

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 262

Introduced by Senator Monning
(Principal coauthor: Assembly Member Achadjian)

February 13, 2013

An act to amend Section 7068.1 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 262, as amended, Monning. Contractors.

The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law authorizes an applicant for a license to qualify the applicant's knowledge and experience with a responsible managing officer, employee, member, or manager who has certain qualifications. The person qualifying on behalf of an individual or firm is responsible for exercising direct supervision and control of his or her employer's or principal's construction operations as necessary to secure full compliance with the Contractors' State License Law and the regulations of the Contractors' State License Board relating to construction operations.

~~This bill would provide that failure of~~ *require* the qualifying individual to ~~exercise direct supervision and control in accordance with these provisions and the regulations adopted by the board shall constitute~~ *meet specified requirements with respect to his or her employer's or principal's construction operations. The bill would also make violation of these provisions* grounds for disciplinary action, and ~~shall be~~ punishable as a misdemeanor. By creating a new crime, the 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 7068.1 of the Business and Professions
2 Code is amended to read:

3 7068.1. (a) The person qualifying on behalf of an individual
4 or firm under paragraph (1), (2), (3), or (4) of subdivision (b) of
5 Section 7068 shall be responsible for ~~exercising that direct~~
6 ~~supervision and control of his or her employer's or principal's~~
7 ~~construction operations as is necessary to secure full compliance~~
8 ~~with this chapter and the rules and regulations of the board relating~~
9 ~~to the construction operations. This person shall not act in the~~
10 ~~capacity of the qualifying person for an additional individual or~~
11 ~~firm unless one of the following conditions exists: meeting the~~
12 ~~requirements of Section 823 of Title 16 of the California Code of~~
13 ~~Regulations with respect to his or her employer's or principal's~~
14 ~~construction operations to secure full compliance with this chapter.~~
15 ~~Violation of this section shall constitute a cause for disciplinary~~
16 ~~action and shall be punishable as a misdemeanor by imprisonment~~
17 ~~in county jail, by a fine of not less than three thousand dollars~~
18 ~~(\$3,000), but not to exceed five thousand dollars (\$5,000), or by~~
19 ~~both the fine and imprisonment.~~

20 (1) There is a common ownership of at least 20 percent of the
21 equity of each individual or firm for which the person acts in a
22 qualifying capacity.

23 (2) The additional firm is a subsidiary of or a joint venture with
24 the first. "Subsidiary," as used in this subdivision, means any firm
25 at least 20 percent of the equity of which is owned by the other
26 firm.

27 (3) With respect to a firm under paragraph (2), (3), or (4) of
28 subdivision (b) of Section 7068, the majority of the partners,
29 officers, or managers are the same.

1 (b) Notwithstanding paragraphs (1) to (3), inclusive, of
2 subdivision (a), a qualifying individual may act as the qualifier for
3 no more than three firms in any one-year period.

4 (c) The following definitions shall apply for purposes of this
5 section:

6 (1) “Firm” means a partnership, a limited partnership, a
7 corporation, a limited liability company, or any other combination
8 or organization described in Section 7068.

9 (2) “Person” is limited to natural persons, notwithstanding the
10 definition of “person” in Section 7025.

11 (d) The board shall require every applicant or licensee qualifying
12 by the appearance of a qualifying individual to submit detailed
13 information on the qualifying individual’s duties and
14 responsibilities for supervision and control of the applicant’s
15 construction operations. ~~The failure of the qualifying individual
16 to exercise direct supervision and control in accordance with this
17 section and the regulations adopted by the board shall constitute
18 grounds for disciplinary action, and shall be punishable as a
19 misdemeanor by imprisonment in a county jail, by a fine of not
20 less than three thousand dollars (\$3,000), but not to exceed five
21 thousand dollars (\$5,000), or by both that imprisonment and fine.~~

22 SEC. 2. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.