

**HIGHLIGHTS OF
THE CONTRACTORS' STATE LICENSE BOARD
LICENSING, ENFORCEMENT, AND PUBLIC AFFAIRS COMMITTEE MEETINGS**

**SACRAMENTO, CALIFORNIA
OCTOBER 22, 2008**

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The Contractors' State License Board held three Committee Meetings on Wednesday, October 22, 2008, in the John C. Hall Hearing Room in Sacramento, California. The Committee Meetings were the Licensing, Enforcement and Public Affairs Committees.

I. LICENSING COMMITTEE

The following Committee Members were present:

Chair, Ed Lang; Eddie Barnes; Matthew Kelly; Cynthia Mitchell; and Bruce Rust.

There were no Committee Members absent.

1. Licensing Program Update – Presented by Chair, Ed Lang

a. License Application Workload

The License Application Workload average is not a good indicator. The reason is because of the number of applications received per month during the fingerprint requirements, which went into effect in 2005. Those fingerprint requirements are now well under control except for ones that are going to be reviewed as a result of a “ding” on their record.

b. Total Number of Applications Received Per Month

The total number of applications received per month is relatively stable for the years 2006/07, 2007/08 and 2008/09.

c. Fingerprinting/Criminal Background Unit Update

Since the fingerprint program began in January 2005, the CSLB has received nearly 163,500 transmittals from the Department of Justice. Of the applicants who are fingerprinted during that time period, CSLB's background unit received criminal record offender information for more than 25,000 applicants, which means that the California Department of Justice and/or the Federal Bureau of Investigation reported that the individual had a past criminal conviction. The criminal background unit denied 750 applications and issued 469 probationary licenses.

d. Licensing Information Center

The Licensing Information Center continues to strive to provide timely, efficient, and professional services to its customers. This unit has invested time and resources in agent training. The focus of the training includes customer service tools and developing the skills and knowledge necessary for the agents to be successful when they work.

In addition to outside training, the License Information Center established a new position to serve as a training and expert resource to the staff.

e. Impact of Governor's Executive Order

The Licensing Division terminated five retired annuitants and four student assistants as a result of the Executive Order. The positions range from supervisory or lead positions to processing technicians working in nearly all units within the division. The most significant impact has been to the criminal background unit, which had to terminate a retired annuitant peace officer acting in the capacity of lead and expert resource to the unit.

Most significantly, and much less known, in addition to the loss of temporary help, the Governor's order suspended the use of overtime. To maintain acceptable workload standards and timelines, the licensing division utilizes approximately 6,800 hours annually in overtime. While the division has managed to maintain acceptable processing times due mainly to the current decrease in applications, the ongoing ban on the use of overtime may ultimately have a negative impact on the Licensing Division.

Lastly, the Executive Order placed a freeze on all hires.

2. Testing Division Update – Presented by Bob Porter

a. Impact of the Executive Order on the Testing Division

The most serious impact to date has been in the administration of exams statewide because the Executive Order prohibited the use of temporary examination proctors who the CSLB rely on for the day-to-day operations at three test centers. In addition, temporary proctors are used in all test centers to fill in during absences by permanent test center staff. The termination of the temporary proctors has resulted in the closing of the San Jose test center due to lack of staffing and a cut back in scheduling in all other test centers because the proctors are not available to fill in during the absence. The result is wait times of up to six weeks in some test centers. There are more than 400 applicants who have opted to wait for the San Jose test center to reopen rather than test at another location.

All exam development workshops scheduled for July through September were cancelled. At the end of September, the CSLB received permission

to utilize subject matter experts and workshops have now resumed.

With all that said, applicants who wish to test sooner can still walk in at any open test center with a reasonable chance of getting a seat.

b. Examination Development

The Testing Division conducts occupational analyses and examination development.

Occupational Analyses in progress are:

A General Engineering;
C-15 Flooring;
C-23 Ornamental Metals;
C-35 Lathing and Plastering; and
C-51 Structural Steel

New examinations in progress are:

C-5 Framing and Rough Carpentry;
C-10 Electrical;
C-13 Fencing;
C-28 Lock and Security Equipment;
C-34 Pipeline;
C-38 Refrigeration;
C-50 Reinforcing Steel; and
C-60 Welding.

c. Review of Handyman Concept – Presented by Peter Sugar

Peter Sugar made a presentation dealing with the “Handyman Concept” and related issues such as requiring a license, exemptions, amount of exemption, etc. The Committee voted to study the issue.

d. Strategic Plan Update

The goal is to ensure that all applicants and licensees are qualified to provide construction services. The Licensing Committee meets this goal by:

- Ensuring that exams are current and relevant;
- Ensuring that all licensed contractors meet experience and education requirements and exhibit basic business competency skills;
- Ensuring accuracy of information submitted by the applicant and applicant integrity; and
- Ensuring that all processes in Licensing are current and efficient.

These are the objectives:

1. Add a photo ID to the Home Improvement Salesperson pocket license.
2. Revise pocket license and wall certificates.
3. Increase exam seating by expanding Fresno and San Diego testing sites.
4. Improve candidate identification at testing centers.
5. Implement the DCA on-line licensure tool for credit card payment.
6. Implement on-line license exam scheduling tool after DCA Licensing is implemented.

II. ENFORCEMENT COMMITTEE

The following Committee Members were present:

Chair, Robert Lamb; Ed Lang; and Bruce Rust.

Committee Members that were absent were:

Louise Kirkbride; and Stephen Match.

1. Robert Jones, Deputy Secretary Special Counsel, California Labor and Workforce Development Agency

Robert Jones, Deputy Secretary, Special Counsel California Labor and Workforce Development Agency addressed the Contractors' State License Board updating the Committee on construction-issues related to the Employment Development Department and the Department of Industrial Relations, the umbrella agency for the Division of Labor Standards Enforcement.

2. David Dorame, Director Economic and Employment Enforcement Coalition

David Dorame addressed the Contractors' State License Board dealing with the Economic and Employment Enforcement Coalition goals, objectives and successes.

3. Update on Proactive Enforcement Efforts

Again, David Fogt and his staff have done wonders with the staff that they have.

Significantly, during September 2008, the Intake and Mediation Centers obtained \$605,771.23 in restitution for California consumers.

a. These Are Just Some of The Highlights

A homeowner entered into a \$150,000 contract with a licensed contractor to remodel her house. The homeowner terminated the contractor for poor

workmanship, deviation from plans, aiding and abetting an unlicensed contractor, etc. The civil case was scheduled to go to trial in January 2009, but thanks to intervention by the Consumer Services Representative, the Respondent and homeowner agreed to settle the dispute with the Respondent releasing the lien and not charging the homeowner any additional monies, resulting in a savings to the public of more than \$15,000.

A general contractor hired a subcontractor to repair a plumbing leak. The subcontractor drove a nail into a pipe causing major water damage. The damages included repairs to the apartment, tenants personal belongings, and the cost of living expenses totalling close to \$40,000.00. A consumer services representative persuaded the respondent to contact his insurance company regarding the damages and the complainant received almost \$40,000 in settlement.

In a case where change orders raised the contract total approximately \$100,000 and the homeowner refused to pay the contractor \$110,000, a consumer services representative assisted the parties and resulted in a check of close to \$103,000 to the complainant.

b. High Profile Investigations

A parolee and unlicensed contractor contracted with an elderly homeowner to replace his roof for \$8,200 as well as to perform some remodel work. The unlicensed contractor took \$4,100 from the homeowner but only demolished the existing roof before abandoning the project and later refused to return any money to the senior citizen.

After referring the matter to the San Diego District Attorney's office, the unlicensed contractor plead guilty to a violation of the Business and Professions Code, contracting without a license. The judge denied probation and the respondent was sentenced. He is currently serving time in federal prison until 2010. Just think what kind of a deterrent this type of penalty is.

In another case, the judge remanded another contractor to county jail in Placer County.

A repeat offender was ordered to six months in jail.

Another licensee was convicted of using a suspended license to defraud consumers. He had contracted with nine customers. Other victims came out of the woodwork and the penalty is now larger.

An unlicensed plumber plead guilty to felony fraudulent use of a license number. He is sentenced to serve 38 days in county jail with credit for time served, 36 months of formal probation, rehabilitation and must seek and maintain gainful employment.

An unlicensed contractor was sentenced to prison in San Bernardino. A plea resulted in \$32,000 restitution paid to the victim.

There was some acknowledgements from some grateful homeowners. In one case the Enforcement Representative was able to obtain more than \$40,000 in restitution for a couple.

4. Impact of Executive Order on Enforcement Functions

a. Contracts

The suspension of contracts negatively impacted the Enforcement Program. However, fortunately, the Executive Order exempted these requirements on October 10, 2008.

b. Loss of Staff

The staff continues to recruit for vacant positions so that approval to hire and extend job offers can be made once the hiring freeze is lifted. There are 23 vacant positions in Enforcement.

c. Temporary Help

Just like the other portions of the staff, the CSLB is impacted by the inability to fill permanent full time positions. This is true for student assistants as well.

d. Enforcement Priorities

- i. Identify and investigate contractors engaged in criminal activity with intent to cause significant harm to California consumers;
- ii. Identify and investigate health and safety complaints relating to unsafe construction practices;
- iii. Identify and investigate elder abuse;
- iv. Identify and investigate consumer initiated non-licensee complaints;
- v. Triage and mediate licensee complaints to protect the integrity of the construction industry;
- vi. Partner with other state agencies to address workers' compensation, tax, and employee safety concerns;
- vii. Conduct sting operations in response to industry leads from:
 - a. Construction industry associations
 - b. Building Departments
 - c. District Attorneys
 - d. Licensed Contractors
- viii. Respond to leads if the following criteria is provided:
 - a. Site Location/Response Time
 - b. Information available on suspect

- c. Photos of workers and/or work vehicles
- d. Violation type (i.e., contracting without a license, no WC, etc.)
- ix. Conduct random sweeps independent of other state agencies to verify licensure compliance.

e. Open Cases

The number of open cases has been reduced from April 2003 to July 2008. The case aging has also been reduced.

f. Enforcement Representative Production

The production continues to exceed the weighted average of ten complaint closures per enforcement representative per month; and the actual closures to date for the current fiscal year through September 2008, is 12.3 closures per month. The licensee cases closed have averaged 26.4% for the first three months of the 2008/09 fiscal year.

g. Proactive Enforcement Highlights

Northern and Southern Statewide Enforcement Highlights continue to amaze people. On September 10 and 11, 2008, simultaneous sting operations were conducted as well as three sweeps throughout southern California during the two-day period.

The Fresno sting turned up 31 unlicensed operators. Seventeen notices to appear were issued in a Yuba City sting.

Numerous other stings were conducted.

h. Economic and Employment Enforcement Coalition

In July 2005, the CSLB joined forces with other state and federal agencies to form the Economic Employment and Enforcement Coalition (EEEC). It was launched by Governor Schwarzenegger and was created to make a concerted and aggressive effort to combat illegal and unscrupulous operators. Other agencies participating include the California Department of Industrial Relations' Division of Labor Standards Enforcement (DLSE), and Division of Occupational Safety and Health (DOSH), and the Employment Development Department (EDD), along with the United State Department of Labor (DOL).

In doing so, they're increasing the prosecution of illegal and unscrupulous contractors by sharing information and resources and by eliminating bureaucratic red tape and duplication. **What an idea?**

i. The Underground Economy

Usually, unlicensed contractors deal in a particular manner. They typically have the following profiles.

- Avoid licensing requirements;
- Pay wages in cash, which allows them to avoid payroll taxes that fund unemployment insurance, disability insurance, personal income tax, and paid family leave;
- Employ vulnerable workers, new immigrants, and economically disadvantaged individuals;
- Fail to pay even minimum wages as required by state and federal law;
- Fail to carry workers' compensation insurance; and
- Avoid minimum worker and workplace safety requirements.

The cost to the California economy is huge.

III. PUBLIC AFFAIRS COMMITTEE

The following Committee Members were present:

Chair, Robert Brown; Joan Hancock; Robert Lamb; and Lisa Miller-Strunk appeared telephonically.

Committee Member Louise Kirkbride was absent.

1. Public Affairs Program Update

The Contractors' State License Board Public Affairs Office (PAO) is responsible for public, industry and media relations for the Board. The PAO provides a wide range of services, including proactive media and advertising campaigns; responses to media inquiries; community outreach, including seminars, special events, and speeches to the service groups and organizations; publication and newsletter development and distribution and contractor education and outreach.

This is what the Contractors' State License Board says they are to do. However, Rick Lopes and the Public Affairs staff have gone over and above in getting the word out to both the public and contractors. They send out publications and do a whole lot of things to enlighten both the public and contractors.

2. Impact of Executive Order

PAO, like others, was forced to lay off people. They laid off two, one Retired Annuitant and one Student Assistant.

In addition, the contract for advertising was suspended but an exemption was granted. This is allowing work to resume but has delayed completion dates.

Portions of the strategic plan have been delayed. Those being delayed are:

- Conduct statewide consumer and contractor research;
- Identify new goals for Web site;
- Develop partnerships to expand educational outreach; and
- Implement an expanded public information campaign focused on the risks of hiring unlicensed operators.

3. Public Awareness Campaign

Some of the things that the PAO has created press releases for are:

- September 15 -- More than 100 Arrests in Contractors State License Board Statewide Undercover Sting Operations;
- September 17 -- Contractors State License Board Seeks Additional Victims after Arrest of Unscrupulous Contractor;
- September 25 – Tulare Man Facing Elder Abuse and Illegal Contracting Charges; and
- October 3 – Illegal Operators in Moreno Valley Get Wake-up Call from the Contractors State License Board.

4. Media Relations

With respect to Media Relations, the PAO staff responded to more than 50 separate media inquiries and provided interviews to a variety of newspaper, radio and television outlets. They are working with a Northern California TV station on undercover sting operations as well as scheduling news stories.

5. Industry Bulletin Outreach

The PAO continued its program of alerting industry members to news of importance and interest by distributing Industry Bulletins. The Industry Bulletins are sent out via email on an as needed basis to a group of more than 200 people and groups.

6. CSLB Publications/Events

Many publications are being sent out. Some are in Spanish.

Between August 15, 2008, and October 10, 2008, 14 seminar presentations were done along with various associations.

7. Advertising in CSLB Publications

In fiscal year 2007/08, the CSLB spent \$203,698 on printing jobs through the Department of General Services/Office of State Publishing (OSP).

California law allows state agencies to offset their printing cost through the

incorporation of paid advertising in state publications. This is being done by the PAO. However, the concept of the Board being paid for advertising is the subject of some concern and is the subject of future exploration.

Agencies that currently use the advertising program are:

- The Department of Insurance
- Environmental Protection Agency/Integrated Waste Management Board
- CalSTRS
- CalPERS
- California Arts Council
- Department of Health Services; Kids' Plate Program
- Department of Social Services; Office of Child Abuse Prevention
- Business, Transportation and Housing Agency; Office of the Patient Advocate
- Association of California State Supervisors
- ARAG; State of California Group Legal Services Insurance Plan
- Bay Area Air Quality District
- California Housing Finance Agency

State Agency Publications with Paid Advertising:

- Office of State Publishing
 - State of California, STD. 101 Appointment Calendar
- Department of Motor Vehicles
 - California Driver Handbook
 - California Motorcycle Handbook
 - Parent-Teen Training Guide
 - Senior Guide for Safe Driving
 - California Commercial Driver Handbook
- Department of Education
 - Education Resources Catalog
- Department of Boating and Waterways
 - ABC's of California Boating Law
- Department of Child Support Services
 - Child Support Handbook

Many of the other things that were listed in the prior two Committee Meetings were presented and updated by the PAO.

Many more things could have been put in these minutes. However, we believe that this is sufficient to show that the staff is doing an excellent job with very few people.

8. Strategic Plan Update

a. Action Plan: Communication & Education

The goal is to educate consumers to make informed choices about construction services and to insure that licensed contractors strengthen their technical management and service skills. They do this by:

- Informing the public about the role and function of the CSLB;
- Educating the public about their rights and responsibilities and the contracting process;
- Educating contractors about building codes, construction methods; and business practices; and
- Ensuring that contractors understand their professional obligations and responsibilities.

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