

Senate Bill No. 152

CHAPTER 178

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.

[Approved by Governor August 27, 2013. Filed with
Secretary of State August 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 152, 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.

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

SECTION 1. Section 6760 of the Business and Professions Code is repealed.

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

6775. The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional engineer licensed under this chapter and make findings thereon.

By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional engineer licensed under this chapter on any of the following grounds:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) A public agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The registration fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates that

will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 10. 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.