

AMENDED IN ASSEMBLY JULY 8, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

SENATE BILL

No. 1914

**Introduced by Committee on Business and Professions (Senators
Figueroa (Chair), Brulte, Cedillo, Machado, Murray, and
Vincent)**

March 17, 2004

An act to amend Sections 5651, 5657, 5659, 7011.4, 7028.1, 7048, 7068, 7071.9, 7071.11, 7083, 7085, 7090.1, 7121, 7137, 7804, 7806, 7830, 7833, 7835, 7835.1, 7837, 7845, 7852, 7860, 8024.1, 8027, 8764, and 22575 of, to add Section 7843 to, and to repeal Sections 7019.5, 7021, and 7124.5 of, the Business and Professions Code, to amend Sections 9148.8 and 11521 of the Government Code, to amend Sections 25159.12 and 25208.2 of the Health and Safety Code, to amend Section 662 of the Public Resources Code, and to amend Section 13273 of the Water Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1914, as amended, Committee on Business and Professions. Contractors: landscape architects: court reporters: geologists.

(1) Existing law provides for the regulation and licensure of landscape architects by the California Architects Board. Existing law requires a licensed landscape architect to notify the executive officer of the board of any change of address of his or her place of business. Failure to notify the executive officer of the board results in a penalty that is paid to the board and deposited into the California Architects Board-Landscape Fund, which is a continuously appropriated fund.

This bill would instead require a licensed landscape architect to file his or her current mailing address with the board and to ~~immediately~~ notify the board of any and all changes in mailing address, providing both his or her old and new address *within 30 days after a change*.

(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors.

Existing law requires the board to conduct certain studies and reviews. Existing law requires an unlicensed person engaging in a project under \$500 to give notice to the consumer regarding his or her nonlicensee status. Existing law prohibits an applicant for licensure convicted of certain acts from applying for licensure for a one-year period following the conviction. Existing law allows a 30-day grace period for a delinquency fee, with regards to delinquent application for a license. Existing law requires a copy of a complaint in a civil action against a contractor's bond to be served on the register of the clerk of court, who must maintain a record. Existing law prohibits the board from making public disclosure of complaints against a licensee, except as specified.

This bill would delete these provisions and requirements.

Existing law requires a qualifying individual to file a bond in the amount of \$7,500.

This bill would, on and after January 1, 2007, require the bond amount to be \$12,500. The bill would also establish the aggregate surety on claims brought against the bond at an amount of \$7,500.

Existing law provides for a contractor's licensure examination, and exempts certain persons from the examination. Existing law requires contractors changing certain information, including business name or address, to notify the registrar within 90 days of the change. Existing law makes employment of certain person who have been denied a license or had action taken against their license, or the license of an entity that they were associated with, grounds for disciplinary action.

This bill would revise the conditions for exemption from licensure. The bill would require notice of a change in information to be given on a form prescribed by the registrar. The bill would exempt employment as a bona fide employee from the disciplinary action provisions related to employing persons who have been denied or had action taken against their license or the license of an entity they were associated with.

(3) Existing law provides for the certification and regulation of shorthand reporters by the Court Reporters Board of California in the

Department of Consumer Affairs. Existing law requires the payment of an initial certification fee prior to certification. Existing law also requires a certificate holder applying for renewal to meet requirements that include notifying the board if he or she has been convicted of a misdemeanor substantially related to the functions and duties of a court reporter.

This bill would authorize the board to issue an interim permit of specified duration to a candidate eligible for certification, prior to receipt of the initial certification fee. The bill would also require a certificate holder applying for renewal to notify the board if he or she has been convicted of any misdemeanor.

(4) Existing law, the Geologist and Geophysicist Act, creates the Board for Geologists and Geophysicists and makes it responsible for the registration and regulation of persons practicing as a geologist or geophysicist. A geologist registered under the act is referred to as a “registered geologist.”

This bill would change the title designation “registered geologist” to “professional geologist” and would also authorize the board to register a person meeting specified requirements as a geologist-in-training.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5651 of the Business and Professions
2 Code is amended to read:

3 5651. (a) The board shall by means of examination, ascertain
4 the professional qualifications of all applicants for licenses to
5 practice landscape architecture in this state and shall issue a license
6 to every person whom it finds to be qualified on payment of the
7 initial license fee prescribed by this chapter.

8 (b) The examination shall consist of a written examination. The
9 written examination may be waived by the board if the applicant
10 (1) is currently licensed by a United States jurisdiction, Canadian
11 province, or Puerto Rico and has passed a written examination
12 equivalent to that which is required in California at the time of
13 application and (2) has passed the California supplemental
14 examination if, at the time of application, it is required of all
15 California applicants.

1 SEC. 2. Section 5657 of the Business and Professions Code
2 is amended to read:

3 5657. Each licensee shall file his or her current mailing
4 address with the board at its office in Sacramento, California, and
5 shall ~~immediately~~ notify the board of any and all changes of
6 mailing address, providing both his or her old and new address
7 *within 30 days after a change*. A penalty as provided in this chapter
8 shall be paid by a licensee who fails to notify the board within 30
9 days after a change of address.

10 SEC. 3. Section 5659 of the Business and Professions Code
11 is amended to read:

12 5659. Each person licensed under this chapter shall sign, date,
13 and seal or stamp using a seal or stamp described in this section,
14 all plans, specifications, and other instruments of service therefor,
15 prepared for others as evidence of the person's responsibility for
16 those documents. Failure to comply with this section constitutes
17 a ground for disciplinary action. Each person licensed under this
18 chapter shall use a seal ~~or stamp~~ or stamp of the design authorized
19 by the board, bearing his or her name, license number, the legend
20 "licensed landscape architect," the legend "State of California"
21 and a means of providing a signature, the renewal date of the
22 license, and date of signing and sealing or stamping.

23 SEC. 4. Section 7011.4 of the Business and Professions Code
24 is amended to read:

25 7011.4. (a) Notwithstanding Section 7011, there is in the
26 Contractors' State License Board, a separate enforcement unit
27 which shall rigorously enforce this chapter prohibiting all forms
28 of unlicensed activity.

29 (b) Persons employed as enforcement representatives in this
30 unit and designated by the Director of Consumer Affairs are not
31 peace officers and are not entitled to safety member retirement
32 benefits. They do not have the power of arrest. However, they may
33 issue a written notice to appear in court pursuant to Chapter 5c
34 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal
35 Code.

36 SEC. 5. Section 7019.5 of the Business and Professions Code
37 is repealed.

38 SEC. 6. Section 7021 of the Business and Professions Code
39 is repealed.

SEC. 7. Section 7028.1 of the Business and Professions Code is amended to read:

7028.1. It is a misdemeanor for any contractor, whether licensed or unlicensed, to perform or engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, without certification pursuant to Section 7058.5 of this code, or to perform or engage in a removal or remedial action, as defined in subdivision (d) of Section 7058.7, or, unless otherwise exempted by this chapter, to bid for the installation or removal of, or to install or remove, an underground storage tank, without certification pursuant to Section 7058.7. A contractor in violation of this section is subject to one of the following penalties:

(a) Conviction of a first offense is punishable by a fine of not less than one thousand dollars (\$1,000) or more than three thousand dollars (\$3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense requires a fine of not less than three thousand dollars (\$3,000) or more than five thousand dollars (\$5,000), or imprisonment in the county jail not exceeding one year, or both the fine and imprisonment, and a mandatory action to suspend or revoke any contractor's license.

SEC. 8. Section 7048 of the Business and Professions Code is amended to read:

7048. This chapter does not apply to any work or operation on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items, is less than five hundred dollars (\$500), that work or operations being considered of casual, minor, or inconsequential nature.

This exemption does not apply in any case wherein the work of construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than five hundred dollars (\$500) for the purpose of evasion of this chapter or otherwise.

This exemption does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor or that he or she is qualified to engage in the business of a contractor.

SEC. 9. Section 7068 of the Business and Professions Code is amended to read:

1 7068. (a) The board shall require an applicant to show such
2 degree of knowledge and experience in the classification applied
3 for, and such general knowledge of the building, safety, health, and
4 lien laws of the state and of the administrative principles of the
5 contracting business as the board deems necessary for the safety
6 and protection of the public.

7 (b) An applicant shall qualify in regard to his or her experience
8 and knowledge in one of the following ways:

9 (1) If an individual, he or she shall qualify by personal
10 appearance or by the appearance of his or her responsible
11 managing employee who is qualified for the same license
12 classification as the classification being applied for.

13 (2) If a copartnership or a limited partnership, it shall qualify
14 by the appearance of a general partner or by the appearance of a
15 responsible managing employee who is qualified for the same
16 license classification as the classification being applied for.

17 (3) If a corporation, or any other combination or organization,
18 it shall qualify by the appearance of a responsible managing officer
19 or responsible managing employee who is qualified for the same
20 license classification as the classification being applied for.

21 (c) A responsible managing employee for the purpose of this
22 chapter shall mean an individual who is a bona fide employee of
23 the applicant and is actively engaged in the classification of work
24 for which that responsible managing employee is the qualifying
25 person in behalf of the applicant.

26 (d) The board shall, in addition, require an applicant who
27 qualifies by means of a responsible managing employee under
28 either paragraph (1) or (2) of subdivision (b) to show his or her
29 general knowledge of the building, safety, health, and lien laws of
30 the state and of the administrative principles of the contracting
31 business as the board deems necessary for the safety and protection
32 of the public.

33 (e) Except in accordance with Section 7068.1, no person
34 qualifying on behalf of an individual or firm under paragraph (1),
35 (2), or (3) of subdivision (b) shall hold any other active
36 contractor's license while acting in the capacity of a qualifying
37 individual pursuant to this section.

38 (f) At the time of application for renewal of a license, the
39 responsible managing individual shall file a statement with the

1 registrar, on a form prescribed by the registrar, verifying his or her
2 capacity as a responsible managing individual to the licensee.

3 (g) Statements made by or on behalf of an applicant as to the
4 applicant's experience in the classification applied for shall be
5 verified by a qualified and responsible person. In addition, the
6 registrar shall, as specified by board regulation, randomly review
7 a percentage of such statements for their veracity.

8 (h) The registrar shall review experience gained by applicants
9 from other states to determine whether all of that experience was
10 gained in a lawful manner in that state.

11 SEC. 10. Section 7071.9 of the Business and Professions
12 Code is amended to read:

13 7071.9. (a) If the qualifying individual, as referred to in
14 Sections 7068 and 7068.1, is not either the proprietor, a general
15 partner, or joint licensee, he or she shall file or have on file a
16 qualifying individual's bond as provided in Section 7071.10 in the
17 sum of seven thousand five hundred dollars (\$7,500). This bond
18 is in addition to, and may not be combined with, any contractor's
19 bond required by Sections 7071.5 to 7071.8, inclusive, and is
20 required for the issuance, reinstatement, reactivation, or continued
21 valid use of a license. However, on and after January 1, 2007, the
22 sum of the bond that a qualifying individual is required to have on
23 file shall be twelve thousand five hundred dollars (\$12,500).

24 (b) Excluding the claims brought by the beneficiaries specified
25 in paragraph (1) of subdivision (a) of Section 7071.10, the
26 aggregate liability of a surety on claims brought against the bond
27 required by this section shall not exceed the sum of seven thousand
28 five hundred dollars (\$7,500). The bond proceeds in excess of
29 seven thousand five hundred dollars (\$7,500) shall be reserved
30 exclusively for the claims of the beneficiaries specified in
31 paragraph (1) of subdivision (a) of Section 7071.10. However,
32 nothing in this section shall be construed to prevent any
33 beneficiary specified in paragraph (1) of subdivision (a) of Section
34 7071.10 from claiming or recovering the full measure of the bond
35 required by this section. This bond is in addition to, and may not
36 be combined with, any contractor's bond required by Sections
37 7071.5 to 7071.8, inclusive, and is required for the issuance,
38 reinstatement, reactivation, or continued valid use of a license.

39 (c) The responsible managing officer of a corporation shall not
40 be required to file or have on file a qualifying individual's bond,

1 if he or she owns 10 percent or more of the voting stock of the
2 corporation and certifies to that fact on a form prescribed by the
3 registrar.

4 SEC. 11. Section 7071.11 of the Business and Professions
5 Code is amended to read:

6 7071.11. (a) The aggregate liability of a surety on a claim for
7 wages and fringe benefits brought against any bond required by
8 this article, other than a bond required by Section 7071.8, shall not
9 exceed the sum of four thousand dollars (\$4,000). If any bond
10 which may be required is insufficient to pay all claims in full, the
11 sum of the bond shall be distributed to all claimants in proportion
12 to the amount of their respective claims. Any action, other than an
13 action to recover wages or fringe benefits, against a contractor's
14 bond or a bond of a qualifying individual filed by an active licensee
15 shall be brought within two years after the expiration of the license
16 period during which the act or omission occurred, or within two
17 years of the date the license of the active licensee was inactivated,
18 canceled, or revoked by the board, whichever first occurs. Any
19 action, other than an action to recover wages or fringe benefits,
20 against a disciplinary bond filed by an active licensee pursuant to
21 Section 7071.8 shall be brought within two years after the
22 expiration of the license period during which the act or omission
23 occurred, or within two years of the date the license of the active
24 licensee was inactivated, canceled, or revoked by the board, or
25 within two years after the last date for which a disciplinary bond
26 filed pursuant to Section 7071.8 was required, whichever date is
27 first. A claim to recover wages or fringe benefits shall be brought
28 within six months from the date that the wage or fringe benefit
29 delinquencies were discovered, but in no event shall a civil action
30 thereon be brought later than two years from the date the wage or
31 fringe benefit contributions were due.

32 (b) Whenever the surety makes payment on any claim against
33 a bond required by this article, whether or not payment is made
34 through a court action or otherwise, the surety shall, within 30 days
35 of the payment, provide notice to the registrar. The notice required
36 by this subdivision shall provide the following information by
37 declaration on a form prescribed by the registrar:

38 (1) The name and license number of the contractor.

39 (2) The surety bond number.

40 (3) The amount of payment.

1 (4) The statutory basis upon which the claim is made.

2 (5) The names of the person or persons to whom payments have
3 been made.

4 (6) Whether or not the payments were the result of a good faith
5 action by the surety.

6 The notice shall also clearly indicate whether or not the licensee
7 filed a protest in accordance with this section.

8 (c) Prior to the settlement of a claim through a good faith
9 payment by the surety, a licensee shall have not less than 15 days
10 in which to provide a written protest. This protest shall instruct the
11 surety not to make payment from the bond on the licensee's
12 account upon the specific grounds that the claim is opposed by the
13 licensee, and provide the surety a specific and reasonable basis for
14 the licensee's opposition to payment.

15 (1) Whenever a licensee files a protest in accordance with this
16 subdivision, the board shall investigate the matter and file
17 disciplinary action as set forth under this chapter if there is
18 evidence that the surety has sustained a loss as the result of a good
19 faith payment made for the purpose of mitigating any damages
20 incurred by any person or entity covered under Section 7071.5.

21 (2) Any licensee that fails to file a protest as specified in this
22 subdivision shall have 90 days from the date of notification by the
23 board to submit proof of payment of the actual amount owed to the
24 surety and, if applicable, proof of payment of any judgment or
25 admitted claim in excess of the amount of the bond or, by operation
26 of law, the license shall be suspended at the end of the 90 days. A
27 license suspension pursuant to this subdivision shall be disclosed
28 indefinitely as a failure to settle outstanding final liabilities in
29 violation of this chapter. The disclosure specified by this
30 subdivision shall also be applicable to all licenses covered by the
31 provisions of subdivision (d).

32 (d) No license may be renewed, reissued, or reinstated while
33 any judgment or admitted claim in excess of the amount of the
34 bond remains unsatisfied. Further, no license may be renewed,
35 reissued, or reinstated while any surety remains unreimbursed for
36 any loss or expense sustained on any bond issued for the licensee
37 or for any entity of which any officer, director, member, partner,
38 or qualifying person was an officer, director, member, partner, or
39 qualifying person of the licensee while the licensee was subject to
40 suspension or disciplinary action under this section.

1 (e) The licensee may provide the board with a notarized copy
2 of an accord, reached with the surety to satisfy the debt in lieu of
3 full payment. By operation of law, failure to abide by the accord
4 shall result in the automatic suspension of any license to which this
5 section applies. A license that is suspended for failure to abide by
6 the accord may only be renewed or reinstated when proof of
7 satisfaction of all debts is made.

8 (f) Legal fees may not be charged against the bond by the board.

9 (g) In any case in which a claim is filed against a deposit given
10 in lieu of a bond by any employee or by an employee organization
11 on behalf of an employee, concerning wages or fringe benefits
12 based upon the employee's employment, claims for the
13 nonpayment shall be filed with the Labor Commissioner. The
14 Labor Commissioner shall, pursuant to the authority vested by
15 Section 96.5 of the Labor Code, conduct hearings to determine
16 whether or not the wages or fringe benefits should be paid to the
17 complainant. Upon a finding by the commissioner that the wages
18 or fringe benefits should be paid to the complainant, the
19 commissioner shall notify the registrar of the findings. The
20 registrar shall not make payment from the deposit on the basis of
21 findings by the commissioner for a period of 10 days following
22 determination of the findings. If, within the period, the
23 complainant or the contractor files written notice with the registrar
24 and the commissioner of an intention to seek judicial review of the
25 findings pursuant to Section 11523 of the Government Code, the
26 registrar shall not make payment, if an action is actually filed,
27 except as determined by the court. If, thereafter, no action is filed
28 within 60 days following determination of findings by the
29 commissioner, the registrar shall make payment from the deposit
30 to the complainant.

31 (h) Any action, other than an action to recover wages or fringe
32 benefits, against a deposit given in lieu of a contractor's bond or
33 bond of a qualifying individual filed by an active licensee shall be
34 brought within three years after the expiration of the license period
35 during which the act or omission occurred, or within three years
36 after the date the license was inactivated, canceled, or revoked by
37 the board, whichever first occurs. Any action, other than an action
38 to recover wages or fringe benefits, against a deposit given in lieu
39 of a disciplinary bond filed by an active licensee pursuant to
40 Section 7071.8 shall be brought within three years after the

1 expiration of the license period during which the act or omission
2 occurred, or within three years of the date the license of the active
3 licensee was inactivated, canceled, or revoked by the board, or
4 within three years after the last date for which a deposit given in
5 lieu of a disciplinary bond filed pursuant to Section 7071.8 was
6 required, whichever date is first. If the board is notified of a
7 complaint relative to a claim against the deposit, the deposit shall
8 not be released until the complaint has been adjudicated.

9 SEC. 12. Section 7083 of the Business and Professions Code
10 is amended to read:

11 7083. All licensees shall notify the registrar, on a form
12 prescribed by the registrar, in writing within 90 days of any change
13 to information recorded under this chapter. This notification
14 requirement shall include, but not be limited to, changes in
15 business address, personnel, business name, qualifying individual
16 bond exemption pursuant to Section 7071.9, or exemption to
17 qualify multiple licenses pursuant to Section 7068.1.

18 Failure of the licensee to notify the registrar of any change to
19 information within 90 days shall cause the change to be effective
20 the date the written notification is received at the board's
21 headquarters office.

22 Failure to notify the registrar of the changes within the 90 days
23 is grounds for disciplinary action.

24 SEC. 13. Section 7085 of the Business and Professions Code
25 is amended to read:

26 7085. (a) After investigating any verified complaint alleging
27 a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and
28 any complaint arising from a contract involving works of
29 improvement and finding a possible violation, the registrar may,
30 with the concurrence of both the licensee and the complainant,
31 refer the alleged violation, and any dispute between the licensee
32 and the complainant arising thereunder, to arbitration pursuant to
33 this article, provided the registrar finds that:

34 (1) There is evidence that the complainant has suffered or is
35 likely to suffer material damages as a result of a violation of
36 Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint
37 arising from a contract involving works of improvement.

38 (2) There are reasonable grounds for the registrar to believe
39 that the public interest would be better served by arbitration than
40 by disciplinary action.

1 (3) The licensee does not have a history of repeated or similar
2 violations.

3 (4) The licensee was in good standing at the time of the alleged
4 violation.

5 (5) The licensee does not have any outstanding disciplinary
6 actions filed against him or her.

7 (6) The parties have not previously agreed to private arbitration
8 of the dispute pursuant to contract or otherwise.

9 (7) The parties have been advised of the provisions of Section
10 2855 of the Civil Code.

11 For the purposes of paragraph (1), “material damages” means
12 damages greater than seven thousand five hundred dollars
13 (\$7,500) and less than fifty thousand dollars (\$50,000).

14 (b) In all cases in which a possible violation of the sections set
15 forth in paragraph (1) of subdivision (a) exists and the contract
16 price is equal to or less than seven thousand five hundred dollars
17 (\$7,500), or the demand for damages is equal to or less than seven
18 thousand five hundred dollars (\$7,500) regardless of the contract
19 price, the complaint shall be referred to arbitration, utilizing the
20 criteria set forth in paragraphs (2) to (6), inclusive, of subdivision
21 (a).

22 SEC. 14. Section 7090.1 of the Business and Professions
23 Code is amended to read:

24 7090.1. (a) (1) Notwithstanding any other provisions of law,
25 the failure to pay a civil penalty, or to comply with an order of
26 correction or an order to pay a specified sum to an injured party in
27 lieu of correction once the order has become final, shall result in
28 the automatic suspension of a license by operation of law 30 days
29 after noncompliance with the terms of the order.

30 (2) The registrar shall notify the licensee in writing of the
31 failure to comply with the final order and that the license shall be
32 suspended 30 days from the date of the notice.

33 (3) The licensee may contest the determination of
34 noncompliance within 15 days after service of the notice, by
35 written notice to the registrar. Upon receipt of the written notice,
36 the registrar may reconsider the determination and after
37 reconsideration may affirm or set aside the suspension.

38 (4) Reinstatement may be made at any time following the
39 suspension by complying with the final order of the citation. If no
40 reinstatement of the license is made within 90 days of the date of



the automatic suspension, the cited license and any other contractors' license issued to the licensee shall be automatically revoked by operation of law for a period to be determined by the registrar pursuant to Section 7102.

(5) The registrar may delay, for good cause, the revocation of a contractor's license for failure to comply with the final order of the citation. The delay in the revocation of the license shall not exceed one year. When seeking a delay of the revocation of his or her license, a licensee shall apply to the registrar in writing prior to the date of the revocation of the licensee's license by operation of law and state the reasons that establish good cause for the delay. The registrar's power to grant a delay of the revocation shall expire upon the effective date of the revocation of the licensee's license by operation of law.

(b) The cited licensee shall also be automatically prohibited from serving as an officer, director, associate, partner, or qualifying individual of another licensee, for the period determined by the registrar, and the employment, election, or association of that person by a licensee shall constitute grounds for disciplinary action. Any qualifier disassociated pursuant to this section shall be replaced within 90 days of the date of disassociation. Upon failure to replace the qualifier within 90 days of the prohibition, the license of the other licensee shall be automatically suspended or the qualifier's classification removed at the end of the 90 days.

SEC. 15. Section 7121 of the Business and Professions Code is amended to read:

7121. Any person who has been denied a license for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, or associate of any partnership, corporation, firm, or association whose application for a license has been denied for a reason other than failure to document sufficient satisfactory experience for a supplemental classification for an existing license, or whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or associate had

1 knowledge of or participated in any of the prohibited acts for
2 which the license was denied, suspended, or revoked, shall be
3 prohibited from serving as an officer, director, associate, partner,
4 or qualifying individual of a licensee, and the employment,
5 election, or association of this type of person by a licensee in any
6 capacity other than as a nonsupervising bona fide employee shall
7 constitute grounds for disciplinary action.

8 SEC. 16. Section 7124.5 of the Business and Professions
9 Code is repealed.

10 SEC. 17. Section 7137 of the Business and Professions Code
11 is amended to read:

12 7137. The board shall set fees by regulation. These fees shall
13 not exceed the following schedule:

14 (a) The application fee for an original license in a single
15 classification shall not be more than three hundred dollars (\$300).

16 The application fee for each additional classification applied for
17 in connection with an original license shall not be more than
18 seventy-five dollars (\$75).

19 The application fee for each additional classification pursuant
20 to Section 7059 shall not be more than seventy-five dollars (\$75).

21 The application fee to replace a responsible managing officer or
22 employee pursuant to Section 7068.2 shall not be more than
23 seventy-five dollars (\$75).

24 (b) The fee for rescheduling an examination for an applicant
25 who has applied for an original license, additional classification,
26 a change of responsible managing officer or responsible managing
27 employee, or for an asbestos certification or hazardous substance
28 removal certification, shall not be more than sixty dollars (\$60).

29 (c) The fee for scheduling or rescheduling an examination for
30 a licensee who is required to take the examination as a condition
31 of probation shall not be more than sixty dollars (\$60).

32 (d) The initial license fee for an active or inactive license shall
33 not be more than one hundred eighty dollars (\$180).

34 (e) The renewal fee for an active license shall not be more than
35 three hundred sixty dollars (\$360).

36 The renewal fee for an inactive license shall not be more than
37 one hundred eighty dollars (\$180).

38 (f) The delinquency fee is an amount equal to 50 percent of the
39 renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall not be more than seventy-five dollars (\$75).

(h) The renewal fee for a home improvement salesperson registration shall not be more than seventy-five dollars (\$75).

(i) The application fee for an asbestos certification examination shall not be more than seventy-five dollars (\$75).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall not be more than seventy-five dollars (\$75).

SEC. 18. Section 7804 of the Business and Professions Code is amended to read:

7804. Only a person registered as a geologist under the provisions of this chapter shall be entitled to take and use the title “professional geologist.” Only a person registered as a geologist and certified under the provisions of this chapter shall be entitled to take and use the title of a registered certified specialty geologist.

SEC. 19. Section 7806 of the Business and Professions Code is amended to read:

7806. A subordinate is any person who assists a professional geologist or registered geophysicist in the practice of geology or geophysics without assuming the responsible charge of work.

SEC. 20. Section ~~7930~~ 7830 of the Business and Professions Code is amended to read:

7830. It is unlawful for anyone other than a geologist registered under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a professional geologist or registered certified specialty geologist, or to use in any manner the title “professional geologist” or the title of any registered certified specialty geologist unless registered or registered and certified under this chapter.

SEC. 21. Section 7833 of the Business and Professions Code is amended to read:

7833. This chapter does not prohibit one or more geologists or geophysicists from practicing through the medium of a sole proprietorship, partnership, or corporation. In a partnership or corporation whose primary activity consists of geological services, at least one partner or officer shall be a professional geologist. In a partnership or corporation whose primary activity

1 consists of geophysical services, at least one partner or officer shall
2 be a registered geophysicist.

3 SEC. 22. Section 7835 of the Business and Professions Code
4 is amended to read:

5 7835. All geologic plans, specifications, reports, or
6 documents shall be prepared by a professional geologist or
7 registered certified specialty geologist, or by a subordinate
8 employee under his or her direction. In addition, they shall be
9 signed by the professional geologist or registered certified
10 specialty geologist or stamped with his or her seal, either of which
11 shall indicate his or her responsibility for them.

12 SEC. 23. Section 7835.1 of the Business and Professions
13 Code is amended to read:

14 7835.1. All geophysical plans, specifications, reports, or
15 documents shall be prepared by a registered geophysicist,
16 registered certified specialty geophysicist, professional geologist,
17 registered certified specialty geologist, or by a subordinate
18 employee under his or her direction. In addition, they shall be
19 signed by the registered geophysicist, registered certified specialty
20 geophysicist, professional geologist, or registered certified
21 specialty geologist, or stamped with his or her seal, either of which
22 shall indicate his or her responsibility for them.

23 SEC. 24. Section 7837 of the Business and Professions Code
24 is amended to read:

25 7837. A subordinate to a geologist or geophysicist registered
26 under this chapter, insofar as he or she acts solely in that capacity,
27 is exempt from registration under the provisions of this chapter.
28 This exemption, however, does not permit any subordinate to
29 practice geology or geophysics for others in his or her own right
30 or to use the title “professional geologist” or “registered
31 geophysicist”. *geophysicist.*”

32 SEC. 25. Section 7843 is added to the Business and
33 Professions Code, to read:

34 7843. (a) An applicant for certification as ~~an~~ a
35 geologist-in-training shall, upon making a passing grade in the
36 National Association of State Boards of Geology’s Fundamentals
37 of Geology examination be issued a certificate as a
38 geologist-in-training. A renewal or other fee, other than the
39 application fee, may not be charged for this certification. The



1 certificate shall become invalid when the holder has qualified as
2 a professional geologist as provided in Section 7841.

3 (b) A geologist-in-training certificate does not authorize the
4 holder thereof to practice or offer to practice geology, in his or her
5 own right, or to use the title specified in Section 7804.

6 (c) It is unlawful for anyone other than the holder of a valid
7 geologist-in-training certificate issued under this chapter to use the
8 title of “geologist-in-training” or any abbreviation of that title.

9 SEC. 26. Section 7845 of the Business and Professions Code
10 is amended to read:

11 7845. Examinations for registration as a geologist or
12 registered certified specialty geologist shall test the applicant’s
13 knowledge of geology and of any established specialty for which
14 he or she applies and his or her ability to apply that knowledge and
15 to assume responsible charge in the professional practice of
16 geology or a certified specialty geology, or both geology and a
17 certified specialty geology.

18 SEC. 27. Section 7852 of the Business and Professions Code
19 is amended to read:

20 7852. (a) Each geologist registered under this chapter may,
21 upon registration, obtain a seal of the design authorized by the
22 board bearing the registrant’s name, number of his or her
23 certificate, and the legend “professional geologist.”

24 (b) Each specialty geologist certified under this chapter may,
25 upon certification, obtain a seal of the design authorized by the
26 board bearing the registrant’s name, number of his or her
27 certificate, and the legend “certified specialty geologist.”

28 SEC. 28. Section 7860 of the Business and Professions Code
29 is amended to read:

30 7860. (a) The board may, upon its own initiative or upon the
31 receipt of a complaint, investigate the actions of any professional
32 geologist, geophysicist, or person granted temporary
33 authorizations pursuant to Sections 7848 and 7848.1, and make
34 findings thereon.

35 (b) By a majority vote, the board may publicly reprove,
36 suspend for a period not to exceed two years, or revoke the
37 certificate of any geologist or geophysicist registered hereunder,
38 or may publicly reprove or revoke the temporary authorization
39 granted to any person pursuant to Section 7848 or 7848.1, on any
40 of the following grounds:

1 (1) Conviction of a crime substantially related to the
2 qualifications, functions, or duties of a geologist or geophysicist.

3 (2) Misrepresentation, fraud, or deceit by a geologist or
4 geophysicist in his or her practice.

5 (3) Negligence or incompetence by a geologist or geophysicist
6 in his or her practice.

7 (4) Violation of any contract undertaken in the capacity of a
8 geologist or geophysicist.

9 (5) Fraud or deceit in obtaining a certificate to practice as a
10 geologist or geophysicist, or in obtaining a temporary
11 authorization to practice pursuant to Section 7848 or 7848.1.

12 (c) By a majority vote, the board may publicly reprove,
13 suspend for a period not to exceed two years, or may revoke the
14 certificate of any geologist or geophysicist registered under this
15 chapter, or may publicly reprove or revoke the temporary
16 authorization granted to any person pursuant to Section 7848 or
17 7848.1, for unprofessional conduct. Unprofessional conduct
18 includes, but is not limited to, any of the following:

19 (1) Aiding or abetting any person in a violation of this chapter
20 or any regulation adopted by the board pursuant to this chapter.

21 (2) Violating this chapter or any regulation adopted by the
22 board pursuant to this chapter.

23 (3) Conduct in the course of practice as a geologist or
24 geophysicist that violates professional standards adopted by the
25 board.

26 SEC. 29. Section 8024.1 of the Business and Professions
27 Code is amended to read:

28 8024.1. Every person to whom a certificate is issued shall, as
29 a condition precedent to its issuance, and in addition to any other
30 fee which may be payable, pay the initial certificate fee prescribed
31 by this chapter. Prior to receipt of an initial certificate fee, the
32 board may issue an interim permit of a limited duration, but only
33 to candidates eligible for certification under Section 8020. A
34 limited permit shall be valid for 45 days, or until the board issues
35 a certificate to the limited permitholder. If the board issues interim
36 permits, the initial certificate fee, and any other fee that may be
37 payable, shall be paid prior to the issuance of the certificate.

38 SEC. 30. Section 8027 of the Business and Professions Code
39 is amended to read:

8027. (a) As used in this section, “school” means a court reporter training program or an institution that provides a course of instruction approved by the board and the Bureau for Private Postsecondary and Vocational Education, is a public school in this state, or is accredited by the Western Association of Schools and Colleges.

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary or collegiate level. It shall be legally organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer all components of the minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. The records shall indicate positive daily and clock-hour attendance of each student for all classes, apprenticeship and graduation reports, high school transcripts or the equivalent or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date, including all progress and counseling reports.

(c) Any school intending to offer a program in court reporting shall notify the board within 30 days of the date on which it provides notice to, or seeks approval from, the California Department of Education, the Bureau for Private Postsecondary and Vocational Education, the Chancellor’s Office of the California Community Colleges, or the Western Association of Schools and Colleges, whichever is applicable. The board shall review the proposed curriculum and provide the school tentative approval, or notice of denial, within 60 days of receipt of the notice. The school shall apply for provisional recognition pursuant to subdivision (d) within no more than one year from the date it begins offering court reporting classes.

(d) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b) and this subdivision. Recognition may be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory

1 evidence that at least one person has successfully completed the
2 entire course of study established by the board and complied with
3 the provisions of Section 8020, and has been issued a certificate to
4 practice shorthand reporting as defined in Sections 8016 and 8017.
5 The board may, for good cause shown, extend the three-year
6 provisional recognition period for not more than one year. Failure
7 to meet the provisions and terms of this section shall require the
8 board to deny recognition. Once granted, recognition may be
9 withdrawn by the board for failure to comply with all applicable
10 laws and regulations.

11 (e) Application for recognition of a court reporting school shall
12 be made upon a form prescribed by the board and shall be
13 accompanied by all evidence, statements, or documents requested.
14 Each branch, extension center, or off-campus facility requires
15 separate application.

16 (f) All recognized and provisionally recognized court reporting
17 schools shall notify the board of any change in school name,
18 address, telephone number, responsible court reporting program
19 manager, owner of private schools, and the effective date thereof,
20 within 30 days of the change. All of these notifications shall be
21 made in writing.

22 (g) A school shall notify the board in writing immediately of
23 the discontinuance or pending discontinuance of its court
24 reporting program or any of the program's components. Within
25 two years of the date this notice is sent to the board, the school shall
26 discontinue its court reporting program in its entirety. The board
27 may, for good cause shown, grant not more than two one-year
28 extensions of this period to a school. If a student is to be enrolled
29 after this notice is sent to the board, a school shall disclose to the
30 student the fact of the discontinuance or pending discontinuance
31 of its court reporting program or any of its program components.

32 (h) The board shall maintain a roster of currently recognized
33 and provisionally recognized court reporting schools, including,
34 but not limited to, the name, address, telephone number, and the
35 name of the responsible court reporting program manager of each
36 school.

37 (i) The board shall maintain statistics that display the number
38 and passing percentage of all first-time examinees, including, but
39 not limited to, those qualified by each recognized or provisionally



1 recognized school and those first-time examinees qualified by
2 other methods as defined in Section 8020.

3 (j) Inspections and investigations shall be conducted by the
4 board as necessary to carry out this section, including, but not
5 limited to, unannounced site visits.

6 (k) All recognized and provisionally recognized schools shall
7 print in their school or course catalog the name, address, and
8 telephone number of the board. At a minimum, the information
9 shall be in 8-point bold type and include the following statement:

10
11 “IN ORDER FOR A PERSON TO QUALIFY FROM A
12 SCHOOL TO TAKE THE STATE LICENSING
13 EXAMINATION, THE PERSON SHALL COMPLETE A
14 PROGRAM AT A RECOGNIZED SCHOOL. FOR
15 INFORMATION CONCERNING THE MINIMUM
16 REQUIREMENTS THAT A COURT REPORTING PROGRAM
17 MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT:
18 THE COURT REPORTERS BOARD OF CALIFORNIA;
19 (ADDRESS); (TELEPHONE NUMBER).”
20

21 (l) Each court reporting school shall file with the board, not
22 later than June 30 of each year, a current school catalog that shows
23 all course offerings and staff, and for private schools, the owner,
24 except that where there have been no changes to the catalog within
25 the previous year, no catalog need be sent. In addition, each school
26 shall also file with the board a statement certifying whether the
27 school is in compliance with all statutes and the rules and
28 regulations of the board, signed by the responsible court reporting
29 program manager.

30 (m) A school offering court reporting may not make any
31 written or verbal claims of employment opportunities or potential
32 earnings unless those claims are based on verified data and reflect
33 current employment conditions.

34 (n) If a school offers a course of instruction that exceeds the
35 board’s minimum requirements, the school shall disclose orally
36 and in writing the board’s minimum requirements and how the
37 course of instruction differs from those criteria. The school shall
38 make this disclosure before a prospective student executes an
39 agreement obligating that person to pay any money to the school

1 for the course of instruction. The school shall also make this
2 disclosure to all students enrolled on January 1, 2002.

3 (o) Private and public schools shall provide each prospective
4 student with all of the following and have the prospective student
5 sign a document that shall become part of that individual's
6 permanent record, acknowledging receipt of each item:

7 (1) A student consumer information brochure published by the
8 board.

9 (2) A list of the school's graduation requirements, including the
10 number of tests, the pass point of each test, the speed of each test,
11 and the type of test, such as jury charge or literary.

12 (3) A list of requirements to qualify for the state certified
13 shorthand reporter licensing examination, including the number of
14 tests, the pass point of each test, the speed of each test, and the type
15 of test, such as jury charge or literary, if different than those
16 requirements listed in paragraph (2).

17 (4) A copy of the school's board-approved benchmarks for
18 satisfactory progress as identified in subdivision (u).

19 (5) A report showing the number of students from the school
20 who qualified for each of the certified shorthand reporter licensing
21 examinations within the preceding two years, the number of those
22 students that passed each examination, the time, as of the date of
23 qualification, that each student was enrolled in court reporting
24 school, and the placement rate for all students that passed each
25 examination.

26 (6) On and after January 1, 2005, the school shall also provide
27 to prospective students the number of hours each currently
28 enrolled student who has qualified to take the next licensing test,
29 exclusive of transfer students, has attended court reporting classes.

30 (p) All enrolled students shall have the information in
31 subdivisions (n) and (o) on file no later than June 30, 2005.

32 (q) Public schools shall provide the information in subdivisions
33 (n) and (o) to each new student the first day he or she attends theory
34 or machine speed class, if it was not provided previously.

35 (r) Each enrolled student shall be provided written notification
36 of any change in qualification or graduation requirements that is
37 being implemented due to the requirements of any one of the
38 school's oversight agencies. This notice shall be provided to each
39 affected student at least 30 days before the effective date of the
40 change and shall state the new requirement and the name, address,

1 and telephone number of the agency that is requiring it of the
2 school. Each student shall initial and date a document
3 acknowledging receipt of that information and that document, or
4 a copy thereof, shall be made part of the student's permanent file.

5 (s) Schools shall make available a comprehensive final
6 examination in each academic subject to any student desiring to
7 challenge an academic class in order to obtain credit towards
8 certification for the state licensing examination. The points
9 required to pass a challenge examination shall not be higher than
10 the minimum points required of other students completing the
11 academic class.

12 (t) An individual serving as a teacher, instructor, or reader shall
13 meet the qualifications specified by regulation for his or her
14 position.

15 (u) Each school shall provide a substitute teacher or instructor
16 for any class for which the teacher or instructor is absent for two
17 consecutive days or more.

18 (v) The board has the authority to approve or disapprove
19 benchmarks for satisfactory progress which each school shall
20 develop for its court reporting program. Schools shall use only
21 board-approved benchmarks to comply with the provisions of
22 paragraph (4) of subdivision (o) and subdivision (u).

23 (w) Each school shall counsel each student a minimum of one
24 time within each 12-month period to identify the level of
25 attendance and progress, and the prognosis for completing the
26 requirements to become eligible to sit for the state licensing
27 examination. If the student has not progressed in accordance with
28 the board-approved benchmarks for that school, the student shall
29 be counseled a minimum of one additional time within that same
30 12-month period.

31 (x) The school shall provide to the board, for each student
32 qualifying through the school as eligible to sit for the state
33 licensing examination, the number of hours the student attended
34 court reporting classes, both academic and machine speed classes,
35 including theory.

36 (y) The pass rate of first-time exam takers for each school
37 offering court reporting shall meet or exceed the average pass rate
38 of all first-time test takers for a majority of examinations given for
39 the preceding three years. Failure to do so shall require the board
40 to conduct a review of the program. In addition, the board may

1 place the school on probation and may withdraw recognition if the
2 school continues to place below the above described standard on
3 the two exams that follow the three-year period.

4 (z) A school shall not require more than one 10-minute
5 qualifying examination, as defined in the regulations of the board,
6 for a student to be eligible to sit for the state certification
7 examination.

8 (aa) A school shall provide the board the actual number of
9 hours of attendance for each applicant the school qualifies for the
10 state licensing examination.

11 (bb) The board shall, by December 1, 2001, do the following
12 by regulation as necessary:

13 (1) Establish the format that shall be used by schools to report
14 tracking of all attendance hours and actual timeframes for
15 completed coursework.

16 (2) Require schools to provide a minimum of 10 hours of live
17 dictation class each school week for every full-time student.

18 (3) Require schools to provide students with the opportunity to
19 read back from their stenographic notes a minimum of one time
20 each day to his or her instructor.

21 (4) Require schools to provide students with the opportunity to
22 practice with a school-approved speed-building tape, or other
23 assigned material, a minimum of one hour per day after school
24 hours as a homework assignment and provide the notes from this
25 tape to their instructor the following day for review.

26 (5) Develop standardization of policies on the use and
27 administration of qualifier examinations by schools.

28 (6) Define qualifier exam as follows: the qualifier exam shall
29 consist of 4-voice testimony of 10-minute duration at 200 wpm,
30 graded at 97.5 percent accuracy, and in accordance with the
31 guidelines followed by the board. Schools shall be required to date
32 and number each qualifier and announce the date and number to
33 the students at the time of administering the qualifier. All qualifiers
34 shall indicate the actual dictation time of the test and the school
35 shall catalog and maintain the qualifier for a period of not less than
36 three years for the purpose of inspection by the board.

37 (7) Require schools to develop a program to provide students
38 with the opportunity to interact with professional court reporters
39 to provide skill support, mentoring, or counseling which they can
40 document at least quarterly.



1 (8) Define qualifications and educational requirements
2 required of instructors and readers that read test material and
3 qualifiers.

4 (cc) The board shall adopt regulations to implement the
5 requirements of this section not later than September 1, 2002.

6 (dd) The board may recover costs for any additional expenses
7 incurred under the enactment amending this section in the
8 2001–02 Regular Session of the Legislature pursuant to its fee
9 authority in Section 8031.

10 SEC. 31. Section 8764 of the Business and Professions Code
11 is amended to read:

12 8764. The record of survey shall show the applicable
13 provisions of the following consistent with the purpose of the
14 survey:

15 (a) All monuments found, set, reset, replaced, or removed,
16 describing their kind, size, and location, and giving other data
17 relating thereto.

18 (b) Bearing or witness monuments, basis of bearings, bearing
19 and length of lines, scale of map, and north arrow.

20 (c) Name and legal designation of the property in which the
21 survey is located, and the date or time period of the survey.

22 (d) The relationship to those portions of adjacent tracts, streets,
23 or senior conveyances which have common lines with the survey.

24 (e) Memorandum of oaths.

25 (f) Statements required by Section 8764.5.

26 (g) Any other data necessary for the intelligent interpretation
27 of the various items and locations of the points, lines, and areas
28 shown, or convenient for the identification of the survey or
29 surveyor, as may be determined by the civil engineer or land
30 surveyor preparing the record of survey.

31 The record of survey shall also show, either graphically or by
32 note, the reason or reasons, if any, why the mandatory filing
33 provisions of subdivisions paragraphs (1) to (5), inclusive, of
34 subdivision (b) of Section 8762 apply.

35 The record of survey need not consist of a survey of an entire
36 property.

37 SEC. 32. Section 22575 of the Business and Professions Code
38 is amended to read:

39 22575. (a) An operator of a commercial Web site or online
40 service that collects personally identifiable information through

1 the Internet about individual consumers residing in California who
2 use or visit its commercial Web site or online service shall
3 conspicuously post its privacy policy on its Web site, or in the case
4 of an operator of an online service, make that policy available in
5 accordance with paragraph (5) of subdivision (b) of Section
6 22577. An operator shall be in violation of this subdivision only
7 if the operator fails to post its policy within 30 days after being
8 notified of noncompliance.

9 (b) The privacy policy required by subdivision (a) shall do all
10 of the following:

11 (1) Identify the categories of personally identifiable
12 information that the operator collects through the Web site or
13 online service about individual consumers who use or visit its
14 commercial Web site or online service and the categories of
15 third-party persons or entities with whom the operator may share
16 that personally identifiable information.

17 (2) If the operator maintains a process for an individual
18 consumer who uses or visits its commercial Web site or online
19 service to review and request changes to any of his or her
20 personally identifiable information that is collected through the
21 Web site or online service, provide a description of that process.

22 (3) Describe the process by which the operator notifies
23 consumers who use or visit its commercial Web site or online
24 service of material changes to the operator's privacy policy for that
25 Web site or online service.

26 (4) Identify its effective date.

27 SEC. 33. Section 9148.8 of the Government Code is amended
28 to read:

29 9148.8. (a) The Joint Committee on Boards, Commissions,
30 and Consumer Protection, acting pursuant to a request from the
31 chairperson of the appropriate policy committee, shall evaluate a
32 plan prepared pursuant to Section 9148.4 or 9148.6.

33 (b) Evaluations prepared by the Joint Committee on Boards,
34 Commissions, and Consumer Protection pursuant to this section
35 shall be provided to the respective policy and fiscal committees of
36 the Legislature pursuant to rules adopted by each committee for
37 this purpose.

38 SEC. 34. Section 11521 of the Government Code is amended
39 to read:

1 11521. (a) The agency itself may order a reconsideration of
2 all or part of the case on its own motion or on petition of any party.
3 The agency shall notify a petitioner of the time limits for
4 petitioning for reconsideration. The power to order a
5 reconsideration shall expire 30 days after the delivery or mailing
6 of a decision to a respondent, or on the date set by the agency itself
7 as the effective date of the decision if that date occurs prior to the
8 expiration of the 30-day period or at the termination of a stay of
9 not to exceed 30 days which the agency may grant for the purpose
10 of filing an application for reconsideration. If additional time is
11 needed to evaluate a petition for reconsideration filed prior to the
12 expiration of any of the applicable periods, an agency may grant
13 a stay of that expiration for no more than 10 days, solely for the
14 purpose of considering the petition. If no action is taken on a
15 petition within the time allowed for ordering reconsideration, the
16 petition shall be deemed denied.

17 (b) The case may be reconsidered by the agency itself on all the
18 pertinent parts of the record and such additional evidence and
19 argument as may be permitted, or may be assigned to an
20 administrative law judge. A reconsideration assigned to an
21 administrative law judge shall be subject to the procedure provided
22 in Section 11517. If oral evidence is introduced before the agency
23 itself, no agency member may vote unless he or she heard the
24 evidence.

25 SEC. 35. Section 25159.12 of the Health and Safety Code is
26 amended to read:

27 25159.12. For purposes of this article, the following
28 definitions apply:

29 (a) “Annulus” means the space between the outside edge of the
30 injection tube and the well casing.

31 (b) “State board” means the State Water Resources Control
32 Board.

33 (c) “Compatibility” means that waste constituents do not react
34 with each other, with the materials constituting the injection well,
35 or with fluids or solid geologic media in the injection zone or
36 confining zone in such a manner as to cause leaching, precipitation
37 of solids, gas or pressure buildup, dissolution, or any other effect
38 which will impair the effectiveness of the confining zone or the
39 safe operation of the injection well.

(d) “Confining zone” means the geological formation, or part of a formation, which is intended to be a barrier to prevent the migration of waste constituents from the injection zone.

(e) “Constituent” means an element, chemical, compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department pursuant to this chapter.

(f) “Discharge” means to place, inject, dispose of, or store hazardous wastes into, or in, an injection well owned or operated by the person who is conducting the placing, disposal, or storage.

(g) “Drinking water” has the same meaning as “potential source of drinking water,” as defined in subdivision (t) of Section 25208.2.

(h) “Facility” means the structures, appurtenances, and improvements on the land, and all contiguous land, which are associated with an injection well, which are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units, including, but not limited to, surface impoundments, landfills, underground or aboveground tanks, sumps, pits, ponds, and lagoons, which are associated with an injection well.

(i) “Groundwater” means water, including, but not limited to, drinking water; below the land surface in a zone of saturation.

(j) “Hazardous waste” means any hazardous waste specified as hazardous waste or extremely hazardous waste, as defined in this chapter. Any waste mixture formed by mixing any waste or substance with a hazardous waste shall be considered hazardous waste for the purposes of this article.

(k) “Hazardous waste facilities permit” means a permit issued for an injection well pursuant to Sections 25200 and 25200.6.

(l) “Injection well” or “well” means any bored, drilled, or driven shaft, dug pit, or hole in the ground whose depth is greater than the circumference of the bored hole and any associated subsurface appurtenances, including, but not limited to, the casing. For the purposes of this article, injection well does not include either of the following:

(1) Wells exempted pursuant to Section 25159.24.

(2) Wells which are regulated by the Division of Oil and Gas in the Department of Conservation pursuant to Division 3

(commencing with Section 3000) of the Public Resources Code and Subpart F of Part 147 of Title 40 of the Code of Federal Regulations and are in compliance with that division and Subpart A (commencing with Section 146.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

(m) “Injection zone” means that portion of the receiving formation which has received, is receiving, or is expected to receive, over the lifetime of the well, waste fluid from the injection well. “Injection zone” does not include that portion of the receiving formation which exceeds the horizontal and vertical extent specified pursuant to Section 25159.20.

(n) “Owner” means a person who owns a facility or part of a facility.

(o) “Perched water” means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(p) “pH” means a measure of a sample’s acidity expressed as a negative logarithm of the hydrogen ion concentration.

(q) “Qualified person” means a person who has at least five years of full-time experience in hydrogeology and who is a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered petroleum engineer registered pursuant to Section 6762 of the Business and Professions Code. “Full-time experience” in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(r) “Receiving formation” means the geologic strata that are hydraulically connected to the injection well.

(s) “Regional board” means the California regional water quality control board for the region in which the injection well is located.

(t) “Report” means the hydrogeological assessment report specified in Section 25179.7.

(u) “Safe Drinking Water Act” means Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code.



1 (v) “Strata” means a distinctive layer or series of layers of
2 earth materials.

3 (w) “Waste management unit” means that portion of a facility
4 used for the discharge of hazardous waste into or onto land,
5 including all containment and monitoring equipment associated
6 with that portion of the facility.

7 SEC. 36. Section 25208.2 of the Health and Safety Code is
8 amended to read:

9 25208.2. For purposes of this article, the following
10 definitions apply:

11 (a) “Active life of the facility” means that period of time when
12 the facility has the potential to adversely affect the waters of the
13 state, but if the owner enters into an agreement with the board to
14 properly close the impoundment on a specified date, the active life
15 of the facility means that period of time up to that specified date.

16 (b) “Background water quality” means the level of
17 concentration of indicator parameters in groundwater that is not,
18 or has not been, affected by any hazardous waste, hazardous waste
19 constituent, or hazardous waste leachate emanating from a
20 particular waste management unit.

21 (c) “Board” or “state board” means the State Water Resources
22 Control Board.

23 (d) “Close the impoundment” means the permanent
24 termination of all hazardous waste discharge operations at a waste
25 management unit and any operations necessary to prepare that
26 waste management unit for postclosure maintenance which are
27 conducted pursuant to the federal Resource Conservation and
28 Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), and the
29 regulations adopted by the state board and the department
30 concerning the closure of surface impoundments.

31 (e) “Constituent” means an element, chemical compound, or
32 mixture of compounds which is a component of a hazardous waste
33 or leachate and which has the physical or chemical properties that
34 cause the waste to be identified as hazardous waste by the
35 department.

36 (f) “Discharge” means to place, dispose of, or store liquid
37 hazardous wastes or hazardous wastes containing free liquids into
38 or in a surface impoundment owned or operated by the person who
39 is conducting the placing, disposal, or storage.

1 (g) “Emergency containment dike” means a berm which is
2 located around a tank solely for the purpose of containing any
3 emergency spills from the tank and which does not contain any
4 liquid hazardous waste or hazardous wastes containing free liquids
5 for longer than 48 hours.

6 (h) “Facility” means the structures, appurtenances, and
7 improvements on the land, and all contiguous land, which are used
8 for treating, storing, or disposing of hazardous waste. A facility
9 may consist of several waste management units.

10 (i) “Free liquids” means liquids which readily separate from
11 the solid portion of a hazardous waste under ambient temperature
12 and pressure.

13 (j) “Groundwater” means water below the land surface in a
14 zone of saturation.

15 (k) “Hazardous waste” means a waste that is a hazardous
16 waste, as specified in this chapter.

17 (l) “Indicator parameters” means the measureable physical or
18 chemical characteristics in groundwater or soil-pore moisture
19 which are likely to be affected by hazardous waste disposal
20 operations and which are used, for comparison purposes, to assess
21 the result of hazardous waste disposal operations at a particular
22 waste management unit on the waters of the state.

23 (m) “Landfill” means a facility or part of a facility where
24 hazardous waste is placed in or on land for disposal and which is
25 not a land farm, surface impoundment, or an injection well.

26 (n) “Leachate” means any fluid, including any constituents in
27 the liquid, that has percolated through, migrated from, or drained
28 from, a hazardous waste management unit.

29 (o) “Owner” means a person who owns a facility or part of a
30 facility.

31 (p) “Perched water” means a localized body of groundwater
32 that overlies, and is hydraulically separated from, an underlying
33 body of groundwater.

34 (q) “pH” means a measure of a sample’s acidity expressed as
35 a negative logarithm of the hydrogen ion concentration.

36 (r) “Pile” means any noncontainerized accumulation of solid,
37 nonflowing hazardous waste which is used for the purpose of
38 treatment or storage.

39 (s) “Pollution” has the same meaning as defined in Section
40 13050 of the Water Code.

(t) “Potential source of drinking water” means either water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses and which is potable, or water which is located in water-bearing strata which is an underground source of drinking water, as defined in Section 146.3 of Title 40 of the Code of Federal Regulations, and which is not an exempted aquifer, as defined in Section 146.4 of Title 40 of the Code of Federal Regulations.

(u) “Qualified person” means a person who has at least five years of full-time experience in hydrogeology and who is a certified engineering geologist certified pursuant to Section 7842 of the Business and Professions Code, a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered civil engineer registered pursuant to Section 6762 of the Business and Professions Code. “Full-time experience” in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(v) “Regional board” means the California regional water quality control board for the region in which the surface impoundment is located.

(w) “Report” means the hydrogeological assessment report specified in Section 25208.8.

(x) “Surface impoundment” or “impoundment” means a waste management unit or part of a waste management unit which is a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials, although it may be lined with artificial materials, which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids, including, but not limited to, holding, storage, settling, or aeration pits, evaporation ponds, percolation ponds, other ponds, and lagoons. Surface impoundment does not include a landfill, a land farm, a pile, emergency containment dike, tank, or an injection well.

(y) “Tank” means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of nonearthen materials such as fiberglass, steel, or plastic to



1 provide structural support, and which has been issued a permit
2 pursuant to Section 25283.

3 (z) “Vadose zone” means the zone between the land surface
4 and the water table.

5 (aa) “Waste management unit” means that portion of a facility
6 used for the discharge of hazardous waste into or onto land,
7 including all containment and monitoring equipment associated
8 with that portion of the facility.

9 SEC. 37. Section 662 of the Public Resources Code is
10 amended to read:

11 662. (a) One member of the board shall be a professional
12 geologist with background and experience in mining geology; one
13 member shall be a mining engineer with background and
14 experience in mining minerals in California; one member shall
15 have background and experience in groundwater hydrology, water
16 quality, and rock chemistry; one member shall be a representative
17 of local government with background and experience in urban
18 planning; one member shall have background and experience in
19 the field of environmental protection or the study of ecosystems;
20 one member shall be a professional geologist, registered
21 geophysicist, registered civil engineer, or registered structural
22 engineer with background and experience in seismology; one
23 member shall be a landscape architect with background and
24 experience in soil conservation or revegetation of disturbed soils;
25 one member shall have background and experience in mineral
26 resource conservation, development, and utilization; and one
27 member shall not be required to have specialized experience.

28 (b) All members of the board shall represent the general public
29 interest, but not more than one-third of the members at any one
30 time may be currently employed by, or receive more than 25
31 percent of their annual income, not to exceed \$25,000 a year per
32 member, from an entity that owns or operates a mine in California.
33 The representative of local government shall not be considered an
34 employee of an entity that owns or operates a mine if the lead
35 agency employing the representative owns or operates a mine. For
36 purposes of this section, retirement or other benefits paid by a
37 mining entity to an individual who is no longer employed by that
38 entity are not considered to be compensation, if those benefits were
39 earned prior to the date the individual terminated his or her
40 employment with the entity.

(c) If a member of the board determines that he or she has a conflict of interest on a particular matter before the board pursuant to subdivision (b) or Section 663, he or she shall provide the clerk of the board with a brief written explanation of the basis for the conflict of interest, which shall become a part of the public record of the board. The written explanation shall be delivered prior to the time the matter to which it pertains is voted on by the board. This disclosure requirement is in addition to any other conflict-of-interest disclosure requirement imposed by law.

SEC. 38. Section 13273 of the Water Code is amended to read:

13273. (a) The state board shall, on or before January 1, 1986, rank all solid waste disposal sites, as defined in paragraph (5) of subdivision (i) of Section 41805.5 of the Health and Safety Code, based upon the threat they may pose to water quality. On or before July 1, 1987, the operators of the first 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d). On or before July 1 of each succeeding year, the operators of the next 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d).

(b) Before a solid waste water quality assessment test report may be submitted to the regional board, a professional geologist, registered pursuant to Section 7850 of the Business and Professions Code, a certified engineering geologist, certified pursuant to Section 7842 of the Business and Professions Code, or a civil engineer registered pursuant to Section 6762 of the Business and Professions Code, who has at least five years' experience in groundwater hydrology, shall certify that the report contains all of the following information and any other information which the state board may, by regulation, require:

(1) An analysis of the surface and groundwater on, under, and within one mile of the solid waste disposal site to provide a reliable indication whether there is any leakage of hazardous waste.

(2) A chemical characterization of the soil-pore liquid in those areas which are likely to be affected if the solid waste disposal site is leaking, as compared to geologically similar areas near the solid waste disposal site which have not been affected by leakage or waste discharge.

(c) If the regional board determines that the information specified in paragraph (1) or (2) is not needed because other information demonstrates that hazardous wastes are migrating into the water, the regional board may waive the requirement to submit this information specified in paragraphs (1) and (2) of subdivision (b). The regional board shall also notify the Department of Toxic Substances Control, and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(d) The regional board shall examine the report submitted pursuant to subdivision (b) and determine whether the number, location, and design of the wells and the soil testing could detect any leachate buildup, leachate migration, or hazardous waste migration. If the regional board determines that the monitoring program could detect the leachate and hazardous waste, the regional board shall take the action specified in subdivision (e). If the regional board determines that the monitoring program was inadequate, the regional board shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(e) The regional board shall examine the approved solid waste assessment test report and determine whether any hazardous waste migrated into the water. If the regional board determines that hazardous waste has migrated into the water, it shall notify the Department of Toxic Substances Control and the California Integrated Waste Management Board and shall take appropriate remedial action pursuant to Chapter 5 (commencing with Section 13300).

(f) When a regional board revises the waste discharge requirements for a solid waste disposal site, the regional board shall consider the information provided in the solid waste assessment test report and any other relevant site-specific engineering data provided by the site operator for that solid waste disposal site as part of a report of waste discharge.