

AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE APRIL 11, 2007

**SENATE BILL**

**No. 355**

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**Introduced by Senator Margett**

February 20, 2007

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An act to amend Section 7026.1 of the Business and Professions Code, relating to contractors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 355, as amended, Margett. Contractors: consultants.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors and defines a contractor as, among other things, a consultant to an owner-builder who undertakes, purports to have the capacity to undertake, or submits a bid, to construct a building or home improvement project, or part thereof. Existing law requires contractors to pay specified fees that are deposited into the continuously appropriated Contractors' License Fund. Under existing law, it is a crime for a person to act as a contractor without a license.

This bill would define a contractor to include a person who *directs and controls subcontractors' schedules* ~~subcontractors or provides a service in order to complete a project, or part thereof, for a work of improvement that is covered by a specified license classification or other activity integral to the completion of an improvement project, as specified.~~ *The bill also would define a contractor to include an individual or firm proposing to provide construction management services on state construction projects.*

Because this bill would increase fees deposited into the Contractors’ License Fund, the bill would make an appropriation. In addition, because this bill would expand the definition of a contractor and create new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 7026.1 of the Business and Professions  
 2 Code is amended to read:  
 3 7026.1. The term “contractor” includes all of the following:  
 4 (a) A person not exempt under Section 7053 who maintains or  
 5 services air-conditioning, heating, or refrigeration equipment that  
 6 is a fixed part of the structure to which it is attached.  
 7 (b) A person, consultant to an owner-builder, firm, association,  
 8 organization, partnership, business trust, corporation, or company,  
 9 ~~who or which undertakes,~~ *does any of the following:*  
 10 (1) *Undertakes,* offers to undertake, purports to have the capacity  
 11 to undertake, or submits a bid, to construct a building or home  
 12 improvement project, or part thereof.  
 13 (2) *Executes direction and control of subcontractor schedules*  
 14 *or any other activity integral to the completion of any improvement*  
 15 *or project that is subject to licensure under this chapter.*  
 16 (c) A temporary labor service agency that, as the employer,  
 17 provides employees for the performance of work covered by this  
 18 chapter. The provisions of this subdivision shall not apply if there  
 19 is a properly licensed contractor who exercises supervision in  
 20 accordance with Section 7068.1 and who is directly responsible  
 21 for the final results of the work. Nothing in this subdivision shall  
 22 require a qualifying individual, as provided in Section 7068, to be  
 23 present during the supervision of work covered by this chapter. A  
 24 contractor requesting the services of a temporary labor service  
 25 agency shall provide his or her license number to that temporary  
 26 labor service agency.

1 (d) A person not otherwise exempt by this chapter, who performs  
 2 tree removal, tree pruning, stump removal, or engages in tree or  
 3 limb cabling or guying. The term contractor does not include a  
 4 person performing the activities of a nurseryperson who in the  
 5 normal course of routine work performs incidental pruning of trees,  
 6 or guying of planted trees and their limbs. The term contractor  
 7 does not include a gardener who in the normal course of routine  
 8 work performs incidental pruning of trees measuring less than 15  
 9 feet in height after planting.

10 (e) A person engaged in the business of drilling, digging, boring,  
 11 or otherwise constructing, deepening, repairing, re-perforating, or  
 12 abandoning a water well, cathodic protection well, or monitoring  
 13 well.

14 ~~(f) A person who does either of the following:~~

15 ~~(1) Schedules subcontractors.~~

16 ~~(2) Provides a service in order to complete a project, or part~~  
 17 ~~thereof, for a work of improvement that is covered by a license~~  
 18 ~~classification specified in Section 7056, 7057, or 7058.~~

19 *(f) Unless otherwise exempt under this chapter, any individual*  
 20 *or firm proposing to provide construction project management*  
 21 *services pursuant to Section 4529.5 of the Government Code.*

22 *SEC. 2. In enacting this bill, is the intent of the Legislature to*  
 23 *require persons providing construction consulting and construction*  
 24 *project management services to be licensed under the appropriate*  
 25 *existing license classification specified in Section 7056, 7057, or*  
 26 *7058 of the Business and Professions Code, and not to authorize*  
 27 *the board to create a new classification of specialty contractor for*  
 28 *persons who provide construction consulting or construction*  
 29 *project management services.*

30 ~~SEC. 2.~~

31 *SEC. 3. No reimbursement is required by this act pursuant to*  
 32 *Section 6 of Article XIII B of the California Constitution because*  
 33 *the only costs that may be incurred by a local agency or school*  
 34 *district will be incurred because this act creates a new crime or*  
 35 *infraction, eliminates a crime or infraction, or changes the penalty*  
 36 *for a crime or infraction, within the meaning of Section 17556 of*  
 37 *the Government Code, or changes the definition of a crime within*

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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