

Assembly Bill No. 1736

Passed the Assembly August 25, 2010

Chief Clerk of the Assembly

Passed the Senate August 23, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8522, 8525, 8536, 8698, 8698.1, and 8698.6 of the Business and Professions Code, relating to Department of Pesticide Regulation.

LEGISLATIVE COUNSEL’S DIGEST

AB 1736, Ma. Department of Pesticide Regulation: Structural Pest Control Board: Structural Fumigation Enforcement Program.

(1) Existing law provides for the licensure and regulation of structural pest control operators by the Structural Pest Control Board within the Department of Pesticide Regulation.

Under existing law, the board consists of 7 members, with appointments by, among others, the Governor. Under existing law, each board member holds office until the appointment and qualification of his or her successor or until one year after the expiration of the term for which he or she was appointed, whichever first occurs. Existing law provides that each appointment is for a 4-year term expiring June 1 of the 4th year following the year in which the previous term expires, or with respect to licensee members, the 4-year term expires on January 15th.

This bill would specify that the Governor appoints the 3 licensed members. Under the bill, each member would hold office until the appointment of his or her successor, not to exceed one year from the expiration of the term for which he or she was appointed, and each appointment would be for a 4-year term expiring after either the date of the appointment or the date a previous term expired.

With respect to the Governor’s appointments, the bill would require the Governor to appoint members based on nominations received by the Director of Pesticide Regulation soliciting nominations from specified interested parties. The bill would require the director to solicit these nominations by mailing interested parties a notice as well as by posting a notice on the department’s Internet Web site. The bill would require these nominations to be in writing and would require them to contain certain information and to be mailed to the director and be made available to the Governor and the director.

Existing law prohibits a manufacturer, his or her agents or employees, or any person who is a consultant of or connected with any manufacturer, from being charged with the enforcement or execution of any of the structural pest control operator provisions.

This bill would prohibit such a manufacturer from being appointed to the board.

Existing law requires the board to consult with the department when developing or adopting regulations that may affect the department or the county agricultural commissioner's specified responsibilities.

This bill would delete that provision.

(2) Until January 1, 2011, existing law authorizes the Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, and the San Diego County Agricultural Commissioner to contract with the Director of the Department of Pesticide Regulation to perform increased structural fumigation, inspection, and enforcement activities in Los Angeles County, Orange County, Santa Clara County, and San Diego County. Existing law requires any person who performs a structural fumigation in any of the contracting counties to pay a specified fee to the county agricultural commissioner.

This bill would instead authorize the Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, and the San Diego County Agricultural Commissioner to perform those services, and would require the director to provide oversight. The bill would also extend the operation of these provisions to January 1, 2014.

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

SECTION 1. Section 8522 of the Business and Professions Code is amended to read:

8522. (a) Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.

(b) Vacancies shall be filled by the appointing power for the unexpired term.

(c) Each member shall hold office until the appointment of his or her successor not to exceed one year from the expiration of the term for which he or she was appointed. No person shall serve as a member of the board for more than two consecutive terms.

(d) Each appointment shall be for a four-year term expiring four years after either the date of the appointment or the date a previous term expired.

(e) From the nominations received pursuant to subdivision (f), the Governor shall appoint two of the public members and the three licensed members qualified as provided in Section 8521. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occur on or after January 1, 1983.

(f) (1) At least 60 days prior to the appointment by the Governor of a public member or licensed member to the board, the director shall solicit nominations to the board from interested parties by mailing them a notice and by posting a notice on the department's Internet Web site. Interested parties include, but are not limited to, members or representatives from the structural pest control industry and organizations representing consumer, environmental, and real estate interests.

(2) All nominations shall be made in writing and shall include (A) the name and address of each nominee, (B) if an operator, his or her license number, and (C) the name, address, and affiliation, if any, of the nominator.

(3) The nominations shall be mailed to the director and shall be made available to the Governor and the director.

SEC. 2. Section 8525 of the Business and Professions Code is amended to read:

8525. The board, subject to the approval of the director, may, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter.

SEC. 3. Section 8536 of the Business and Professions Code is amended to read:

8536. No manufacturer, his or her agents or employees, nor any person who is a consultant of or connected with any manufacturer, shall be appointed to the board.

SEC. 4. Section 8698 of the Business and Professions Code is amended to read:

8698. The Director of the Department of Pesticide Regulation shall provide oversight for the purposes of carrying out Section 8698.1. The Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, and the San Diego County Agricultural Commissioner may perform increased structural fumigation, inspection, and enforcement activities, to be funded by the five dollar (\$5) fee collected pursuant to Section 8698.1.

SEC. 5. Section 8698.1 of the Business and Professions Code is amended to read:

8698.1. (a) Any person who performs a structural fumigation in Los Angeles County, Orange County, Santa Clara County, or San Diego County shall pay to the county agricultural commissioner a fee of five dollars (\$5) for each treatment conducted at a specific building or structure.

(b) The fees shall be submitted by the 10th day of the month following the month in which the treatment was performed. The fees shall be accompanied by a copy of a monthly pesticide use report showing the addresses, including the department number if applicable, of all structural fumigations. The report shall be in a form required by the director, shall identify the name and address of the person or company performing the fumigation, and shall include any other information requested by the director.

SEC. 6. Section 8698.6 of the Business and Professions Code is amended to read:

8698.6. This chapter shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2014, deletes or extends that date.

Approved _____, 2010

Governor