

AMENDED IN SENATE MAY 9, 2011

SENATE BILL

No. 944

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~~ and 7215 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 amended, Committee on Business, Professions and Economic Development. ~~Committee on Business, Professions and Economic Redevelopment.~~ *Business and professions.*

(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 others 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 ~~and~~ *the* 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)~~

(3) 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)~~

(4) 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 that would indicate to the public that he or she is

1 a contractor, or who causes his or her name or business name to
2 be included in a classified advertisement or directory under a
3 classification for construction or work of improvement covered
4 by this chapter is subject to the provisions of this chapter regardless
5 of whether his or her operations as a builder are otherwise
6 exempted.

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

9 7029.5. Every C-36 plumbing contractor, C-45 sign contractor,
10 and C-57 well-drilling contractor licensed under this chapter shall
11 have displayed on each side of each motor vehicle used in his or
12 her business, for which a commercial vehicle registration fee has
13 been paid pursuant to Article 3 (commencing with Section 9400)
14 of Chapter 6 of Division 3 of the Vehicle Code, his or her name,
15 permanent business address, and contractor's license number, all
16 in letters and numerals not less than 1 ½ inches high.

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

19 Failure to comply with this section constitutes a cause for
20 disciplinary action.

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

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

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

39

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

5
6 “Information about the Contractors’ State License Board (CSLB):
7 CSLB is the state consumer protection agency that licenses and
8 regulates construction contractors.

9 Contact CSLB for information about the licensed contractor you
10 are considering, including information about disclosable
11 complaints, disciplinary actions and civil judgments that are
12 reported to CSLB.

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

20 For more information:

21 Visit CSLB’s Web site at www.cslb.ca.gov

22 Call CSLB at 800-321-CSLB (2752)

23 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

24
25 (c) Failure to comply with the notice requirements set forth in
26 subdivision (a) or (b) of this section is cause for disciplinary action.

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

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

1 with the division within 90 days from the date the contractor is
2 notified of the passage of the certification examination. The board
3 may require a reexamination if the contractor fails to register within
4 90 days following issuance of the notification. Applicable test fees
5 shall be paid for any reexamination required under this section.

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

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

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

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

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

26 (a) Steps to take when contracting with a company to remove
27 asbestos.

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

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

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

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

38 7066.5. Any person may obtain blank license application forms
39 from the 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 executive officer shall keep all the records of the
4 board and discharge such other duties as the board shall, from time
5 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 board at least 10 days before the date fixed
10 for examination, and shall pay to the board at the time of filing an
11 application the sum of two hundred fifty dollars (\$250). No license
12 shall be granted until the applicant has satisfactorily completed
13 the examination prescribed by the board and has shown that he or
14 she is equipped by a school or by equivalent facilities satisfactory
15 to the board. An annual fee of one hundred dollars (\$100) shall be
16 required for the renewal of a license.

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

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

21 7215. No person shall sell, give, or furnish any guide dog or
22 seeing-eye dog to a blind person unless the following requirements
23 have been met:

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

25 (b) The dog has been spayed or neutered.

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

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

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

33 ~~12701. The following persons are not weighmasters:~~

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

37 ~~(b) Except for persons subject to Section 12730, producers of~~
38 ~~agricultural commodities or livestock, who weigh commodities~~
39 ~~produced or purchased by them or by their producer neighbors,~~
40 ~~when no charge is made for the weighing, or when no signed or~~

- 1 initialed statement or memorandum is issued of the weight upon
- 2 which a purchase or sale of the commodity is based.
- 3 (e) ~~Common carriers issuing bills of lading on which are~~
- 4 ~~recorded, for the purpose of computing transportation charges, the~~
- 5 ~~weights of commodities offered for transportation, including~~
- 6 ~~carriers of household goods when transporting shipments weighing~~
- 7 ~~less than 1,000 pounds.~~
- 8 (d) ~~Milk samplers and weighers licensed pursuant to Article 8~~
- 9 ~~(commencing with Section 35161) of Chapter 12 of Part 1 of~~
- 10 ~~Division 15 of the Food and Agricultural Code, when performing~~
- 11 ~~the duties for which they are licensed.~~
- 12 (e) ~~Persons who measure the amount of oil, gas, or other fuels~~
- 13 ~~for purposes of royalty computation and payment, or other~~
- 14 ~~operations of fuel and oil companies and their retail outlets.~~
- 15 (f) ~~Newspaper publishers weighing or counting newspapers for~~
- 16 ~~sale to dealers or distributors.~~
- 17 (g) ~~Textile maintenance establishments weighing, counting, or~~
- 18 ~~measuring any articles in connection with the business of those~~
- 19 ~~establishments.~~
- 20 (h) ~~County sanitation districts operating pursuant to Chapter 3~~
- 21 ~~(commencing with Section 4700) of Part 3 of Division 5 of the~~
- 22 ~~Health and Safety Code, garbage and refuse disposal districts~~
- 23 ~~operating pursuant to Chapter 2 (commencing with Section 49100)~~
- 24 ~~of Part 8 of Division 30 of the Public Resources Code, and solid~~
- 25 ~~waste facilities, as defined in Section 40194 of the Public~~
- 26 ~~Resources Code.~~
- 27 (i) ~~Persons who purchase scrap metal or salvage materials~~
- 28 ~~pursuant to a nonprofit recycling program, or recycling centers~~
- 29 ~~certified pursuant to Division 12.1 (commencing with Section~~
- 30 ~~14500) of the Public Resources Code that purchase empty beverage~~
- 31 ~~containers from the public for recycling.~~
- 32 (j) ~~Pest control operators licensed pursuant to Chapter 4~~
- 33 ~~(commencing with Section 11701) of Division 6 of the Food and~~
- 34 ~~Agricultural Code.~~
- 35 (k) ~~Retailers, or recycling centers established solely for the~~
- 36 ~~redemption of empty beverage containers, as that phrase is defined~~
- 37 ~~in Section 14512 of the Public Resources Code, who are weighing,~~
- 38 ~~measuring, or counting salvage or returnable materials for purchase~~
- 39 ~~or redemption by them in retail stores, or, in the case of recycling~~
- 40 ~~centers, on the retail store premises or on a parking lot immediately~~

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

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

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

14 ~~SEC. 11.~~

15 *SEC. 10.* Section 9148.8 of the Government Code is amended
16 to read:

17 9148.8. The appropriate policy committee shall evaluate a plan
18 prepared pursuant to Section 9148.4 or 9148.6.

19 ~~SEC. 12.~~

20 *SEC. 11.* Section 3099.2 of the Labor Code is amended to read:

21 3099.2. (a) (1) Persons who perform work as electricians shall
22 become certified pursuant to Section 3099 by the deadline specified
23 in this subdivision. After the applicable deadline, uncertified
24 persons shall not perform electrical work for which certification
25 is required.

26 (2) The deadline for certification as a general electrician or
27 fire/life safety technician is January 1, 2006, except that persons
28 who applied for certification prior to January 1, 2006, have until
29 January 1, 2007, to pass the certification examination. The deadline
30 for certification as a residential electrician is January 1, 2007, and
31 the deadline for certification as a voice data video technician or a
32 nonresidential lighting technician is January 1, 2008. The California
33 Apprenticeship Council may extend the certification date for any
34 of these three categories of electricians up to January 1, 2009, if
35 the council concludes that the existing deadline will not provide
36 persons sufficient time to obtain certification, enroll in an
37 apprenticeship or training program, or register pursuant to Section
38 3099.4.

39 (3) For purposes of any continuing education or recertification
40 requirement, individuals who become certified prior to the deadline

1 for certification shall be treated as having become certified on the
2 first anniversary of their certification date that falls after the
3 certification deadline.

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

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

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

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

28 (d) Notwithstanding subdivision (a), certification is not required
29 for registered apprentices performing electrical work as part of an
30 apprenticeship program approved under this chapter, a federal
31 Office of Apprenticeship program, or a state apprenticeship
32 program authorized by the federal Office of Apprenticeship. An
33 apprentice who is within one year of completion of his or her term
34 of apprenticeship shall be permitted to take the certification
35 examination and, upon passing the examination, shall be certified
36 immediately upon completion of the term of apprenticeship.

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

39 (f) Notwithstanding subdivision (a), certification is not required
40 for a nonresidential lighting trainee (1) who is enrolled in an

1 on-the-job instructional training program approved by the Chief
2 of the Division of Apprenticeship Standards pursuant to Section
3 3090, and (2) who is under the onsite supervision of a
4 nonresidential lighting technician certified pursuant to Section
5 3099.

6 (g) Notwithstanding subdivision (a), the qualifying person for
7 a class C-10 electrical contractor license issued by the Contractors'
8 State License Board need not also be certified pursuant to Section
9 3099 to perform electrical work for that licensed contractor or to
10 supervise an uncertified person employed by that licensed
11 contractor pursuant to Section 3099.4.

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

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

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

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

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

30 (j) Upon receipt of a referral by the Chief of the Division of
31 Apprenticeship Standards alleging a violation under this section,
32 the Registrar of Contractors shall open an investigation. Any
33 disciplinary action against the licensee shall be initiated within 60
34 days of the receipt of the referral. The Registrar of Contractors
35 may initiate disciplinary action against any licensee upon his or
36 her own investigation, the filing of any complaint, or any finding
37 that results from a referral from the Chief of the Division of
38 Apprenticeship Standards alleging a violation under this section.
39 Failure of the employer or employee to provide evidence of

1 certification or trainee status shall create a rebuttable presumption
2 of violation of this provision.

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

5 ~~SEC. 13.~~

6 *SEC. 12.* Section 7106 of the Public Contract Code is amended
7 to read:

8 7106. Every bid on every public works contract of a public
9 entity shall include a declaration under penalty of perjury under
10 the laws of the State of California, in the following form:

11
12 “NONCOLLUSION DECLARATION TO BE EXECUTED BY
13 BIDDER AND SUBMITTED WITH BID
14
15
16

17 The undersigned declares:

18 I am the ____ of ____, the party making the foregoing bid.

19 The bid is not made in the interest of, or on behalf of, any
20 undisclosed person, partnership, company, association,
21 organization, or corporation. The bid is genuine and not collusive
22 or sham. The bidder has not directly or indirectly induced or
23 solicited any other bidder to put in a false or sham bid. The bidder
24 has not directly or indirectly colluded, conspired, connived, or
25 agreed with any bidder or anyone else to put in a sham bid, or to
26 refrain from bidding. The bidder has not in any manner, directly
27 or indirectly, sought by agreement, communication, or conference
28 with anyone to fix the bid price of the bidder or any other bidder,
29 or to fix any overhead, profit, or cost element of the bid price, or
30 of that of any other bidder. All statements contained in the bid are
31 true. The bidder has not, directly or indirectly, submitted his or
32 her bid price or any breakdown thereof, or the contents thereof, or
33 divulged information or data relative thereto, to any corporation,
34 partnership, company, association, organization, bid depository,
35 or to any member or agent thereof, to effectuate a collusive or
36 sham bid, and has not paid, and will not pay, any person or entity
37 for such purpose.

38 Any person executing this declaration on behalf of a bidder that
39 is a corporation, partnership, joint venture, limited liability
40 company, limited liability partnership, or any other entity, hereby

1 represents that he or she has full power to execute, and does
2 execute, this declaration on behalf of the bidder.

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

6

7 ~~SEC. 14.~~

8 *SEC. 13.* No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

O