

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1496

Introduced by Assembly Member Skinner

February 27, 2009

~~An act relating to the environment.~~ *An act to amend Section 7028.7 of, and to add Section 7110.05 to, the Business and Professions Code, relating to energy efficiency.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1496, as amended, Skinner. ~~Environment: supplemental environmental projects.~~ *Contractors: energy efficiency measures.*

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Under existing law, a citation may be issued to, and penalties assessed against, a person acting in the capacity of or engaging in the business of a contractor without a license. Under existing law, the board may take disciplinary action against a contractor for committing specified acts. Existing law makes state or local agencies responsible for the enforcement of building standards.

This bill would make unlicensed contractors who fail to comply with specified building energy efficiency standards subject to a civil penalty of not less than \$2,000. The bill would specify that the failure of a licensee to comply with the building energy efficiency standards constitutes a cause for disciplinary action, except in certain circumstances. The bill would also provide that the failure of a licensee to obtain a building permit, in specified circumstances, shall be subject to a citation and a civil penalty of not less than \$500. The bill would require the board, beginning July 1, 2011, and each fiscal year

thereafter, to compile data and to submit a report to the Legislature no later than the first business day in October that includes the number of penalties assessed by the board against licensees and unlicensed contractors for failure to comply with these standards. The bill would require the State Energy Resources Conservation and Development Commission to collaborate with the board with respect to identifying and investigating the failure of licensees and unlicensed contractors to comply with these provisions.

Existing law authorizes the State Water Resources Control Board and the regional water quality control board to reduce a civil penalty assessed against a person in violation of water discharge standards if the person agrees to undertake a supplemental environmental project (SEP).

This bill would state the intent of the Legislature to enact legislation to require the California Environmental Protection Agency to ensure, to the maximum extent possible, that an SEP is implemented in the community that suffered the environmental or public health consequences of a violation or enforcement matter triggering the SEP.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

- 1 SECTION 1. *It is the intent of the Legislature to enact*
- 2 *legislation that mitigates the urban heat island effect by reducing*
- 3 *summertime urban air temperatures. Reducing the effect of urban*
- 4 *heat islands will help address the impact of rising temperatures*
- 5 *associated with global warming, and therefore improve air quality,*
- 6 *reduce energy use, and improve overall thermal comfort.*
- 7 SEC. 2. *The Legislature finds and declares all of the following:*
- 8 (a) *The term “heat island” refers to urban air and surface*
- 9 *temperatures that are sometimes nearly 10 degrees Fahrenheit*
- 10 *higher than nearby rural areas. Pavement, buildings, low reflective*
- 11 *building roofs, and other infrastructure that absorb the sun’s*
- 12 *radiation and trap heat result in increased temperature in urban*
- 13 *areas.*
- 14 (b) *Higher temperatures from the urban heat island effect are*
- 15 *responsible for 5 to 10 percent of urban peak electric demand from*
- 16 *air-conditioners, and as much as 20 percent of population-weighted*
- 17 *smog concentrations in urban areas.*

1 (c) *The urban heat island effect poses a serious threat to the*
2 *economic well-being, public health, natural resources, and the*
3 *environment of California.*

4 (d) *A distinction between urban heat islands and global warming*
5 *exists. Heat islands describe local-scale temperature differences,*
6 *generally between urban and rural areas. In contrast, global*
7 *warming refers to a gradual rise of the earth's surface temperature.*
8 *While they are distinct phenomena, summertime heat islands both*
9 *intensify the effect of rising temperatures due to global warming*
10 *and may contribute to global warming by increasing demand for*
11 *air-conditioning, which results in additional powerplant emissions*
12 *of heat-trapping greenhouse gases. Strategies to reduce heat*
13 *islands, therefore, can mitigate the impacts of rising temperatures*
14 *and also reduce the emissions that contribute to global warming.*

15 (e) *California's building energy efficiency standards, specified*
16 *in Part 6 of Title 24 of the California Code of Regulations, include*
17 *specifications for cool roofing materials and other measures for*
18 *newly constructed buildings and alterations or additions to existing*
19 *buildings. Effective application of these standards will increase*
20 *the level of energy efficiency of California's buildings and reduce*
21 *the impacts of both urban heat islands and global warming, thus*
22 *increasing California's ability to cope with warming from climate*
23 *changes that may be unavoidable.*

24 (f) *California's building energy efficiency standards, specified*
25 *in Part 6 of Title 24 of the California Code of Regulations,*
26 *represent a state resource for accomplishing increased building*
27 *energy efficiency, not only in newly constructed buildings but also*
28 *in additions and alterations to existing buildings. These standards*
29 *are recognized as leading the nation in energy savings and serving*
30 *as one of the primary energy policy tools that has resulted in*
31 *California's per capita energy use staying essentially constant*
32 *over the past 30 years while that of the rest of the United States*
33 *increased steadily.*

34 (g) *The effectiveness of the building energy efficiency standards*
35 *is dependent on the conscientious efforts of licensed contractors*
36 *in California to build buildings and install equipment in*
37 *compliance with the standards.*

38 (h) *The Governor and the Legislature recognize that many*
39 *buildings are being reroofed without a permit. Contractors*
40 *operating in the underground economy are in flagrant violation*

1 of California contracting law. In particular, contractors operating
2 without a license, and whether licensed or not, willfully and
3 deliberately fail to obtain a building permit and willfully and
4 deliberately fail to comply with the building laws of the state.
5 Unlicensed and licensed contractors who market their services
6 with these underground practices represent unfair competition,
7 undercutting legitimate contractors who endeavor to
8 conscientiously comply with contracting and building laws. This
9 underground activity denies state and local governments license
10 and building permit revenue, diminishing the ability of state and
11 local agencies to provide enforcement services intended to ensure
12 compliance with these laws. These practices particularly damage
13 and diminish the potential for conscientious compliance with the
14 building energy efficiency standards.

15 (i) The mission of the Contractors' State License Board is to
16 protect consumers by regulating contractors to promote the health,
17 safety, and general welfare of the public in matters related to
18 construction. As a part of fulfilling this mission, it is important for
19 the board's enforcement program to include efforts to eradicate
20 the underground practice of performing construction work without
21 building permits and failing to comply with the building energy
22 efficiency standards. It has become critically important for the
23 board to send a strong, definitive message to those whose objective
24 is illegal financial gain at the expense of safe building practices
25 and energy efficiency. In particular, the board should not tolerate
26 illegal practices related to building energy efficiency standards.
27 These violations eventually result in a substantial financial loss
28 to consumers who purchase the relevant services, and epitomize
29 unfair competition that dramatically impacts the economic viability
30 of legitimate businesses. It is also important to foster a business
31 climate favorable to legitimate competition, so that conscientious
32 contractors are able to sustain their businesses by performing
33 quality construction and installing efficient energy-related
34 equipment in compliance with the building energy efficiency
35 standards. Notably, the mitigation of the urban heat island effect
36 will be a significant and beneficial result of the board's
37 enforcement activities.

38 SEC. 3. Section 7028.7 of the Business and Professions Code
39 is amended to read:

7028.7. (a) If upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing to so act or engage, and the person is not otherwise exempted from this chapter, the registrar shall issue a citation to that person. Within 72 hours of receiving notice that a public entity is intending to award, or has awarded, a contract to an unlicensed contractor, the registrar shall give written notice to the public entity that a citation may be issued if a contract is awarded to an unlicensed contractor. If after receiving the written notice from the registrar that the public entity has awarded or awards the contract to an unlicensed contractor, the registrar may issue a citation to the responsible officer or employee of the public entity as specified in Section 7028.15. Each citation shall be in writing and shall describe with particularity the basis of the citation. Each citation shall contain an order of abatement and an assessment of a civil penalty in an amount not less than two hundred dollars (\$200) nor more than fifteen thousand dollars (\$15,000). With the approval of the Contractors' State License Board, the registrar shall prescribe procedures for the issuance of a citation under this section. The Contractors' State License Board shall adopt regulations covering the assessment of a civil penalty that shall give due consideration to the gravity of the violation, and any history of previous violations. The sanctions authorized under this section shall be separate from, and in addition to, all other remedies either civil or criminal.

(b) Any person described in subdivision (a) who fails to comply with the building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations shall also be subject to a civil penalty in an amount not less than two thousand dollars (\$2,000). This sanction shall be separate from, and in addition to, all other remedies, either civil or criminal.

SEC. 4. Section 7110.05 is added to the Business and Professions Code, to read:

7110.05. (a) The failure of a licensee to comply with the building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations constitutes a cause for disciplinary action unless the licensee complied with plans and

1 specifications prepared by or under the direct supervision of an
2 architect or professional engineer.

3 (b) A licensee who fails to obtain a building permit prior to
4 commencement of a work of improvement subject to the standards
5 described in subdivision (a) shall be subject to a citation and an
6 assessment of a civil penalty in an amount not less than five
7 hundred dollars (\$500). Prior to issuing a penalty pursuant to this
8 section, due consideration shall be given to subdivisions (b), (c),
9 and (d) of Section 884 of Division 8 of Title 16 of the California
10 Code of Regulations.

11 (c) Beginning with the fiscal year commencing on July 1, 2011,
12 and each fiscal year thereafter, the board shall compile the
13 essential data necessary to create a report identifying the number
14 of civil penalties that the board assessed during the previous fiscal
15 year against licensees and unlicensed contractors for failure to
16 comply with the standards described in subdivision (a) of this
17 section and subdivision (b) of Section 7028.7. This report shall be
18 submitted to the Legislature no later than the first business day in
19 October of each year.

20 (d) The State Energy Resources Conservation and Development
21 Commission shall collaborate with the board to identify and
22 investigate the failure of licensees and unlicensed contractors to
23 comply with the building energy efficiency standards and to obtain
24 building permits.

25 ~~SECTION 1. It is the intent of the Legislature to enact~~
26 ~~legislation to require the California Environmental Protection~~
27 ~~Agency to ensure, to the maximum extent possible, that a~~
28 ~~supplemental environmental project (SEP) is implemented in the~~
29 ~~community that suffered the environmental or public health~~
30 ~~consequences of a violation or enforcement matter triggering the~~
31 ~~SEP.~~