

Assembly Bill No. 2237

CHAPTER 371

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

[Approved by Governor September 19, 2012. Filed with
Secretary of State September 19, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2237, Monning. Contractors: definition.

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 defines the term "contractor" to include, among others, any person or consultant to an owner-builder who undertakes, offers to undertake, or submits a bid to construct a building or home improvement project. Existing law requires applicants and licensed 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 the term "consultant" for purposes of the definition of a contractor to include a person who provides a bid, or who arranges for and sets up work schedules and maintains oversight of a construction project, with respect to a home improvement contract, as specified. Because consultants who provide the above-described services would be required to pay license fees which are deposited into the Contractors' License Fund, the bill would make an appropriation. Because this bill would expand the scope of an existing crime, 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.

Appropriation: yes.

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

SECTION 1. Section 7026.1 of the Business and Professions Code is amended to read:

7026.1. The term "contractor" includes all of the following:

(a) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(b) (1) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct any building or home improvement project, or part thereof.

(2) For purposes of this subdivision, a consultant is a person, other than a public agency or an owner of privately owned real property to be improved, who meets either of the following criteria as it relates to work performed pursuant to a home improvement contract as defined in Section 7151.2:

(A) Provides or oversees a bid for a construction project.

(B) Arranges for and sets up work schedules for contractors and subcontractors and maintains oversight of a construction project.

(c) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this subdivision shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this subdivision shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary labor service agency.

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

(e) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, re-perforating, or abandoning any water well, cathodic protection well, or monitoring well.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.