

AMENDED IN ASSEMBLY AUGUST 8, 2013

AMENDED IN SENATE APRIL 8, 2013

AMENDED IN SENATE MARCH 19, 2013

SENATE BILL

No. 152

Introduced by Senator Roth

January 31, 2013

An act to amend Sections 6775, 6799, 7860, and 7887 of, to add Section 7839.2 to, and to repeal Sections 6760, 7848, and 7848.1 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 152, as amended, Roth. 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.

This bill would incorporate changes to Section 7887 of the Business and Professions Code proposed by SB 822 that would become operative if this bill and SB 822 are both chaptered and this bill is chaptered last.

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 SEC. 2. Section 6775 of the Business and Professions Code is
- 4 amended to read:
- 5 6775. The board may, upon its own initiative or upon the
- 6 receipt of a complaint, investigate the actions of any professional
- 7 engineer licensed under this chapter and make findings thereon.
- 8 By a majority vote, the board may publicly reprove, suspend for
- 9 a period not to exceed two years, or revoke the certificate of any
- 10 professional engineer licensed under this chapter on any of the
- 11 following grounds:
- 12 (a) Any conviction of a crime substantially related to the
- 13 qualifications, functions, and duties of a licensed professional
- 14 engineer, in which case the certified record of conviction shall be
- 15 conclusive evidence thereof.
- 16 (b) Any deceit, misrepresentation, or fraud in his or her practice.
- 17 (c) Any negligence or incompetence in his or her practice.
- 18 (d) A breach or violation of a contract to provide professional
- 19 engineering services.

1 (e) Any fraud, deceit, or misrepresentation in obtaining his or
2 her certificate as a professional engineer.

3 (f) Aiding or abetting any person in the violation of any
4 provision of this chapter or any regulation adopted by the board
5 pursuant to this chapter.

6 (g) A violation in the course of the practice of professional
7 engineering of a rule or regulation of unprofessional conduct
8 adopted by the board.

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

11 SEC. 3. Section 6799 of the Business and Professions Code is
12 amended to read:

13 6799. (a) The amount of the fees prescribed by this chapter
14 shall be fixed by the board in accordance with the following
15 schedule:

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

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

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

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

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

35 (6) The board shall establish by regulation an appeal fee for
36 examination. The regulation shall include provisions for an
37 applicant to be reimbursed the appeal fee if the appeal results in
38 passage of examination. The fee charged shall be no more than
39 the costs incurred by the board.

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

1 (b) Applicants wishing to be examined in more than one branch
2 of engineering shall be required to pay the additional fee for each
3 examination after the first.

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

6 7839.2. (a) A geologist or geophysicist shall use a written
7 contract when contracting to provide geological or geophysical
8 services to a client pursuant to this chapter. The written contract
9 shall be executed by the geologist or geophysicist and the client
10 or the client's representative prior to the geologist or geophysicist
11 commencing work, unless the client states in writing that work
12 may be commenced before the contract is executed. The written
13 contract shall include, but is not limited to, all of the following:

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

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

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

20 (4) A description of the procedure that the geologist or
21 geophysicist and the client will use to accommodate additional
22 services.

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

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

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

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

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

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

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

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

1 (C) A land surveyor licensed under Chapter 15 (commencing
2 with Section 8700).

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

5 (E) A contractor licensed under Chapter 9 (commencing with
6 Section 7000).

7 (F) A public agency.

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

10 SEC. 5. Section 7848 of the Business and Professions Code is
11 repealed.

12 SEC. 6. Section 7848.1 of the Business and Professions Code
13 is repealed.

14 SEC. 7. Section 7860 of the Business and Professions Code is
15 amended to read:

16 7860. (a) The board may, upon its own initiative or upon the
17 receipt of a complaint, investigate the actions of any professional
18 geologist, geophysicist, and make findings thereon.

19 (b) By a majority vote, the board may publicly reprove, suspend
20 for a period not to exceed two years, or revoke the certificate of
21 any geologist or geophysicist registered hereunder, on any of the
22 following grounds:

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

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

27 (3) Negligence or incompetence by a geologist or geophysicist
28 in his or her practice.

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

31 (5) Fraud or deceit in obtaining a certificate to practice as a
32 geologist or geophysicist.

33 (c) By a majority vote, the board may publicly reprove, suspend
34 for a period not to exceed two years, or may revoke the certificate
35 of any geologist or geophysicist registered under this chapter, for
36 unprofessional conduct. Unprofessional conduct includes, but is
37 not limited to, any of the following:

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

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

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

6 SEC. 8. Section 7887 of the Business and Professions Code is
7 amended to read:

8 7887. The amount of the fees prescribed by this chapter shall
9 be fixed by the board in accordance with the following schedule:

10 (a) The fee for filing each application for registration as a
11 geologist or a geophysicist or certification as a specialty geologist
12 or a specialty geophysicist and for administration of the
13 examination at not more than two hundred and fifty dollars (\$250).

14 (b) The registration fee for a geologist or for a geophysicist and
15 the fee for the certification in a specialty shall be fixed at an amount
16 equal to the renewal fee in effect on the last regular renewal date
17 before the date on which the certificate is issued, except that, with
18 respect to certificates that will expire less than one year after
19 issuance, the fee shall be fixed at an amount equal to 50 percent
20 of the renewal fee in effect on the last regular renewal date before
21 the date on which the certificate is issued. The board may, by
22 appropriate regulation, provide for the waiver or refund of the
23 initial certificate fee where the certificate is issued less than 45
24 days before the date on which it will expire.

25 (c) The duplicate certificate fee at not more than six dollars
26 (\$6).

27 (d) The renewal fee for a geologist or for a geophysicist shall
28 be fixed by the board at not more than four hundred dollars (\$400).

29 (e) The renewal fee for a specialty geologist or for a specialty
30 geophysicist at not more than one hundred dollars (\$100).

31 (f) Notwithstanding Section 163.5, the delinquency fee for a
32 certificate is an amount equal to 50 percent of the renewal fee in
33 effect on the last regular renewal date.

34 (g) Each applicant for registration as a geologist shall pay an
35 examination fee fixed by the board at an amount equal to the actual
36 cost to the board to administer the examination described in
37 subdivision (d) of Section 7841.

38 (h) Each applicant for registration as a geophysicist or
39 certification as an engineering geologist or certification as a
40 hydrogeologist shall pay an examination fee fixed by the board at

1 an amount equal to the actual cost to the board for the development
2 and maintenance of the written examination, and shall not exceed
3 one hundred dollars (\$100).

4 *SEC. 8.5. Section 7887 of the Business and Professions Code*
5 *is amended to read:*

6 7887. The amount of the fees prescribed by this chapter shall
7 be fixed by the board in accordance with the following schedule:

8 (a) The fee for filing each application for ~~registration~~ *licensure*
9 as a geologist or a geophysicist or certification as a specialty
10 geologist or a specialty geophysicist and for administration of the
11 examination *shall be fixed* at not more than two hundred ~~and~~ fifty
12 dollars (\$250).

13 (b) The ~~registration~~ *license* fee for a geologist or for a
14 geophysicist and the fee for the certification in a specialty shall be
15 fixed at an amount equal to the renewal fee in effect on the last
16 regular renewal date before the date on which the certificate is
17 issued, except that, with respect to certificates that will expire less
18 than one year after issuance, the fee shall be fixed at an amount
19 equal to 50 percent of the renewal fee in effect on the last regular
20 renewal date before the date on which the certificate is issued. The
21 board may, by appropriate regulation, provide for the waiver or
22 refund of the initial certificate fee where the certificate is issued
23 less than 45 days before the date on which it will expire.

24 (c) The duplicate certificate fee *shall be fixed* at not more than
25 six dollars (\$6).

26 ~~(d) The temporary registration fee for a geologist or for a~~
27 ~~geophysicist at not more than eighty dollars (\$80).~~

28 ~~(e)~~

29 (d) The renewal fee for a geologist or for a geophysicist shall
30 be fixed ~~by the board~~ at not more than four hundred dollars (\$400).

31 ~~(f)~~

32 (e) The renewal fee for a specialty geologist or for a specialty
33 geophysicist *shall be fixed* at not more than one hundred dollars
34 (\$100).

35 ~~(g)~~

36 (f) Notwithstanding Section 163.5, the delinquency fee for a
37 certificate is an amount equal to 50 percent of the renewal fee in
38 effect on the last regular renewal date.

39 ~~(h)~~

1 (g) Each applicant for ~~registration~~ licensure as a geologist shall
2 pay an examination fee fixed by the board at an amount equal to
3 the actual cost to the board to administer the examination described
4 in subdivision (d) of Section 7841.

5 (i)

6 (h) Each applicant for ~~registration~~ licensure as a geophysicist
7 or certification as an engineering geologist or certification as a
8 hydrogeologist shall pay an examination fee fixed by the board at
9 an amount equal to the actual cost to the board for the development
10 and maintenance of the written examination, and shall not exceed
11 one hundred dollars (\$100).

12 (i) *The fee for a retired license shall be fixed at not more than*
13 *50 percent of the fee for filing an application for licensure as a*
14 *geologist or a geophysicist in effect on the date of application for*
15 *a retired license.*

16 *SEC. 9. Section 8.5 of this bill incorporates amendments to*
17 *Section 7887 of the Business and Professions Code proposed by*
18 *both this bill and Senate Bill 822. It shall only become operative*
19 *if (1) both bills are enacted and become effective on or before*
20 *January 1, 2014, (2) each bill amends Section 7887 of the Business*
21 *and Professions Code, and (3) this bill is enacted after Senate Bill*
22 *822, in which case Section 8 of this bill shall not become operative.*

23 ~~SEC. 9.~~

24 *SEC. 10. No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*

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