

Introduced by Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Vargas, Walters, and Wyland)

March 31, 2011

An act to amend Sections 7027, 7029.5, 7030, 7058.6, 7058.8, 7066.5, 7204, 7211, 7215, and 12701 of the Business and Professions Code, to amend Section 9148.8 of the Government Code, to amend Section 3099.2 of the Labor Code, and to amend Section 7106 of the Public Contract Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 944, as introduced, Committee on Business, Professions and Economic Development. Committee on Business, Professions and Economic Redevelopment.

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

Existing law requires licensed contractors to be classified and authorizes them to be classified as, among other things, a plumbing contractor, an electrical contractor, a sign contractor, and a well-drilling contractor. Existing law requires all plumbing contractors, sign contractors, and well-drilling contractors to display on their business motor vehicle certain identifying information pertaining to their contractor's license.

This bill would make that requirement applicable, instead, to C-36 plumbing contractors, C-45 sign contractors, and C-57 well-drilling contractors.

Existing law authorizes persons to obtain blank license application, renewal, or reinstatement forms from the Department of Consumer Affairs.

This bill would instead authorize persons to obtain blank license applications from the board.

(2) Existing law establishes within the Department of Consumer Affairs the State Board of Guide Dogs for the Blind that, among other things, licenses and regulates schools and instructors for the training of guide dogs for the blind and the instruction of blind persons in the use of guide dogs.

Existing law requires applicants for an instructor's license to file an application with the secretary. Under existing law, the secretary keeps the records of the boards and carries out other duties as prescribed by the board.

This bill would instead require an executive officer to keep those records and carry out those duties and would require the application described above to be filed with the board.

Existing law prohibits a person from selling, giving, or furnishing any guide dog or seeing-eye dog to a blind person unless certain requirements have been met, including that the dog has been neutered. Under existing law, a certificate from a veterinarian certifying that those requirements have been met is required to be delivered to the recipient of the dog at the time of delivery.

This bill would require that the dog be spayed or neutered and would require that certificate to be delivered at the time the dog is assigned to a blind person. Because a violation of these requirements would constitute a crime, the bill would impose a state-mandated local program.

(3) Existing law defines a weighmaster as any person who, for hire or otherwise, weighs, measures, or counts any commodity and issues a statement or memorandum of the weight, measure, or count which is used as the basis for either the purchase or sale of that commodity or charge for service. It is unlawful for any person to weigh, measure, or count any commodity unless the person is licensed as a weighmaster, but certain persons are exempt from being deemed weighmasters.

This bill would exempt medical waste haulers who are handling medical waste destined for disposal or destruction from being deemed weighmasters.

(4) Under existing law, prior to January 1, 2011, regulatory boards and other boards in state government, as specified, were subject to review by the Joint Committee on Boards, Commissions, and Consumer

Protection. On and after January 1, 2011, existing law requires boards scheduled for repeal to be evaluated by the Joint Sunset Review Committee. Existing law in effect prior to January 1, 2011, required the former Joint Committee on Boards, Commissions, and Consumer Protection, upon request from the chairperson of the appropriate policy committee, to evaluate plans for the establishment and operation of a new specified state board or to create a new category of licensed professionals.

This bill would instead require the appropriate policy committees to evaluate those plans.

(5) Existing law requires any public works contract of any public entity to include an affidavit, as specified, affirming that the bidder has not participated in various collusive activities.

This bill would recast these provisions to, instead, require every bid on every public works contract of any public entity to include a declaration under penalty of perjury that the bidder has not participated in various collusive activities, and to require that the declaration include a representation that the person executing the declaration on behalf of a corporation or other entity, as prescribed, is fully empowered to execute the declaration. By expanding the definition of an existing crime, this 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: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 7027 of the Business and Professions
- 2 Code is amended to read:
- 3 7027. Any person who advertises or puts out any sign or card
- 4 or other device ~~after the effective date of this section which~~ *that*
- 5 would indicate to the public that he or she is a contractor, or who
- 6 causes his or her name or business name to be included in a
- 7 classified advertisement or directory ~~after the effective date of this~~
- 8 ~~section~~ under a classification for construction or work of
- 9 improvement covered by this chapter is subject to the provisions

1 of this chapter regardless of whether his or her operations as a
2 builder are otherwise exempted.

3 SEC. 2. Section 7029.5 of the Business and Professions Code
4 is amended to read:

5 7029.5. Every C-36 plumbing contractor, ~~electrical C-45 sign~~
6 contractor, and C-57 well-drilling contractor licensed under this
7 chapter shall have displayed on each side of each motor vehicle
8 used in his or her business, for which a commercial vehicle
9 registration fee has been paid pursuant to Article 3 (commencing
10 with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code,
11 his or her name, permanent business address, and contractor's
12 license number, all in letters and numerals not less than 1 1/2 inches
13 high.

14 The identification requirements of this section shall also apply
15 to any drill rig used for the drilling of water wells.

16 Failure to comply with this section constitutes a cause for
17 disciplinary action.

18 SEC. 3. Section 7030 of the Business and Professions Code is
19 amended to read:

20 7030. (a) Except for contractors writing home improvement
21 contracts pursuant to Section 7151.2 and contractors writing service
22 and repair contracts pursuant to Section 7159.10, every person
23 licensed pursuant to this chapter shall include the following
24 statement in at least 10-point type on all written contracts with
25 respect to which the person is a prime contractor:

26
27 "Contractors are required by law to be licensed and regulated
28 by the Contractors' State License Board which has jurisdiction to
29 investigate complaints against contractors if a complaint regarding
30 a patent act or omission is filed within four years of the date of the
31 alleged violation. A complaint regarding a latent act or omission
32 pertaining to structural defects must be filed within 10 years of
33 the date of the alleged violation. Any questions concerning a
34 contractor may be referred to the Registrar, Contractors' State
35 License Board, P.O. Box 26000, Sacramento, CA 95826."
36

37 (b) Every person licensed pursuant to this chapter shall include
38 the following statement in at least 12-point type in all home
39 improvement contracts written pursuant to Section 7151.2 and
40 service and repair contracts written pursuant to Section 7159.10:

1
2 “Information about the Contractors’ State License Board (CSLB):
3 CSLB is the state consumer protection agency that licenses and
4 regulates construction contractors.

5 Contact CSLB for information about the licensed contractor you
6 are considering, including information about disclosable
7 complaints, disciplinary actions and civil judgments that are
8 reported to CSLB.

9 Use only licensed contractors. If you file a complaint against a
10 licensed contractor within the legal deadline (usually four years),
11 CSLB has authority to investigate the complaint. If you use an
12 unlicensed contractor, CSLB may not be able to help you resolve
13 your complaint. Your only remedy may be in civil court, and you
14 may be liable for damages arising out of any injuries to the
15 unlicensed contractor or the unlicensed contractor’s employees.

16 For more information:
17 Visit CSLB’s Web site at www.cslb.ca.gov
18 Call CSLB at 800-321-CSLB (2752)
19 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

20
21 (c) Failure to comply with the notice requirements set forth in
22 subdivision (a) or (b) of this section is cause for disciplinary action.

23 ~~(d) This section shall become operative on January 1, 2006.~~

24 SEC. 4. Section 7058.6 of the Business and Professions Code
25 is amended to read:

26 7058.6. (a) The board shall not issue an asbestos certification,
27 as required by Section 7058.5, unless the contractor is registered
28 with the Division of Occupational Safety and Health of the
29 Department of Industrial Relations pursuant to Section 6501.5 of
30 the Labor Code. The board may issue an asbestos certification to
31 a contractor who is not registered, provided the contractor in a
32 written statement acknowledges that he or she does not perform
33 asbestos-related work. The board shall notify both the division and
34 the contractor, in writing, of the contractor’s passage of the
35 certification examination, for the purpose of allowing the contractor
36 to satisfy the requirement of paragraph (1) of subdivision (a) of
37 Section 6501.5 of the Labor Code. The contractor shall register
38 with the division within 90 days from the date the contractor is
39 notified of the passage of the certification examination. The board
40 may require a reexamination if the contractor fails to register within

1 90 days following issuance of the notification. Applicable test fees
2 shall be paid for any reexamination required under this section.

3 (b) Any contractor who is certified to engage in asbestos-related
4 work shall present proof of current registration with the division
5 pursuant to Section 6501.5 of the Labor Code upon application
6 for renewal of his or her license, if the contractor engages in
7 asbestos-related work, as defined in Section 6501.8 of the Labor
8 Code.

9 (c) A contractor who is not certified pursuant to this section
10 may bid on and contract to perform a project involving
11 asbestos-related work as long as the asbestos-related work is
12 performed by a contractor who is certified and registered pursuant
13 to this section and Section 6501.5 of the Labor Code.

14 (d) The board shall obtain and periodically update the list of
15 contractors certified to engage in asbestos-related work who are
16 registered pursuant to Section 6501.5 of the Labor Code.

17 ~~This section shall become operative on July 1, 1989.~~

18 SEC. 5. Section 7058.8 of the Business and Professions Code
19 is amended to read:

20 7058.8. The board shall make available to the public upon
21 request information about contracting for the removal or
22 encapsulation of asbestos-containing materials in a building
23 including all of the following:

24 (a) Steps to take when contracting with a company to remove
25 asbestos.

26 (b) Existing laws and regulations pertaining to asbestos-related
27 work in California.

28 (c) Basic health information as contained in the United States
29 Environmental Protection Agency publication, "Guidance for
30 Controlling Asbestos-Containing Materials in Buildings."

31 (d) A current list of contractors who are certified pursuant to
32 Section 7058.5 to engage in asbestos-related work and who are
33 registered pursuant to Section 6501.5 of the Labor Code.

34 ~~This section shall become operative on July 1, 1989.~~

35 SEC. 6. Section 7066.5 of the Business and Professions Code
36 is amended to read:

37 7066.5. Any person may obtain blank license application;
38 ~~renewal, or reinstatement~~ forms from the ~~Department of Consumer~~
39 ~~Affairs, board~~ or may cause to be printed forms used by or
40 approved by the Registrar of Contractors.

1 SEC. 7. Section 7204 of the Business and Professions Code is
2 amended to read:

3 7204. The ~~secretary~~ *executive officer* shall keep all the records
4 of the board and discharge such other duties as the board shall,
5 from time to time, prescribe.

6 SEC. 8. Section 7211 of the Business and Professions Code is
7 amended to read:

8 7211. (a) Each applicant for an instructor's license shall file
9 an application with the ~~secretary of the board~~ at least 10 days before
10 the date fixed for examination, and shall pay to the ~~secretary~~ *board*
11 at the time of filing an application the sum of two hundred fifty
12 dollars (\$250). No license shall be granted until the applicant has
13 satisfactorily completed the examination prescribed by the board
14 and has shown that he or she is equipped by a school or by
15 equivalent facilities satisfactory to the board. An annual fee of one
16 hundred dollars (\$100) shall be required for the renewal of a
17 license.

18 (b) All fees received under this chapter shall be deposited in the
19 Guide Dogs for the Blind Fund.

20 SEC. 9. Section 7215 of the Business and Professions Code is
21 amended to read:

22 7215. No person shall sell, give, or furnish any guide dog or
23 seeing-eye dog to a blind person unless the following requirements
24 have been met:

25 (a) The dog has been immunized against distemper and rabies.

26 (b) The dog has been *spayed or* neutered.

27 (c) The dog has been examined by a licensed veterinarian and
28 found to be in good health.

29 A certificate from a veterinarian certifying to the foregoing shall
30 be delivered to the recipient of the dog at the time ~~of delivery of~~
31 the dog *is assigned to a blind person*.

32 SEC. 10. Section 12701 of the Business and Professions Code
33 is amended to read:

34 12701. The following persons are not weighmasters:

35 (a) Retailers weighing, measuring, or counting commodities for
36 sale by them in retail stores in the presence of, and directly to,
37 consumers.

38 (b) Except for persons subject to Section 12730, producers of
39 agricultural commodities or livestock, who weigh commodities
40 produced or purchased by them or by their producer neighbors,

1 when no charge is made for the weighing, or when no signed or
2 initialed statement or memorandum is issued of the weight upon
3 which a purchase or sale of the commodity is based.

4 (c) Common carriers issuing bills of lading on which are
5 recorded, for the purpose of computing transportation charges, the
6 weights of commodities offered for transportation, including
7 carriers of household goods when transporting shipments weighing
8 less than 1,000 pounds.

9 (d) Milk samplers and weighers licensed pursuant to Article 8
10 (commencing with Section 35161) of Chapter 12 of Part 1 of
11 Division 15 of the Food and Agricultural Code, when performing
12 the duties for which they are licensed.

13 (e) Persons who measure the amount of oil, gas, or other fuels
14 for purposes of royalty computation and payment, or other
15 operations of fuel and oil companies and their retail outlets.

16 (f) Newspaper publishers weighing or counting newspapers for
17 sale to dealers or distributors.

18 (g) Textile maintenance establishments weighing, counting, or
19 measuring any articles in connection with the business of those
20 establishments.

21 (h) County sanitation districts operating pursuant to Chapter 3
22 (commencing with Section 4700) of Part 3 of Division 5 of the
23 Health and Safety Code, garbage and refuse disposal districts
24 operating pursuant to Chapter 2 (commencing with Section 49100)
25 of Part 8 of Division 30 of the Public Resources Code, and solid
26 waste facilities, as defined in Section 40194 of the Public
27 Resources Code.

28 (i) Persons who purchase scrap metal or salvage materials
29 pursuant to a nonprofit recycling program, or recycling centers
30 certified pursuant to Division 12.1 (commencing with Section
31 14500) of the Public Resources Code that purchase empty beverage
32 containers from the public for recycling.

33 (j) Pest control operators licensed pursuant to Chapter 4
34 (commencing with Section 11701) of Division 6 of the Food and
35 Agricultural Code.

36 (k) Retailers, or recycling centers established solely for the
37 redemption of empty beverage containers, as that phrase is defined
38 in Section 14512 of the Public Resources Code, who are weighing,
39 measuring, or counting salvage or returnable materials for purchase
40 or redemption by them in retail stores, or, in the case of recycling

1 centers, on the retail store premises or on a parking lot immediately
2 adjacent to a retail store ~~which~~ that is used for the purpose of
3 parking by the store customers, directly from and in the presence
4 of the seller. “Retailer” means an entity ~~which~~ that derives 90
5 percent or more of its income from the sale of small quantities of
6 food or nonfood items, or both, directly to consumers. “Salvage
7 materials” means used paper products and used containers made
8 of aluminum, tin, glass, or plastic.

9 (l) Any log scaler who performs log scaling functions, except
10 weighing, as defined in the United States Forest Service Handbook,
11 Supplement No. 4 of March 1987.

12 (m) *Medical waste haulers, as defined in Section 118025 of the*
13 *Health and Safety Code, who are handling medical waste destined*
14 *for disposal or destruction.*

15 SEC. 11. Section 9148.8 of the Government Code is amended
16 to read:

17 9148.8. ~~(a) The Joint Committee on Boards, Commissions,~~
18 ~~and Consumer Protection, acting pursuant to a request from the~~
19 ~~chairperson of the appropriate policy committee; shall evaluate a~~
20 ~~plan prepared pursuant to Section 9148.4 or 9148.6.~~

21 ~~(b) Evaluations prepared by the Joint Committee on Boards,~~
22 ~~Commissions, and Consumer Protection pursuant to this section~~
23 ~~shall be provided to the respective policy and fiscal committees~~
24 ~~of the Legislature pursuant to rules adopted by each committee~~
25 ~~for this purpose.~~

26 SEC. 12. Section 3099.2 of the Labor Code is amended to read:

27 3099.2. (a) (1) Persons who perform work as electricians shall
28 become certified pursuant to Section 3099 by the deadline specified
29 in this subdivision. After the applicable deadline, uncertified
30 persons shall not perform electrical work for which certification
31 is required.

32 (2) The deadline for certification as a general electrician or
33 fire/life safety technician is January 1, 2006, except that persons
34 who applied for certification prior to January 1, 2006, have until
35 January 1, 2007, to pass the certification examination. The deadline
36 for certification as a residential electrician is January 1, 2007, and
37 the deadline for certification as a voice data video technician or a
38 nonresidential lighting technician is January 1, 2008. The California
39 Apprenticeship Council may extend the certification date for any
40 of these three categories of electricians up to January 1, 2009, if

1 the council concludes that the existing deadline will not provide
2 persons sufficient time to obtain certification, enroll in an
3 apprenticeship or training program, or register pursuant to Section
4 3099.4.

5 (3) For purposes of any continuing education or recertification
6 requirement, individuals who become certified prior to the deadline
7 for certification shall be treated as having become certified on the
8 first anniversary of their certification date that falls after the
9 certification deadline.

10 (b) (1) Certification is required only for those persons who
11 perform work as electricians for contractors licensed as class C-10
12 electrical contractors under the Contractors' State License Board
13 Rules and Regulations.

14 (2) Certification is not required for persons performing work
15 for contractors licensed as class C-7 low voltage systems or class
16 C-45 ~~electric~~ sign contractors as long as the work performed is
17 within the scope of the class C-7 or class C-45 license, including
18 incidental and supplemental work as defined in Section 7059 of
19 the Business and Professions Code, and regardless of whether the
20 same contractor is also licensed as a class C-10 contractor.

21 (3) Certification is not required for work performed by a worker
22 on a high-voltage electrical transmission or distribution system
23 owned by a local publicly owned electric utility, as defined in
24 Section 224.3 of the Public Utilities Code; an electrical corporation,
25 as defined in Section 218 of the Public Utilities Code; a person,
26 as defined in Section 205 of the Public Utilities Code; or a
27 corporation, as defined in Section 204 of the Public Utilities Code;
28 when the worker is employed by the utility or a licensed contractor
29 principally engaged in installing or maintaining transmission or
30 distribution systems.

31 (c) The division shall establish separate certifications for general
32 electrician, fire/life safety technician, residential electrician, voice
33 data video technician, and nonresidential lighting technician.

34 (d) Notwithstanding subdivision (a), certification is not required
35 for registered apprentices performing electrical work as part of an
36 apprenticeship program approved under this chapter, a federal
37 Office of Apprenticeship program, or a state apprenticeship
38 program authorized by the federal Office of Apprenticeship. An
39 apprentice who is within one year of completion of his or her term
40 of apprenticeship shall be permitted to take the certification

1 examination and, upon passing the examination, shall be certified
2 immediately upon completion of the term of apprenticeship.

3 (e) Notwithstanding subdivision (a), certification is not required
4 for any person employed pursuant to Section 3099.4.

5 (f) Notwithstanding subdivision (a), certification is not required
6 for a nonresidential lighting trainee (1) who is enrolled in an
7 on-the-job instructional training program approved by the Chief
8 of the Division of Apprenticeship Standards pursuant to Section
9 3090, and (2) who is under the onsite supervision of a
10 nonresidential lighting technician certified pursuant to Section
11 3099.

12 (g) Notwithstanding subdivision (a), the qualifying person for
13 a class C-10 electrical contractor license issued by the Contractors'
14 State License Board need not also be certified pursuant to Section
15 3099 to perform electrical work for that licensed contractor or to
16 supervise an uncertified person employed by that licensed
17 contractor pursuant to Section 3099.4.

18 (h) Commencing July 1, 2009, the following shall constitute
19 additional grounds for disciplinary proceedings, including
20 suspension or revocation of the license of a class C-10 electrical
21 contractor pursuant to Article 7 (commencing with Section 7090)
22 of Chapter 9 of Division 3 of the Business and Professions Code:

23 (1) The contractor willfully employs one or more uncertified
24 persons to perform work as electricians in violation of this section.

25 (2) The contractor willfully fails to provide the adequate
26 supervision of uncertified workers required by paragraph (3) of
27 subdivision (a) of Section 3099.4.

28 (3) The contractor willfully fails to provide adequate supervision
29 of apprentices performing work pursuant to subdivision (d).

30 (i) The Chief of the Division of Apprenticeship Standards shall
31 develop a process for referring cases to the Contractors' State
32 License Board when it has been determined that a violation of this
33 section has likely occurred. On or before July 1, 2009, the chief
34 shall prepare and execute a memorandum of understanding with
35 the Registrar of Contractors in furtherance of this section.

36 (j) Upon receipt of a referral by the Chief of the Division of
37 Apprenticeship Standards alleging a violation under this section,
38 the Registrar of Contractors shall open an investigation. Any
39 disciplinary action against the licensee shall be initiated within 60
40 days of the receipt of the referral. The Registrar of Contractors

1 may initiate disciplinary action against any licensee upon his or
2 her own investigation, the filing of any complaint, or any finding
3 that results from a referral from the Chief of the Division of
4 Apprenticeship Standards alleging a violation under this section.
5 Failure of the employer or employee to provide evidence of
6 certification or trainee status shall create a rebuttable presumption
7 of violation of this provision.

8 (k) For the purposes of this section, “electricians” has the same
9 meaning as the definition set forth in Section 3099.

10 SEC. 13. Section 7106 of the Public Contract Code is amended
11 to read:

12 7106. ~~Any~~ Every bid on every public works contract of a public
13 entity shall include ~~an affidavit~~ a declaration under penalty of
14 perjury under the laws of the State of California, in the following
15 form:

16
17 “NONCOLLUSION-AFFIDAVIT DECLARATION TO BE EXECUTED BY
18 BIDDER AND SUBMITTED WITH BID
19 State of California }
20 County of _____ } ss.

21
22 *The undersigned declares:*
23 _____, being first duly sworn, deposes and says that he or she
24 is _____ of _____

25 *I am the _____ of _____, the party making the foregoing bid that*
26 *the.*

27 *The bid is not made in the interest of, or on behalf of, any*
28 *undisclosed person, partnership, company, association,*
29 *organization, or corporation; that the. The bid is genuine and not*
30 *collusive or sham; that the. The bidder has not directly or indirectly*
31 *induced or solicited any other bidder to put in a false or sham bid;*
32 *and. The bidder has not directly or indirectly colluded, conspired,*
33 *connived, or agreed with any bidder or anyone else to put in a*
34 *sham bid, or that anyone shall to refrain from bidding; that the.*
35 *The bidder has not in any manner, directly or indirectly, sought*
36 *by agreement, communication, or conference with anyone to fix*
37 *the bid price of the bidder or any other bidder, or to fix any*
38 *overhead, profit, or cost element of the bid price, or of that of any*
39 *other bidder, or to secure any advantage against the public body*
40 *awarding the contract of anyone interested in the proposed contract;*

1 ~~that all.~~ All statements contained in the bid are true; ~~and, further,~~
 2 ~~that the.~~ The bidder has not, directly or indirectly, submitted his
 3 or her bid price or any breakdown thereof, or the contents thereof,
 4 or divulged information or data relative thereto, ~~or paid, and will~~
 5 ~~not pay, any fee~~ to any corporation, partnership, company,
 6 association, organization, bid depository, or to any member or
 7 agent thereof, to effectuate a collusive or sham ~~bid.”~~ bid, and has
 8 not paid, and will not pay, any person or entity for such purpose.

9 Any person executing this declaration on behalf of a bidder that
 10 is a corporation, partnership, joint venture, limited liability
 11 company, limited liability partnership, or any other entity, hereby
 12 represents that he or she has full power to execute, and does
 13 execute, this declaration on behalf of the bidder.

14 I declare under penalty of perjury under the laws of the State of
 15 California that the foregoing is true and correct and that this
 16 declaration is executed on ___[date], at ___[city], ___[state].”

17
 18 SEC. 14. No reimbursement is required by this act pursuant to
 19 Section 6 of Article XIII B of the California Constitution because
 20 the only costs that may be incurred by a local agency or school
 21 district will be incurred because this act creates a new crime or
 22 infraction, eliminates a crime or infraction, or changes the penalty
 23 for a crime or infraction, within the meaning of Section 17556 of
 24 the Government Code, or changes the definition of a crime within
 25 the meaning of Section 6 of Article XIII B of the California
 26 Constitution.