

AMENDED IN SENATE MARCH 19, 2013

SENATE BILL

No. 152

Introduced by Senator Roth

January 31, 2013

An act to amend Sections 6775, 6799, and 7860 of, to add Section 7839.2 to, and to repeal Sections 6760, 7848, and 7848.1 of, the Business and Professions Code, relating to geologists and geophysicists professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 152, as amended, Roth. ~~Geologists and geophysicists: written contracts.~~ Licensed professionals: engineers: geologists: geophysicists.

Existing law, the Professional Engineers Act, generally regulates the practice of persons engaged in the practice of engineering. The act provides for a temporary authorization to practice engineering, as specified.

This bill would delete the provisions allowing for a temporary authorization to practice as an engineer and would make additional conforming changes.

Existing law, the Geologist and Geophysicist Act, generally regulates the practice of persons engaged in the practice of geology and persons engaged in the practice of geophysics. Violations of the act are a misdemeanor. The act provides for a temporary authorization to practice as a geologist or geophysicist, as specified.

This bill would, subject to exceptions, require geologists and geophysicists to use a written contract when contracting to provide geological or geophysical services to a client, as specified. The bill would specify certain information to be included in the contract. The bill would delete the provisions allowing for temporary authorizations

to practice as a geologist or geophysicist and would make additional conforming changes.

By imposing requirements on geologists and geophysicists, the violation of which is a 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 6760 of the Business and Professions
 2 Code is repealed.
 3 ~~6760. A temporary authorization to practice engineering in a~~
 4 ~~branch defined by this chapter may be granted for a specific project,~~
 5 ~~upon application and payment of the fee prescribed in Section~~
 6 ~~6799, for a period not to exceed 180 consecutive days, if the~~
 7 ~~applicant complies with all of the following:~~
 8 ~~(a) The applicant maintains no place of business in this state.~~
 9 ~~(b) The applicant is legally qualified to practice the branch of~~
 10 ~~engineering in which he or she is seeking the temporary~~
 11 ~~authorization in the state or country where he or she maintains a~~
 12 ~~place of business.~~
 13 ~~(c) (1) The applicant, if applying for a temporary authorization~~
 14 ~~to practice civil engineering, demonstrates by means of an~~
 15 ~~individual appearance before the board satisfactory evidence of~~
 16 ~~his or her knowledge of the application of seismic forces in the~~
 17 ~~design of structures or adequate knowledge in any of the other~~
 18 ~~phases of civil engineering as related to the specific project for~~
 19 ~~which the temporary authorization is requested.~~
 20 ~~(2) The applicant, if applying for a temporary authorization to~~
 21 ~~practice engineering in a branch defined by this chapter other than~~
 22 ~~civil engineering, demonstrates by means of an individual~~
 23 ~~appearance before the board, satisfactory evidence of his or her~~
 24 ~~knowledge in the branch of professional engineering in which the~~
 25 ~~applicant proposes to practice under the temporary authorization~~

1 as related to the specific project for which the temporary
2 authorization is requested.

3 (d) ~~The applicant takes and passes the examination in the state
4 laws and board rules described in Section 6755.1.~~

5 (e) ~~The applicant notifies the board in writing of his or her
6 intention to practice, stating the approximate date he or she intends
7 to commence the specific project and the approximate duration of
8 the specific project, which shall not exceed 180 consecutive days
9 from the commencement date of the specific project.~~

10 ~~Upon completion of the requirements, the executive officer, on
11 the direction of the board, shall issue a temporary authorization to
12 the applicant.~~

13 *SEC. 2. Section 6775 of the Business and Professions Code is
14 amended to read:*

15 6775. The board may, upon its own initiative or upon the
16 receipt of a complaint, investigate the actions of any professional
17 engineer licensed under this chapter ~~or any person granted
18 temporary authorization pursuant to Section 6760~~ and make
19 findings thereon.

20 By a majority vote, the board may publicly reprove, suspend for
21 a period not to exceed two years, or revoke the certificate of any
22 professional engineer licensed under this chapter ~~or may revoke
23 the temporary authorization granted to any person pursuant to
24 Section 6760~~ on any of the following grounds:

25 (a) Any conviction of a crime substantially related to the
26 qualifications, functions, and duties of a licensed professional
27 engineer, in which case the certified record of conviction shall be
28 conclusive evidence thereof.

29 (b) Any deceit, misrepresentation, or fraud in his or her practice.

30 (c) Any negligence or incompetence in his or her practice.

31 (d) A breach or violation of a contract to provide professional
32 engineering services.

33 (e) Any fraud, deceit, or misrepresentation in obtaining his or
34 her certificate as a professional engineer or in obtaining a
35 temporary authorization pursuant to Section 6760.

36 (f) Aiding or abetting any person in the violation of any
37 provision of this chapter or any regulation adopted by the board
38 pursuant to this chapter.

1 (g) A violation in the course of the practice of professional
2 engineering of a rule or regulation of unprofessional conduct
3 adopted by the board.

4 (h) A violation of any provision of this chapter or any other law
5 relating to or involving the practice of professional engineering.

6 *SEC. 3. Section 6799 of the Business and Professions Code is*
7 *amended to read:*

8 6799. (a) The amount of the fees prescribed by this chapter
9 shall be fixed by the board in accordance with the following
10 schedule:

11 (a)

12 (1) The fee for filing each application for licensure as a
13 professional engineer and each application for authority level
14 designation at not more than four hundred dollars (\$400) and for
15 each application for certification as an engineer-in-training at not
16 more than one hundred dollars (\$100).

17 (b)

18 (2) The fee to take an examination administered by a public or
19 private organization pursuant to Section 6754 shall be no greater
20 than the actual cost of the development and administration of the
21 examination and may be paid directly to the organization by the
22 applicant.

23 ~~(c) The temporary authorization fee for a professional engineer~~
24 ~~at not more than 25 percent of the application fee in effect on the~~
25 ~~date of application.~~

26 (d)

27 (3) The renewal fee for each branch of professional engineering
28 in which licensure is held, and the renewal fee for each authority
29 level designation held, at no more than the professional engineer
30 application fee currently in effect.

31 (e)

32 (4) The fee for a retired license at not more than 50 percent of
33 the professional engineer application fee in effect on the date of
34 application.

35 (f)

36 (5) The delinquency fee at not more than 50 percent of the
37 renewal fee in effect on the date of reinstatement.

38 (g)

39 (6) The board shall establish by regulation an appeal fee for
40 examination. The regulation shall include provisions for an

1 applicant to be reimbursed the appeal fee if the appeal results in
2 passage of examination. The fee charged shall be no more than
3 the costs incurred by the board.

4 ~~(h)~~

5 (7) All other document fees are to be set by the board by rule.

6 ~~Applicants~~

7 (b) *Applicants* wishing to be examined in more than one branch
8 of engineering shall be required to pay the additional fee for each
9 examination after the first.

10 ~~SECTION 4.~~

11 *SEC. 4.* Section 7839.2 is added to the Business and Professions
12 Code, to read:

13 7839.2. (a) A geologist or geophysicist shall use a written
14 contract when contracting to provide geological or geophysical
15 services to a client pursuant to this chapter. The written contract
16 shall be executed by the geologist or geophysicist and the client
17 or the client's representative prior to the geologist or geophysicist
18 commencing work, unless the client states in writing that work
19 may be commenced before the contract is executed. The written
20 contract shall include, but is not limited to, all of the following:

21 (1) A description of the services to be provided to the client by
22 the geologist or geophysicist.

23 (2) A description of any basis of compensation applicable to
24 the contract, and the method of payment agreed upon by the parties.

25 (3) The name, address, and license or certificate number of the
26 geologist or geophysicist, and the name and address of the client.

27 (4) A description of the procedure that the geologist or
28 geophysicist and the client will use to accommodate additional
29 services.

30 (5) A description of the procedure to be used by any party to
31 terminate the contract.

32 (b) Subdivision (a) shall not apply to any of the following:

33 (1) Geologic or geophysical services rendered by a geologist
34 or geophysicist for which the client will not pay compensation.

35 (2) A geologist or geophysicist who has a current or prior
36 contractual relationship with the client to provide geologic or
37 geophysical services, and who has already been paid the fees that
38 are due under the contract by the client.

1 (3) If the client executes a waiver in writing after full disclosure
 2 of this section that a contract that complies with the requirements
 3 of this section is not required.

4 (4) Geological or geophysical services rendered by a geologist
 5 or geophysicist to any of the following:

6 (A) A geologist or geophysicist licensed under this chapter.

7 (B) An engineer licensed under Chapter 7 (commencing with
 8 Section 6700).

9 (C) A land surveyor licensed under Chapter 15 (commencing
 10 with Section 8700).

11 (D) An architect licensed under Chapter 3 (commencing with
 12 Section 5500).

13 (E) A contractor licensed under Chapter 9 (commencing with
 14 Section 7000).

15 (F) A public agency.

16 (c) As used in this section, “written contract” includes a contract
 17 in electronic form.

18 *SEC. 5. Section 7848 of the Business and Professions Code is*
 19 *repealed.*

20 ~~7848. A temporary authorization for the practice of geology~~
 21 ~~or a certified specialty geology, or both geology and a certified~~
 22 ~~specialty geology, may be granted, for a specific project, upon~~
 23 ~~application and payment of the fee prescribed in Section 7887 for~~
 24 ~~a period not to exceed 60 consecutive days in any calendar year~~
 25 ~~if the applicant complies with all of the following:~~

26 ~~(a) The applicant maintains no office for the practice of geology~~
 27 ~~or a certified specialty geology, or both geology and a certified~~
 28 ~~specialty geology, other than for the authorized project, in this~~
 29 ~~state.~~

30 ~~(b) The applicant is qualified to practice geology or a certified~~
 31 ~~specialty geology, or both geology and a certified specialty geology~~
 32 ~~for others, and is not legally prohibited from so doing, in the state~~
 33 ~~or country where he or she maintains an office for that practice.~~

34 ~~(c) The applicant demonstrates by means of an individual~~
 35 ~~appearance before the board, or before a committee appointed by~~
 36 ~~the board for that purpose, satisfactory evidence of adequate~~
 37 ~~knowledge in that phase of geology for which the applicant~~
 38 ~~proposes to practice under the temporary authorization.~~

39 ~~If the applicant can satisfy the board that the completion of the~~
 40 ~~specific project for which the authorization is granted will require~~

1 more than 60 consecutive calendar days, the board may extend the
2 authorization to a period not to exceed a total of 120 days.

3 Upon completion of these requirements as necessary, the
4 executive officer on direction of the board shall issue a temporary
5 authorization to the applicant.

6 *SEC. 6. Section 7848.1 of the Business and Professions Code*
7 *is repealed.*

8 7848.1.—A temporary authorization for the practice of
9 geophysics or a certified specialty geophysics, or both geophysics
10 and a certified specialty geophysics, may be granted, for a specific
11 project, upon application and payment of the fee prescribed in
12 Section 7887 for a period not to exceed 60 consecutive days in
13 any calendar year if the applicant complies with all of the
14 following:

15 (a) The applicant maintains no office for the practice of
16 geophysics or a certified specialty geophysics, or both geophysics
17 and a certified specialty geophysics, other than for the authorized
18 project, in this state.

19 (b) The applicant is qualified to practice geophysics or a certified
20 specialty geophysics, or both geophysics and a certified specialty
21 geophysics for others, and is not legally prohibited from so doing,
22 in the state or country where he or she maintains an office for that
23 practice.

24 (c) The applicant demonstrates by means of an individual
25 appearance before the board, or before a committee appointed by
26 the board for that purpose, satisfactory evidence or adequate
27 knowledge in that phase of geophysics for which the applicant
28 proposes to practice under the temporary authorization.

29 If the applicant can satisfy the board that the completion of the
30 specific project for which the authorization is granted will require
31 more than 60 consecutive calendar days, the board may extend the
32 authorization to a period not to exceed a total of 120 days.

33 Upon completion of these requirements as necessary, the
34 executive officer on direction of the board shall issue a temporary
35 authorization to the applicant.

36 *SEC. 7. Section 7860 of the Business and Professions Code is*
37 *amended to read:*

38 7860. (a) The board may, upon its own initiative or upon the
39 receipt of a complaint, investigate the actions of any professional

1 geologist, geophysicist, or person granted temporary authorizations
 2 pursuant to Sections 7848 and 7848.1, and make findings thereon.

3 (b) By a majority vote, the board may publicly reprove, suspend
 4 for a period not to exceed two years, or revoke the certificate of
 5 any geologist or geophysicist registered hereunder, ~~or may publicly~~
 6 ~~reprove or revoke the temporary authorization granted to any~~
 7 ~~person pursuant to Section 7848 or 7848.1~~, on any of the following
 8 grounds:

9 (1) Conviction of a crime substantially related to the
 10 qualifications, functions, or duties of a geologist or geophysicist.

11 (2) Misrepresentation, fraud, or deceit by a geologist or
 12 geophysicist in his or her practice.

13 (3) Negligence or incompetence by a geologist or geophysicist
 14 in his or her practice.

15 (4) Violation of any contract undertaken in the capacity of a
 16 geologist or geophysicist.

17 (5) Fraud or deceit in obtaining a certificate to practice as a
 18 geologist or geophysicist, or in obtaining a temporary authorization
 19 to practice pursuant to Section 7848 or 7848.1.

20 (c) By a majority vote, the board may publicly reprove, suspend
 21 for a period not to exceed two years, or may revoke the certificate
 22 of any geologist or geophysicist registered under this chapter, ~~or~~
 23 ~~may publicly reprove or revoke the temporary authorization granted~~
 24 ~~to any person pursuant to Section 7848 or 7848.1~~, for
 25 unprofessional conduct. Unprofessional conduct includes, but is
 26 not limited to, any of the following:

27 (1) Aiding or abetting any person in a violation of this chapter
 28 or any regulation adopted by the board pursuant to this chapter.

29 (2) Violating this chapter or any regulation adopted by the board
 30 pursuant to this chapter.

31 (3) Conduct in the course of practice as a geologist or
 32 geophysicist that violates professional standards adopted by the
 33 board.

34 ~~SEC. 2.~~

35 *SEC. 8.* No reimbursement is required by this act pursuant to
 36 Section 6 of Article XIII B of the California Constitution because
 37 the only costs that may be incurred by a local agency or school
 38 district will be incurred because this act creates a new crime or
 39 infraction, eliminates a crime or infraction, or changes the penalty
 40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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