

AMENDED IN SENATE APRIL 21, 2009

SENATE BILL

No. 258

Introduced by Senator Oropeza

February 24, 2009

An act to add Sections 7058.1, 7058.2, and 7138.2 to the Business and Professions Code, relating to contractors, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 258, as amended, Oropeza. Contractors: public works.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law authorizes the board to set application, licensure, and renewal fees, among others, not to exceed certain limits, and provides for the deposit of those fees in the Contractors' License Fund, a continuously appropriated fund. Existing law ~~requires contractors to obtain special certifications in order to perform asbestos-related work or to engage in hazardous substance removal or remedial action, as specified~~ *requires the awarding authority to determine the license classification necessary to bid and perform on public works contracts, as defined.*

This bill would, on and after January 1, 2012, prohibit a contractor from performing work as a contractor or subcontractor on a public work, as defined, contracted for by the state or a state agency unless he or she has obtained a public works certification from ~~the board~~ *a state certifying agency to be determined by the Legislature*. The bill would require the ~~qualifier for a license to pass a public works certification examination in order to obtain that certification. The bill would require the board to develop the examination~~ *certifying agency to establish and*

validate standards of competency through a prequalification certification system by January 1, 2011, and would specify the subjects that the examination must cover. The bill would authorize the board to deny or revoke a certification if the contractor fails or has failed to comply with the laws or regulations applicable to public works or commits or has committed other specified acts. The certifying agency would also be authorized to deny or revoke a public works certification under specified circumstances. The bill would authorize require the board agency to charge each applicant a fee in an amount sufficient to pay for the costs of administering the examination prequalification and certification, not to exceed certain amounts, as specified. The bill would also create the continuously appropriated Public Works Certification Fund within the State Treasury in which fee moneys would be deposited and used only for these purposes.

Because the bill would increase the amount of moneys to be deposited in create a continuously appropriated fund, the bill would make an appropriation.

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

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

1 SECTION 1. Section 7058.1 is added to the Business and
2 Professions Code, to read:
3 7058.1. (a) To promote the safety of California's publicly
4 owned facilities and to ensure the best use of California tax dollars
5 it is the intent of the Legislature to certify that only the most
6 qualified contractors perform on public works projects.
7 (b) On and after January 1, 2012, a contractor shall not perform
8 work as a contractor or subcontractor on a public work that is
9 contracted for by the state or a state agency or any other public
10 agency unless the contractor has obtained a public works
11 certification from a state certifying agency to be determined by
12 the Legislature. To obtain a public works certification, the qualifier
13 for a license shall submit to the certifying agency the public works
14 certification prequalification document developed pursuant to
15 Section 7058.2 and administered by the certifying agency and
16 receive certification from the certifying agency.
17 (c) This section shall not be construed to affect the requirements
18 imposed by subdivision (b) of Section 7059.

1 (d) This section shall not be construed to restrict the state or
2 any other public agency from imposing additional requirements
3 on contractors in awarding public works contracts.

4 (e) The certifying agency may deny or revoke a public works
5 certification if the contractor fails or has failed to comply with the
6 laws or regulations applicable to public works or if the contractor
7 commits or has committed any of the acts constituting grounds for
8 denial of a license under Section 480. Procedures upon denial of
9 a public works certification shall be conducted in accordance with
10 Section 485. Procedures for revocation of a public works
11 certification shall be conducted in accordance with Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3 of Title
13 2 of the Government Code.

14 (f) This section shall not be construed as expanding the
15 enforcement authority of the agency.

16 (g) "Public agency," for purposes of this chapter, means a
17 city, county, city and county, including chartered cities and
18 chartered counties, the University of California and any special
19 district, and any other political subdivision of the state for the
20 local performance of governmental or proprietary functions within
21 limited boundaries. "Public agency" also includes a nonprofit
22 transit corporation wholly owned by a public agency and formed
23 to carry out the purposes of the public agency.

24 (h) For purposes of this section, "public work" means any work
25 that is subject to the requirements of Chapter 1 (commencing with
26 Section 1720) of Part 7 of Division 2 of the Labor Code.

27 SEC. 2. Section 7058.2 is added to the Business and Professions
28 Code, to read:

29 7058.2. (a) The certifying agency shall do all of the following:

30 (1) On or before January 1, 2011, establish and validate
31 minimum standards for the competency and prequalification of
32 all contractors performing work on public works projects through
33 a system of prequalification certification pursuant to Section
34 7058.1.

35 (2) On or before March 1, 2010, establish advisory committees
36 and panels as necessary to carry out the functions under this
37 section. There shall be contractor representation from both the
38 general contractor community and the subcontractor community
39 with at least one representative from the following organizations
40 on all committees or panels: Associated General Contractors,

1 *Construction Employers Association, California Legislative*
2 *Conference of the Plumbing, Heating and Piping Industry, and*
3 *the National Electrical Contractors Association. In addition there*
4 *shall be at least one representative from organized labor on any*
5 *committee or panel. This labor position shall be the designee of*
6 *the California Building and Construction Trades Council.*

7 (3) *On or before January 1, 2011, establish fees necessary to*
8 *implement this section and charge each applicant for a public*
9 *works certification the determined fee.*

10 (4) *On or before July 1, 2011, establish and adopt regulations*
11 *to enforce this section.*

12 (5) *Issue certification cards to contractors who have been*
13 *prequalified and certified pursuant to this section.*

14 (6) *Fees collected pursuant to paragraph (3) shall be deposited*
15 *in the Public Works Certification Fund.*

16 (7) *Make information on contractors certified pursuant to this*
17 *section publicly available.*

18 (b) *The public works prequalification certification shall be*
19 *developed according to professionally accepted principles for*
20 *prequalification and should adhere as closely as possible to the*
21 *guidelines set forth in Section 20101 of the Public Contract Code.*
22 *The certification shall not be based on a per-project basis and*
23 *shall be based on a per-applicant basis.*

24 SEC. 3. *Section 7138.2 is added to the Business and Professions*
25 *Code, to read:*

26 7138.2. (a) *In addition to the fee schedule specified in Section*
27 *7137, the application fee for a public works certification*
28 *examination, until December 31, 2014, shall not be more than*
29 *sixty-five dollars (\$65), and on and after January 1, 2015, shall*
30 *not be more than one hundred twenty-five dollars (\$125). Sections*
31 *7138 and 7138.1 shall apply to this section. Those fees shall be*
32 *deposited in the Public Works Certification Fund.*

33 (b) *The Public Works Certification Fund is hereby created as*
34 *a special account within the State Treasury. Notwithstanding*
35 *Section 13340 of the Government Code, money in the fund is*
36 *continuously appropriated to the certifying agency for the costs*
37 *of the agency to prequalify and certify contractors and*
38 *subcontractors pursuant to Section 7058.1, and to pay for the costs*
39 *of issuing certification cards under Section 7058.2, and shall not*
40 *be used for any other purpose.*

1 (c) *The fund shall consist of the fees collected pursuant to*
2 *paragraph (3) of subdivision (a) of Section 7058.2 and subdivision*
3 *(a) of this section.*

4 SECTION 1. ~~Section 7058.1 is added to the Business and~~
5 ~~Professions Code, to read:~~

6 ~~7058.1. (a) On and after January 1, 2012, a contractor shall~~
7 ~~not perform work as a contractor or subcontractor on a public work~~
8 ~~that is contracted for by the state or a state agency unless the~~
9 ~~contractor has obtained a public works certification from the board.~~
10 ~~To obtain a public works certification, the qualifier for the license~~
11 ~~shall pass a public works certification examination developed~~
12 ~~pursuant to Section 7058.2 and administered by the board.~~
13 ~~Additional updated examinations may be required based on~~
14 ~~material changes in the legal obligations of public works~~
15 ~~contractors.~~

16 ~~(b) The board shall charge each applicant for a public works~~
17 ~~certification a fee to take the examination specified in subdivision~~
18 ~~(a) in an amount sufficient to pay for the costs of administering~~
19 ~~that examination, as specified in Section 7138.2.~~

20 ~~(c) The board shall make information on contractors certified~~
21 ~~pursuant to this section publicly available.~~

22 ~~(d) This section shall not be construed to affect the requirements~~
23 ~~imposed by subdivision (b) of Section 7059.~~

24 ~~(e) This section shall not be construed to restrict the state or any~~
25 ~~other awarding authority from imposing additional requirements~~
26 ~~on contractors in awarding public works contracts.~~

27 ~~(f) The board may deny or revoke a public works certification~~
28 ~~if the contractor fails or has failed to comply with the laws or~~
29 ~~regulations applicable to public works or if the contractor commits~~
30 ~~or has committed any of the acts constituting grounds for denial~~
31 ~~of a license under Section 480. Procedures upon denial of a public~~
32 ~~works certification shall be conducted in accordance with Section~~
33 ~~485. Procedures for revocation of a public works certification shall~~
34 ~~be conducted in accordance with Chapter 5 (commencing with~~
35 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
36 ~~Code.~~

37 ~~(g) This section shall not be construed as expanding the~~
38 ~~enforcement authority of the board.~~

1 (h) For purposes of this section, “public work” means any work
2 that is subject to the requirements of Chapter 1 (commencing with
3 Section 1720) of Part 7 of Division 2 of the Labor Code.

4 SEC. 2. Section 7058.2 is added to the Business and Professions
5 Code, to read:

6 7058.2. (a) On or before January 1, 2011, the board shall
7 develop a written examination for the certification of contractors
8 engaged in public work pursuant to Section 7058.1. The
9 examination shall be developed according to professionally
10 accepted principles for licensing examinations and with the
11 assistance of subject matter experts provided by the Department
12 of Industrial Relations, subject matter experts selected from state
13 agencies that award public work contracts, selected labor
14 organization representatives, and selected licensed contractors
15 engaged in public work. The examination shall cover the laws and
16 regulations applicable to public works, including, but not limited
17 to, all of the following:

18 (1) The requirements of Article 2 (commencing with Section
19 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

20 (2) The requirements of Section 4104 of the Public Contract
21 Code.

22 (3) The requirements of the State Contract Act (Chapter 1
23 (commencing with Section 10100) of Part 2 of Division 2 of the
24 Public Contract Code).

25 (b) This section shall not be construed as expanding the
26 enforcement authority of the board.

27 (e) For purposes of this section, “public work” means any work
28 that is subject to the requirements of Chapter 1 (commencing with
29 Section 1720) of Part 7 of Division 2 of the Labor Code.

30 SEC. 3. Section 7138.2 is added to the Business and Professions
31 Code, to read:

32 7138.2. In addition to the fee schedule specified in Section
33 7137, the application fee for a public works certification
34 examination, until December 31, 2014, shall not be more than
35 sixty-five dollars (\$65), and on and after January 1, 2015, shall
36 not be more than one hundred twenty-five dollars (\$125). Sections
37 7138 and 7138.1 shall apply to this section.

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