

AMENDED IN ASSEMBLY AUGUST 15, 2016

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AMENDED IN ASSEMBLY JUNE 23, 2016

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AMENDED IN ASSEMBLY JULY 8, 2015

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AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 465

Introduced by Senators Hill and Hancock

February 25, 2015

An act to add Sections 7021 and 7071.18 to the Business and Professions Code, and to add Section 18924.5 to the Health and Safety Code, relating to building construction.

LEGISLATIVE COUNSEL'S DIGEST

SB 465, as amended, Hill. Building construction: contractors: discipline: reporting: building standards.

(1) Existing law, the Contractors' State License Law, provides for the licensure, regulation, and discipline of contractors by the Contractors' State License Board. Existing law requires the board, with the approval of the Director of Consumer Affairs, to appoint a registrar of contractors to serve as the executive officer and secretary of the board. Under existing law, protection of the public is required to be the highest priority for the Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions.

Under existing law, the Division of Occupational Safety and Health has the power, jurisdiction, and supervision over every employment and place of employment in this state, which is necessary to adequately enforce and administer all laws and lawful standards and orders, or special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment.

This bill, by January 1, 2018, would require the board to enter into an interagency agreement with the Division of Occupational Safety and Health to ensure that specified disciplinary information relating to a contractor is timely reported to the board. The bill, by January 1, 2018, would also require the board to enter into an interagency agreement with any other state or local agency the board deems to be in possession of information relevant to its priority to protect the public. By requiring a local agency to enter into an interagency agreement with the board, the bill would impose a state-mandated local program.

This bill would require a licensee to report to the registrar within 90 days of the date that the licensee has knowledge of the conviction of the licensee for any felony or any other crime substantially related to the qualifications, functions, and duties of a licensed contractor.

~~By January 1, 2018, this~~ *This bill would require the board to consult with licensees and consumers in order to prepare a study of judgments, arbitration awards, and settlements that were the result of claims for construction defects for rental residential units and, by January 1, 2018, report to the Legislature the results of a the study to determine if the board's ability to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards against them, awards, or settlement payments of claims for construction defects they have made in excess of a certain amount to be determined by the board, as provided. The bill would require the board to consult with licensees, insurers, consumers, and other interested parties during the development of the study. those claims. This bill would specify that participation in the study by licensees and consumers is voluntary.* The bill would require records or documents obtained by the board during the course of implementing this study that are exempt from public disclosure to remain exempt from disclosure.

(2) Under existing law, there exists the California Building Standards Commission. Existing law requires the California Building Standards Commission to, among other things, review the standards of adopting state agencies and approve, return for amendment with recommended

changes, or reject building standards submitted to the commission for its approval, as provided.

This bill would require the California Building Standards Commission to convene a specified working group to investigate existing building standards associated with the construction, inspection, and maintenance of exterior elevated elements. By January 1, 2018, the bill would require the working group to report to the California Building Standards Commission any findings and possible recommendations for statutory changes or changes to the California Building Standards Code. By January 1, 2018, the bill would also require the working group to provide that report to a specified legislative committee. However, if, at any time, it is determined by the working group that one or more changes to the California Building Standards Code are needed as soon as possible in order to protect the public, the bill would require the working group to submit the proposed changes to the California Building Standards Commission for consideration as soon as possible.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 7021 is added to the Business and
2 Professions Code, to read:
3 7021. (a) By January 1, 2018, the board shall enter into an
4 interagency agreement with the Division of Occupational Safety
5 and Health to ensure that any citation, fine, or any other actions
6 potentially involving or involving a serious injury or illness, as

1 defined in Section 6302 of the Labor Code, taken by the division
2 against a contractor, along with any other information the division
3 may possess regarding a contractor, is timely reported to the board.

4 (b) By January 1, 2018, the board shall enter into an interagency
5 agreement with any other state or local agency the board deems
6 to be in possession of any information relevant to its priority to
7 protect the public described in Section 7000.6.

8 SEC. 2. Section 7071.18 is added to the Business and
9 Professions Code, to read:

10 7071.18. (a) Notwithstanding any other law, a licensee shall
11 report to the registrar in writing the occurrence of any of the
12 following within 90 days after the licensee obtains knowledge of
13 the event:

14 (1) The conviction of the licensee for any felony.

15 (2) The conviction of the licensee for any other crime that is
16 substantially related to the qualifications, functions, and duties of
17 a licensed contractor.

18 (b) (1) ~~By January 1, 2018, the~~ *The board shall consult with*
19 *licensees and consumers in order to prepare a study of judgments,*
20 *arbitration awards, and settlements that were the result of claims*
21 *for construction defects for rental residential units and, by January*
22 *1, 2018, shall report to the Legislature the results of a this study*
23 *to determine if the board's ability to protect the public as described*
24 *in Section 7000.6 would be enhanced by regulations requiring*
25 *licensees to report judgments, arbitration awards against them,*
26 *awards, or settlement payments of claims for construction defects*
27 *they have made in excess of a certain amount to be determined by*
28 *the board. The board shall consult with licensees, insurers,*
29 *consumers, and other interested parties during the development of*
30 *the study. those claims. Participation by licensees and consumers*
31 *shall be voluntary.* The study shall include, but not be limited to,
32 criteria used by insurers or others to differentiate between
33 settlements that are for nuisance value and those that are not,
34 whether settlement information or other information can help
35 identify licensees who may be subject to an enforcement action,
36 if there is a way to separate subcontractors from general contractors
37 when identifying licensees who may be subject to an enforcement
38 action, whether reporting should be limited to settlements resulting
39 from construction defects that resulted in death or injury, the
40 practice of other boards within the department, and any other

1 criteria considered reasonable by the board. The board shall submit
2 the report to the Legislature in accordance with Section 9795 of
3 the Government Code.

4 (2) Records or documents obtained by the board during the
5 course of implementing this subdivision that are exempt from
6 public disclosure under the California Public Records Act (Chapter
7 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
8 the Government Code) shall remain exempt from disclosure
9 pursuant to that act.

10 SEC. 3. Section 18924.5 is added to the Health and Safety
11 Code, to read:

12 18924.5. (a) The California Building Standards Commission
13 shall convene a working group to investigate existing building
14 standards associated with the construction, inspection, and
15 maintenance of exterior elevated elements.

16 (b) The working group shall include, but not be limited to,
17 representatives from the Department of Housing and Community
18 Development, the Division of the State Architect—Structural
19 Safety, the Office of the State Fire Marshal, local building officials
20 and plan checkers, structural engineers, apartment owners and
21 managers, building industry, wood, steel and concrete industries,
22 and any other interested parties.

23 (c) The working group shall review related documents and
24 reports, including, but not limited to, forensic reports related to
25 exterior elevated element failures in California, reports and studies
26 used in the development of national and state building codes, and
27 any other material deemed relevant to determine if any changes
28 need to be made to the construction specifications or inspection
29 requirements, excluding routine inspections that occur after project
30 completion, contained within the California Building Standards
31 Code.

32 (d) (1) By January 1, 2018, the working group shall report to
33 the California Building Standards Commission any findings and
34 possible recommendations for statutory changes or changes to the
35 California Building Standards Code. By January 1, 2018, the
36 working group shall also provide that report to the Senate
37 Committee on Business, Professions and Economic Development.

38 (2) Notwithstanding paragraph (1), if, at any time, it is
39 determined by the working group that one or more changes to the
40 California Building Standards Code are needed as soon as possible

1 in order to protect the public, the working group shall submit the
2 proposed changes to the California Building Standards Commission
3 for consideration as soon as possible.

4 SEC. 4. The Legislature finds and declares that Section 2 of
5 this act, which adds Section 7071.18 to the Business and
6 Professions Code, imposes a limitation on the public's right of
7 access to the meetings of public bodies or the writings of public
8 officials and agencies within the meaning of Section 3 of Article
9 I of the California Constitution. Pursuant to that constitutional
10 provision, the Legislature makes the following findings to
11 demonstrate the interest protected by this limitation and the need
12 for protecting that interest:

13 By allowing records and documents exempt from disclosure to
14 be shared with the Contractors' State License Board and remain
15 nonpublic under the Public Records Act, the act adding this section
16 would encourage private individuals and entities to provide the
17 board with information that is vital to the success of its study and
18 report to determine whether additional regulations are appropriate.
19 Therefore, this act properly balances the public's right to access
20 to public records in the possession of the board with the need for
21 the state to obtain otherwise private information.

22 SEC. 5. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.