensee citations, processing appeals, and initiating further disciplinary action, when required.

ii. Case Management Highlights

Some of the highlights include a new procedure for administrative subpoena notification, an addition to the CSLB intranet, and new procedures for default decisions

k. SWIFT

i. Overview

SWIFT stands for the Statewide Investigative Fraud Team. They take a proactive approach to enforcement. They conduct sweeps and stings.

ii. SWIFT Highlights

The highlights include many stings and sweeps in various counties as well as attending home shows and fairs.

l. General Complaint-Handling Statistics

It was previously found that a manageable level of pending complaints for CSLB staff is 4,485. As of July 2010, the pending caseload was 3,741

2. Update on Partnering with State and Local Government Agencies

a. Bay Area Underground Economy Seminar & Workshop

Robert Lamb was a moderator for the Bay Area Underground Economy Seminar and Workshop. He did a great job. As a result, the CSLB has agreed to produce a video that will talk about licensing requirements and the problems with hiring an unlicensed contractor. Participating building officials will require property owners to view the video prior to issuance of an owner-builder permit. CSLB will also partner with building officials, Department of Insurance and local law enforcement in selected jurisdictions, and they will work with the San Mateo District Attorney who is also committed to prosecute all unlicensed activity referred by CSLB.

b. California Energy Commission Memorandum of Understanding

The CSLB entered into a new Memorandum of Understanding with the California Energy Commission that will allow them to work together to enforce and educate the industry, consumers, and contractors about building standards, and appliance regulations, etc.

3. Update on Board-Approved Pilot Programs

- a. The Enforcement Division has been focusing on their new pilot programs; these include the Intake and Mediation Centers working on a few pilot programs that will combat unlicensed practices. This will include sending letters to consumers, and educating them about hiring unlicensed contractors. They are also working on an Advertising Enforcement Pilot program.
- b. There is also a new pilot Public Works Investigative Unit. Finally there is a partnership between CSLB and building officials to focus on methods to increase license and building permit compliance.

4. Combating Unlicensed Activity

a. Consumer Education Letter

Letters have been developed that educate property owners about CSLB license requirements and their responsibilities if hiring an unlicensed individual.

b. Telephone Disconnect

The California Public Utilities Commission has the authority to disconnect phone numbers used for unlawful purposes. Policies are being drafted to facilitate the disconnection of phone numbers used by unlicensed operators.

c. Advertising Enforcement Pilot

The CSLB gets leads from different newspapers, telephone directories and Internet sites to bust unlicensed operators who advertise for their services.

5. CSLB/Building Official License & Permit Compliance Partnership

a. HVAC Stings

Undercover sting operations targeting licensed contractors suspected of performing HVAC repair or replacement without obtaining required building permits have been conducted in several cities.

b. Results of the Pilot Program

There were a total of 53 contractors that were called to sting sites of seven cities. More than half were in violation of the Contractors License Law. Six citations and 21 warning letters for violations were issued.

c. Continuing the Pilot Program

Since the pilot program has been such a success, the CSLB is preparing for a second round of stings.

d. League of California Cities, Calbo, Home Depot, and CSLB Meetings

The Home Depot has responded favorably to suggestions that they have permit applications available online at the point of sale. They are also looking for corporate approval to provide permit services. If they are approved, contractors will have the opportunity to apply for, pay for, and obtain permits at Home Depot cash registers. The Home Depot is also willing to distribute the CSLB informational handouts and brochures to consumers in their home improvement workshops.

6. Public Works Enhanced Enforcement

The pilot Public Works Investigative Unit has been approved. Enforcement has designated two enforcement representatives (one for north and one for south) that will perform the investigations. There is also a retired annuitant who is a former Deputy Labor Commissioner III/Peace Officer who has been designated to provide guidance for this new unit. The pilot program has already achieved such things as how to track and measure success of the program, a program request to create a new action code, scheduled training for staff, and several meetings with various authorities.

7. Review and Approval of Proposed Presidential Decision Regarding Aiding and Abetting an Unlicensed Person

This decision from an Administrative Law Judge presents an analysis enhancing the Board's ability to protect the public as well as clarify the elements in determining a violation of *Business and Professions Code* section 7114 (which is aiding, abetting, or conspiring with unlicensed persons to evade the law). Because of this decision, the Registrar will not have to prove that the respondent had knowledge of the non-licensed status of the person who was aided and abetted and "intent" will not need to be proven either.

V. **EXECUTIVE COMMITTEE REPORT**

1. Administrative and Information Technology Program Update

a. Administrative Program Update

i. Personnel Update

There were 28 vacant positions at the CSLB at the beginning of August. Eleven of those vacancies are intentionally vacant in order to fulfill budgetary constraints. Fourteen of these 28 vacancies are in Enforcement.

ii. Business Services Update

There are a few facilities with leases renewing, some remodeling to squeeze in additional Enforcement Representatives, and others working on plans to add onsite vehicle enclosures. Purchases are still on hold because of the lack of a state budget.

b. Information Technology Division Update

i. State Contractors Official Regulatory Exam (SCORE) System

This is the in-house exam administration and development system. It has been chosen for one of nine Western Regional Innovations Awards. Jason Piccione will present SCORE to the committee in September if out-of-state travel is approved.

ii. Electronic Payment at CSLB Headquarters

Credit card payment at CSLB Headquarters is anticipated to be active September 1, 2010 for re-exam fees, license renewals, home improvement salesperson renewals and license reactivation. Two other phases of this project are still on the horizon.

iii. Automated Call Distribution System Replacement

The new software, which will be less expensive and contains more features, is anticipated to be active by January 2011.

iv. Pocket Card Equipment Replacement and New Mailing System

The equipment is received and being utilized for the Pocket Cards. The new mailing system was not purchased at this time.

v. iLicensing/BreEZe – Online Licensing Services

As a result of the healing arts boards' review of their enforcement procedures practices, a new Enforcement Model is being developed by the Department of Consumer Affairs – Breeze. BreEZe will include e-payment/online licensure, licensing and enforcement functions as well as workflow.

The Department of Consumer Affairs is currently working with all board and bureau subject matter experts to further define the business requirements. Additionally, the CSLB Information Technology staff is involved in these sessions.

vi. Statewide Consolidation/Centralization of E-Mail

Incoming and outgoing email traffic passes through the “e-hub”, which is the state’s shared e-mail security and encryption solution. This secures and protects all of the state’s email. The CSLB complied with this requirement before the required date.

2. Budget Update

a. Fiscal Year 2009/10 Budget and Expenditures

The Fiscal Year of 2009/10 gave the CSLB a net appropriate of \$55 million. As of June, the CSLB was at 93.4% of its budget. This is almost 7% under budget.

b. Revenue

The CSLB’s final revenue amounts were 7.5% less than the prior year. Most income was produced by license and registration renewal fees.

c. Budget Adjustments for Fiscal Year 2009/10

Fiscal Year 2009/10 saw the following reductions/adjustments:

i. One-time budget reduction for three-day-per month employee furloughs;

- ii. One-time budget adjustment for changes to the Department of Consumer Affairs pro rata funding and to CSLB employee retirement contributions; and
- iii. One-time budget reduction for IT savings as ordered by Control Sections 13.25 and 15.30 of the Budget Act of 2009. These sections authorized reductions to department budgets to reflect savings in information technology operations and related expenditures.

VI. UPCOMING BOARD MEETINGS

The date of the upcoming Board and Committee Meetings have not yet been announced.

Attorney Sam Abdulaziz of Abdulaziz, Grossbart & Rudman has been practicing construction law for over 30 years. He has written a book called "California Construction Law" which is updated annually. He represents numerous construction trade associations and contractors. He appears at Contractors State License Board meetings and has argued a number of cases before the appellate courts, including the California Supreme Court dealing with the "Pay-If-Paid Clause." Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients. The documents are of a general nature and are intended to highlight areas of the subject matter and should not be used as a substitute for legal advice. It is intended to highlight the areas being discussed. This document does not create an attorney-client relationship, or protect any confidential information until a written agreement is signed. You should seek the aid and advice of a competent attorney, accountant and/or other professional instead of relying on the presentation and/or documents. Sam Abdulaziz can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at info@agrlaw.net . On the Internet, visit our Website at www.agrlaw.net