

**BACKGROUND PAPER FOR THE  
CONTRACTORS STATE LICENSE BOARD**  
**(Oversight Hearing, March 21, 2011, Senate Committee on  
Business, Professions and Economic Development)**

**IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS  
FOR THE CONTRACTORS STATE LICENSE BOARD**

**BRIEF OVERVIEW OF THE  
CONTRACTORS STATE LICENSE BOARD**

The Contractors State License Board (CSLB) in the Department of Consumer Affairs (DCA) is responsible for implementation and enforcement of the Contractors State License Law; the laws and regulations related to the licensure, practice and discipline of the construction industry in California. All businesses and individuals who construct or alter, or offer to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the Board if the total cost (labor and materials) of one or more contracts on the project is \$500 or more.

The Board licenses approximately 310,000 contractors in 43 license classifications and two certifications. CSLB issues some 27,000 licenses each year, and more than 123,000 licenses are renewed each year. A license may be issued to an individual, partnership, corporation, or joint venture. All licenses must have a qualifying individual (also referred to as "qualifier"). A qualifying individual is the person listed on CSLB records who satisfies the experience and examination requirements for a license. The Board also registers some 7,400 home improvement salespersons (HIS) who are engaged in the sale of home improvement goods and services.

Contractor licenses are classified within three basic branches of contracting as defined in the Business and Professions (B&P) Code and in the regulations of the Board. There are two general classifications (Class "A" and Class "B" licenses) and 41 specialty classifications (Class "C" licenses) which are identified as follows:

- Class "A" General Engineering contractor; involved in construction of infrastructure and similar projects requiring specialized engineering knowledge and skill.
- Class "B" General Building contractor; involved in construction of buildings, housing, commercial, office, etc.
- Class "C" Specialty contractor; involved in specific trades, such as painters, plumbers, electricians, etc.

The current CSLB mission statement, as stated in its CSLB Strategic Plan 2010/11, is as follows:

***The Contractors State License Board protects consumers by regulating the construction industry through policies that promote the health, safety and general welfare of the public in matters relating to construction.***

Currently, CSLB is composed of 15 members. It has a public majority with ten public members. The ten public members include: one labor representative, one local building official, and one statewide senior citizen organization representative. The five professional members are: one general engineering (A) contractor, two general building (B) contractors, and two specialty (C) contractors.

The Governor appoints eleven members of the Board that require Senate confirmation. The Senate Rules Committee and the Assembly Speaker appoint two public members each. The Board as a whole is required to meet at least four times throughout the year, and meets at various locations throughout the state to address work completed by various committees of the Board. Board meetings are open and give the public the opportunity to testify on agenda items and on other issues.

The following table lists all members of the Board, including: background on each member, when appointed, term expiration date, and appointing authority.

Name	Appointment Date	Term Expiration Date	Appointing Authority
<p><b>Lisa Miller-Strunk, Chair</b> Professional Member – “A” Contractor. Received a Bachelor's degree from UCLA in 1986 and a Master's degree in Business Administration from UC Irvine in 1994. Since 1991, has served as president of Shellmaker Incorporated, which specializes in marine construction. Ms. Miller-Strunk is a long-time member of the Associated General Contractors.</p>	November 2007	June 1, 2014	Governor
<p><b>Robert J. Lamb II, Vice Chair</b> Public Member. A certified plumber and pipefitter, has been a member of the United Association for more than 30 years, has held numerous positions in the construction industry, and has worked on a variety of construction projects. Mr. Lamb was the Business Manager and Financial Secretary/Treasurer for the Plumbers and Steamfitters U.A. Local 582 in Santa Ana, and was also a representative for the Southern California Pipe Trades District Council 16. Received a Bachelor's degree in Union Leadership and Administration from the National Labor College in Silver Springs, MD. Currently serves as a special representative for the United Association of Plumbers and Steamfitters.</p>	May 2006	June 1, 2012	Assembly Speaker

<p><b>Paul Schifino, Secretary</b> Professional Member – “C” Contractor. Owner and president of both Anvil Steel Corporation and Junior Steel Company. From 1992 to 2006, was a partner for the law firm Schifino and Lindon, associate attorney for Strook and Strook and Lavan from 1990 to 1992, and adjunct professor at Georgetown University from 1987 to 1989. He is a member of the American Institute of Steel Construction (AISC). Is an Ambassador of the Weizmann Institute of Science, an international center of scientific research located in Israel.</p>	January 2010	June 1, 2013	Governor
<p><b>Edward "Eddie" Barnes</b> Public Member. A veteran steamfitter with the United Association for more than 40 years, has worked on construction projects in positions ranging from welder to superintendent. A member of the United Association Local Union 250, elected as the Business Manager, Business Agent, and President between 1984 and 2003. Currently is a Compliance Investigator for the Los Angeles Unified School District and the City of Los Angeles Contract Compliance Program, a member of the International Association of Plumbing and Mechanical Officials, a Certified Medical Gas Inspector, a consultant in Alternate Dispute Resolution for Workers' Compensation Insurance, Chair of the Career Technical Education Advisory Committee for the Los Angeles School District, and a past member of the American Society of Mechanical Engineers.</p>	October 2005	June 1, 2011	Senate Rules Committee
<p><b>Robert Brown</b> Public Member. Director of Corporate Affairs for AAA Northern CA, NV, and UT, where he has worked since 1999. Served as the AAA's Media Relations Manager and Senior Manager for Governmental Affairs. Formerly served as Assistant Secretary for the State and Consumer Services Agency and as Deputy Director for Communications for the Department of Consumer Affairs.</p>	September 2005	June 1, 2012	Governor
<p><b>Joan Hancock</b> Professional Member – "B" Contractor. Since 1983, Ms. Hancock has owned Her Land Enterprises, a general contracting firm. From 1977 to 1983, she co-owned Hancock &amp; Colyer Construction. Ms. Hancock earned a Juris Doctorate in 1982, and a California State Teaching Credential in 1979. She is also a member of the Sacramento Mediation Center.</p>	November 2007	June 1, 2011	Governor
<p><b>Pastor Herrera</b> Public Member. Mr. Herrera has been involved in consumer protection for over 30 years, including serving as Director of the Los Angeles County Department of Consumer Affairs in 1991. He is a part-time faculty member at California State University, Northridge's Department of Family and Consumer Sciences, is a graduate of UCLA with a Bachelor of Arts degree in Political Science, and holds a California Adult Teaching Credential. Mr. Herrera serves on various community/association boards including the Los Angeles Financial Credit Union, National Consumers League (NCL), Consumer Action, CA Community Colleges Family and Consumer Sciences, and is a past member of the National Association of Consumer Agency Administrators and a former chair of the Telecommunications Consumer Protection Fund Oversight Corp.</p>	July 2010	June 1, 2014	Governor

<p><b>Matthew Kelly</b> Public Member. Although his 20-year construction industry career began as a carpenter apprentice, he has since worked on a variety of commercial and residential projects and has been in construction management for a large general contractor. He currently serves as the Executive Secretary Treasurer of the Sacramento-Sierras Building and Construction Trades Council. Mr. Kelly served as Board Chair from 2006-2007.</p>	April 2003	June 1, 2013	Senate Rules Committee
<p><b>Louise Kirkbride</b> Public Member. Ms. Kirkbride founded and served as Chief Executive Officer of Broad Daylight, a company whose products facilitate communications between businesses and their customers through the Internet. Before that, she founded Answer Systems, a company designed to improve business-customer communications through help desk automation. Ms. Kirkbride earned a Bachelor's and a Master's degree in electrical engineering from the California Institute of Technology, where she was a member of the school's first undergraduate class to include women. She currently serves as a Trustee of Caltech, and is a member of the California Board of Accountancy.</p>	February 2005	June 1, 2012	Governor
<p><b>Ed Lang</b> Public Member – Senior Citizen Organization. Mr. Lang retired as Supervisor of the Corporation Collections Unit for the California Franchise Tax Board, where he worked from 1980 to 2003. Was an adult education instructor for the Folsom-Cordova Unified School District from 1976 to 1982, and served in the U.S. Air Force from 1960 to 1980. Mr. Lang serves on the Board of Directors for the InnerCity Housing Corporation and HELPS Family Foster Agency, and is a member of the American Association of Retired People.</p>	January 2007	June 1, 2014	Governor
<p><b>James Miller</b> Public Member – Building Official. Mr. Miller was previously a Board member from 2005 through 2009, including service as Board Chair and Vice Chair. Miller has served as director of building and planning for the city of Big Bear Lake since 2007. Previously, he worked for Riverside County as director of building and safety from 2002 to 2007. He has also worked for Coachella Valley, City of Murietta, and City of Pomona, and was a licensed contractor in the 1970's and 80's.</p>	July 2010	June 1, 2013	Governor
<p><b>Cynthia Mitchell</b> Professional Member – "C" Contractor. Ms. Mitchell was previously a Board member from 2006 through 2009, including service as Board Chair, Vice Chair, and Secretary. Has served as president and chief executive officer of Citadel Tile and Marble since 1993, and is the president and chief executive officer of GCM Business Solutions, as well as a member of the North State Building Industry Association and the Ceramic Tile Institute. She is an appointed committee member of the Trade Builder Alliance Council for the California Building Industry Association and a past president of the California Professional Association of Specialty Contractors.</p>	July 2010	June 1, 2011	Governor
<p><b>Bruce Rust</b> Public Member. Mr. Rust is the Business Manager of Laborers Local #294 in Fresno. He has worked in construction in California and Arizona, and as a tunnel miner, helping to build the Metro Subway System in Washington, D.C.</p>	April 2008	June 1, 2012	Assembly Speaker

<p><b>Mark A. Thurman</b> Professional Member – "B" Contractor. Mr. Thurman has been president of ARB Structures, Inc. since 2004. Previously, he was president of Pepper Construction Company Pacific from 1989 to 2004. He also served as a firefighter specialist for the Orange County Fire Authority from 1980 to 1988, and project manager for Miles and Kelley Construction Company from 1975 to 1980. Mr. Thurman is a member of the Associated General Contractor of California's Board of Directors, Urban Land Institute, Design-Build Institute of America, and International Council of Shopping Centers.</p>	January 2010	June 1, 2013	Governor
<p><b>Ruben Zuniga</b> Public Member – Labor. Mr. Zuniga has served as an administrative assistant for the Southwest Regional Council of Carpenters since 2006, and was its business representative from 1990 to 1996. He also served as a financial secretary for Local 630 in Long Beach from 1996 to 2005.</p>	March 2010	June 1, 2012	Governor

CSLB currently has five standing committees that perform various functions:

- **Enforcement Committee** – Purpose is to reduce, eliminate, or prevent unlicensed activity and unprofessional conduct that pose a threat to public health, safety, and welfare.
- **Licensing Committee** – Purpose is to ensure that all applicants and licensees are qualified to provide construction services.
- **Executive Committee** – Purpose is to enhance organizational effectiveness and improve the quality of customer service in all programs.
- **Legislative Committee** – Purpose is to ensure that statutes, regulations, policies, and procedures strengthen and support CSLB operations.
- **Public Affairs Committee** – Purpose is to educate consumers to make informed choices about construction services, and ensure that licensed contractors strengthen their technical management and service skills.

The Registrar of Contractors (Registrar) is appointed by the Board with the approval of the Director of DCA, and serves as the executive officer of the Board. The Registrar carries out all of the administrative duties of the Contractors State License Law, and pursuant to B&P Code Section 7091(f), reviews all proposed administrative law judge (ALJ) decisions and makes all final agency enforcement decisions. The current Registrar, Stephen Sands, was appointed by the Board in 2001.

As a Special Fund agency, CSLB receives no General Fund support, relying solely on fees set by statute and collected from contractors and applicants. According to the Governor's proposed Budget for fiscal year (FY) 2011/12, the total revenues anticipated by CSLB for FY 2010/11 is \$48,236,000, and for FY 2011/12, \$57,655,000. This increase in anticipated revenue is based on repayment of the \$10 million loan from the Contractors' License Fund to the General Fund made during FY 2008/09, which is scheduled to be repaid on July 1, 2011. The total expenditures anticipated for CSLB for FY 2010/11 are \$57,121,000, and for FY 2011/12, \$59,769,000. Based upon these figures, CSLB would have approximately 2.5 months in reserve in FY 2010/11, and 2 months in reserve in FY 2011/12. CSLB spends approximately 55% of its budget on its enforcement program.

In FY 2001/02, CSLB had 471 authorized positions. CSLB was dramatically affected by the hiring freeze and loss of positions in FY 2002/03 and 2003/04, falling to 382.5 authorized positions. By FY 2008/09, staffing increased to 432 positions, primarily due to new responsibilities such as: Criminal Background Unit (CBU) processing fingerprints and criminal conviction reports, enforcement staff for the Economic and Employment Enforcement Coalition (EEEC), and establishing a Statewide Investigative Fraud Team (SWIFT) office in Fresno. With these added programs, CSLB still had 39 fewer positions than in FY 2001/02. However, under the work furloughs, invoked in Executive Orders S-13-09 and S-12-10, hiring freeze and 5% Workforce Cap Plan staff reduction directive, CSLB currently operates with the equivalent of 354 positions – 117 fewer available staff than in 2001, a reduction of more than 24%.

(For more detailed information regarding the responsibilities, operation, and functions of CSLB please refer to CSLB's *Sunset Review Report, October 2010*, provided in Members' binders.)

## PRIOR SUNSET REVIEW

CSLB was last reviewed by the former Joint Legislative Sunset Review Committee (JLSRC) nine years ago (2001-2002). During the previous Sunset Review, the JLSRC made six final recommendations regarding CSLB. The following are actions which CSLB took since the last Sunset Review to address these issues. For those which were not addressed and which may still be of concern to the Committee, they are addressed and more fully discussed under "Current Sunset Review Issues."

In October 2010, the Board submitted its required Sunset Review Report to the Committee. In this report, CSLB described actions that have been taken since the Board's prior review to address the recommendations of the JLSRC. The following are some of the more important programmatic and operational changes and enhancements which CSLB has taken and other important policy decisions or regulatory changes it has adopted, as well as some highlighted accomplishments:

- **Imaging and Workflow Automation System.** In 2002-2003, the Licensing Division implemented an Imaging and Workflow Automation System (IWAS); a system to scan, route, retrieve (search), process, and print various documents used by licensing staff who process applications. Enforcement staff also has the ability to scan, retrieve, and print documents for use in their analysis and processing of cases.
- **Unlicensed Practice Enforcement.** Effective January 1, 2004, the law requires, except in unusual cases, repeat offenders to be confined to the county jail for not less than 90 days.
- **Arbitration Award – 2004.** The California Dispute Resolution Council honored CSLB for its commitment to alternative dispute resolution. CSLB was selected for this award due in part to its arbitration programs, as well as its on-site negotiation program, mandatory settlement conference policies, and extensive conciliation efforts.

- **Surety Bonds.** Effective January 1, 2005, the amount of surety bond increased from \$7,500 to \$10,000; on January 1, 2007, the bond amount increased to \$12,500.
- **Economic and Employment Enforcement Coalition.** In 2005, Governor Schwarzenegger launched the Economic and Employment Enforcement Coalition (EEEC), a coalition of state and federal agencies charged with overlapping jurisdiction in the area of labor law enforcement. EEEEC was created to make a concerted, consistent, and vigorous effort to combat illegal and unscrupulous operators. In addition to CSLB, participating agencies include the United States Department of Labor, the California Department of Industrial Relations' (DIR) Division of Labor Standards Enforcement (DLSE) and Division of Occupational Safety and Health (DOSH), and the Employment Development Department (EDD).
- **Los Angeles Unlicensed Activity Program.** A partnership was established in January 2006 with the Los Angeles City Attorney's Office. The partnership streamlines the procedure for processing consumer complaints against unlicensed activity, enabling CSLB to refer cases to the L.A. City Attorney's Office within 60 days of receipt. To expedite the investigation, industry expert testimony is not used to establish the financial injury; instead, the L.A. City Attorney argues for restitution to the complainant for all monies paid pursuant to B&P Code 7131(b), which precludes compensation to unlicensed individuals.
- **NASCLA Award – 2006.** In 2006, the Enforcement Division received national recognition for its innovative, proactive enforcement efforts to eradicate illegal construction activity. The National Association of State Contractor Licensing Agencies (NASCLA) recognized CSLB as a role model for other states' enforcement programs and presented CSLB with the "2006 Innovation in Regulation" award during its annual meeting held in Scottsdale, Arizona.
- **National TV Coverage.** Over a three-month period in the spring and summer of 2007, CSLB's Public Affairs Office coordinated coverage of the Enforcement Division for a documentary that was produced for cable news channel MSNBC. The one-hour program "*MSNBC Undercover: Home Wreckers*" aired in October 2007. Public Affairs Chief Rick Lopes traveled to New York and appeared live on the Today Show to promote the program. The segment re-airs on a regular basis and can be viewed on MSNBC.com.
- **State Contractors Official Regulatory Exam.** In 2007, CSLB began administering all examinations using the State Contractors Official Regulatory Exam (SCORE) software, a new Microsoft Windows-based system developed in-house by Testing Division staff. The SCORE system provides a reliable, user-friendly system, and has the technology to automate reports, increase examination security, and, in many cases, trouble shoot and fix hardware and software problems without the need for staff to travel to the affected site. Examination results are available in real time and statistical analyses are built into the system, allowing test development staff to perform statistical analysis for each of their assigned examination programs in a matter of minutes.

- **NASCLA Award – 2009.** CSLB was awarded the 2009 Innovation in Regulation award by NASCLA in recognition of its innovation, creativity, and excellence in maintaining fair and balanced regulation of the construction industry as demonstrated by the efforts of the Service and Repair Task Force, which brought a sophisticated, organized, and massive fraud ring to justice.
- **Credit Card Payments.** In August 2010, CSLB began accepting payment by credit card for fees that include license renewal, HIS registration renewal, reactivation, and reexamination at CSLB's headquarters office public counter. Computer terminals devoted exclusively to this purpose allow licensees and applicants to only pay the fees – the individuals must still file the required paperwork with CSLB staff at the public counter.
- **Memoranda of Understanding.** CSLB has been a party to memoranda of understanding (MOU) for the purpose of sharing enforcement information with the Employment Development Department (EDD), the Division of Occupational Health and Safety (DOSH), the Division of Labor Standards Enforcement (DLSE), the Division of Apprenticeship Standards (DAS), the Department of Transportation (Caltrans), the Franchise Tax Board (FTB), and the Department of Industrial Relations' (DIR) Office of Director – Legal (ODL). During 2009, CSLB worked with each agency to further enhance the existing MOUs; thus, strengthening enforcement of labor, tax, and licensing laws.
- **Fee Increase.** In the prior Sunset Review, the Joint Committee recommended an augmentation in licensing fees to improve the Board's enforcement program. The resources provided by the outdated fees were inadequate to meet the demands for service improvement, including the need to increase levels of service speed and quality. This was consistent with the enforcement monitor's recommendation for a 20% increase in CSLB's license fees to restore CSLB budget and enforcement resources to 1994 per capita levels and to ensure a sufficient reserve fund. Accordingly, SB 1953 (Figueroa, Chapter 744, Statutes of 2002) increased nearly all of the statutory limits on CSLB's license fees. However, fees were not raised at that time, because of subsequent budget and staffing reductions that negated the need to increase fees. Last year, CSLB promulgated regulations to increase nearly all fees to their statutory maximum beginning July 1, 2011. This is the first fee increase for CSLB since 1993. According to CSLB, the fee increases will help generate sufficient revenue to maintain current service levels in licensing and enforcement, and ensure that contractors will be licensed quickly and play an important role in California's economic recovery.
- **Fingerprinting Applicants.** The JLSRC additionally recommended that CSLB require fingerprinting and criminal history and experience verification prior to issuing new licenses. It was noted that, while CSLB is authorized to deny a license or discipline a licensee for conviction of a crime that is substantially related to the qualifications, functions, or duties of a contractor, there had been inconsistencies in the truthful reporting of convictions by applicants and licensees, thus hindering the Board's full ability to take necessary action in an effective and consistent manner. JLSRC

determined that a fingerprinting requirement would enable CSLB to detect untruthful reporting regarding convictions and it may deter individuals who would pose a substantial threat to the public from applying for a license. As a consequence, SB 1953 (Figueroa, Chapter 744, Statutes of 2002) additionally established a fingerprinting requirement for licensure or registration with CSLB. In 2005, CSLB implemented the fingerprint requirements for license applicants.

- **Enforcement Monitor.** A number of the accomplishments of CSLB over the last decade have been the implementation of recommendations of the enforcement monitor which was appointed in January 2001, as required by SB 2029 (Figueroa, Chapter 1005, Statutes of 2000). The enforcement monitor's duties included monitoring and evaluating the Board's disciplinary system for a two-year period, and report the findings, to the Board, DCA, and the Legislature. Accordingly, the enforcement monitor submitted three reports, ultimately making 40 recommendations for comprehensive reform of numerous aspects of CSLB's administrative, enforcement, licensing, and regulatory operations.

## **CURRENT SUNSET REVIEW ISSUES**

The following are unresolved issues pertaining to CSLB, or those which were not previously addressed by CSLB, and other areas of concern for the Committee to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The Board and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

### **BOARD ADMINISTRATION ISSUES**

#### **ISSUE # 1: What are the effects of the current hiring freeze upon CSLB?**

**Background:** The ongoing fiscal crisis in the state and resulting State Budget shortfalls have caused CSLB to reduce its staffing resources and operating expenses, and, thus, have resulted in a reduced ability to regulate the construction industry in California.

As noted above, CSLB had 471 authorized positions in FY 2001/02. Hiring freezes and position reductions in FY 2002/03 and 2003/04 dramatically reduced the staffing to 382.5 authorized positions. By FY 2008/09, staffing increased to 432 positions, primarily due to new responsibilities such as the Criminal Background Unit (CBU) processing fingerprints and criminal conviction reports; enforcement staff for the Economic and Employment Enforcement Coalition (EEEC); and establishing a Statewide Investigative Fraud Team (SWIFT) office in Fresno. Even with the added program responsibilities, CSLB still had 39 fewer positions than in FY 2001/02. However, under the work furloughs, invoked in Executive Orders S-13-09 and S-12-10, when CSLB submitted its Sunset Review Report in October 2010, the Board stated it was then operating with the equivalent of 357 positions; 114 fewer available staff than nine years ago, a reduction of more than 24%.

In addition, since October 2010, the Governor's hiring freeze, as well as the 5% Workforce Cap Plan staff reduction directive from the Department of Finance on October 26, 2010, by Executive Order S-01-10, has further reduced the staffing resources of CSLB as indicated in the accompanying table.

Division	Budgeted Positions	Vacant Positions		
		Hiring Freeze	Workforce Cap Plan	Total
Licensing	110.5	11.5	3.0	<b>14.5</b>
Enforcement	222.0	17.0	4.0	<b>21.0</b>
Other	100.0	6.5	4.5	<b>11.0</b>
<b>Total</b>	<b>432.5</b>	<b>35.0</b>	<b>11.5</b>	<b>46.5</b>

Hiring Freeze vacancies resulting from the Administration's hiring freeze; Workforce Cap Plan vacancies are required by Executive Order S-01-10, which directed state agencies to reduce the state workforce by 5 percent.

As a result, the staffing reductions numbers have truly become a moving target, making it extremely difficult to accurately capture the full staffing impact of the cumulative reductions on the Board. To clarify the total picture, CSLB should give the Committee a status update of staffing resources since the Sunset Review Report was submitted last fall.

It is important to additionally highlight the effects of the hiring freeze on operations during this hearing. What have been the operational results? Have call center wait times increased? What has been the effect on the Board's enforcement operations? How has this impacted the ability of the Board to carry out licensing projects, such as the new limited liability companies contractor licenses? How have the Board's outreach and public education initiatives such as Senior Scam Stoppers program been affected?

**Staff Recommendation: CSLB should inform the Committee of the effects of the current reductions upon the Board's operations including, what are the current staffing levels? What vacancies are being left open? How have the vacancies and reductions impacted CSLB's operations?**

## **ISSUE # 2: Workload Management**

**Background:** The Board reported 46.5 staff vacancies out of 432.5 budgeted positions as of March 2011. Despite a 11% vacancy rate and the mandatory furloughs, it appears that the Board has made adjustments to its licensing and complaint handling functions that allowed staff to meet or exceed performance expectations.

CSLB has been criticized in the past for unusually high licensing backlogs. In response, the Board made a concerted effort to streamline its license review processes, which resulted in average processing times in all licensing areas to drop. For example, in FY 2006/07, it took about 213 days to issue a license after the applicant passed the test. In FY 2009/10, the average wait time was reduced to 163 days. Recent Board reports indicate that the number

of licensing applications received by the Board have been steadily decreasing, and are currently at a ten-year low. The decline in applications is attributed to the weak economy.

In February 2006, the Board adopted four performance objectives for its complaint-handling unit. According to a report presented at the February 1, 2011 Board meeting, all of those objectives have been met or exceeded. The same report indicates that current caseload is almost 1,000 fewer than the level the Board determined to be “manageable.”

In light of the reduced staffing levels, noted above, how does the Board explain the seemingly increased efficiencies in a number of its operations?

***Staff Recommendation: The Board should discuss with the Committee how it has been able to achieve licensing and complaint handling efficiencies while dealing with budget and staffing reductions, vacancies and furloughs.***

**ISSUE # 3: Does CSLB monitor how the Construction Management Account grants are spent?**

**Background:** CSLB administers a Construction Management Education Account (CMEA) which is established within the Contractors State License Fund. The CMEA was created by the Construction Management Education Sponsorship Act of 1991. The CMEA is made up of contributions made by licensees or interested groups, and CSLB awards grants to qualified state colleges and universities that offer specified courses of study in Construction Management.

In recognition of the increasing demand and need to educate and prepare graduates for the management of construction operations and companies, the Legislature created the CMEA to provide grants to improve the overall quality of construction by providing construction management training to California licensed contractors and to current and future managers. Beginning in 2003, CSLB has been awarding grants totaling as much as \$250,000 in one year to educational institutions throughout the state, such as: CSU Chico, CSU Fresno, CSU Long Beach, CSU Northridge, CSU Sacramento, Cal Poly Pomona, and Cal Poly San Luis Obispo.

While CSLB awards construction management grants to the various schools, it is unclear to what extent CSLB monitors how the grant monies are spent by the schools. It would be helpful for the Board to discuss with the Committee what oversight it exercises over how the grant money is spent, and whether it believes that current levels of oversight are adequate.

***Staff Recommendation: CSLB should tell the Committee to what extent it has monitored how schools spend the Construction Management grants awarded over the years. Does the Board believe the current level of oversight is adequate? Does the Board have any recommendations for improvement?***

## **LICENSING AND PRACTICE ISSUES**

### **ISSUE # 4: Fee Payment by Credit Card.**

**Background:** CSLB reports that in August, 2010 it launched a new electronic payment project. Credit and debit cards are now accepted at CSLB headquarters at the public counter for re-examination fees, license renewals, home improvement salesperson renewals, and license reactivation. This is the first phase of CSLB's effort to streamline the renewal process. The second phase of this program should allow other payments for things such as joint venture applications and additional classifications. The last phase will allow payment through CSLB's website.

While CSLB has taken important initial steps toward quick and resourceful license renewals and fee payments, it is currently unable to fully implement electronic payments. In order to make electronic payments, including credit card payments, a licensee must physically go to the Sacramento headquarters office and run their credit card through the kiosk at the public counter.

As consumers, licensees are typically used to making electronic payments often online for purchases and payments. No doubt it would be of great benefit to the licensing population and be more efficient for CSLB to be able to make credit card payments for fees online. While the Board is moving in that direction, it would be helpful to more fully understand what the current impediments are to being able to receive credit card payments online, and when CSLB anticipates that it will be able to take advantage of this convenient technology for its licensing consumers.

**Staff Recommendation:** *CSLB should update the Committee on the current status of its efforts to fully implement electronic payments of fees and on line application and renewal processing. What are the anticipated timelines? What are the existing impediments to full implementation?*

### **ISSUE # 5: Implementation of Licensure for Limited Liability Companies (LLC).**

**Background:** SB 392 (Florez, Chapter 698, Statutes of 2010) authorizes CSLB to issue contractor licenses to limited liability companies (LLCs), and for the most part mirrors the provisions already in contractor law for licensing corporations as contractors. However, the law places additional requirements upon LLCs seeking licensure than for other entities seeking a contractor license. An individual, corporation, or partnership obtaining a contractor license must maintain a \$12,500 surety bond; but an LLC obtaining a contractor license must maintain a \$100,000 surety bond. An LLC must also maintain a policy or policies of liability insurance of between one and five million dollars, depending upon the number of personnel of record. This law became effective, January 1, 2011, and requires that CSLB shall begin processing LLC licensure applications no later than January 1, 2012.

Understandably, a number of businesses are eager to become licensed under the new LLC contractor provision for tax advantages and other business reasons. CSLB staff has indicated that it hopes to begin processing LLC applications some time in the fall of 2011. Concern has been expressed that with the state suffering job losses in the current stressed

economy, state boards should be expediting the processes which create new business opportunities in California. Questions have been raised as to why it should take this much time for CSLB to begin licensing LLCs. What are the processes that CSLB must go through to begin licensing LLCs?

**Staff Recommendation:** *CSLB should report to the Committee the status of implementing the new LLC licensing provisions. What are the challenges to begin licensing LLCs as contractors?*

## **ISSUE # 6: What challenges do solar and other emerging technologies present to the Board in administering the contractor licensing law?**

**Background:** California is experiencing an explosion in the solar/alternative energy arena. *The Go Solar California!* campaign is a joint effort of the California Energy Commission and the California Public Utilities Commission whose goal is to encourage Californians to install 3,000 megawatts of solar energy systems on homes and businesses by the end of 2016, making renewable energy an everyday reality. The program also has a goal to install 585 million therms of gas-displacing solar hot water systems by the end of 2017.

The California Solar Initiative (CSI) is the solar rebate program for consumers that are customers of investor-owned utilities, Pacific Gas and Electric (PG&E), Southern California Edison (SCE), San Diego Gas & Electric (SDG&E). Together with the rebate program for New Solar Homes and rebate programs offered through the dozens of publicly owned utilities in the state – the CSI program is a key component of the *Go Solar California!* campaign.

As a result of these and other initiatives, many of the Board's licensees have become increasingly active in solar energy projects. There are now new innovative ways of capturing and converting the sun's energy into electricity. For example integrated or dual-use technology is already used in roofing materials and glass, and it is believed that solar-collecting paint will soon be available on the market.

These changing technologies have presented CSLB with issues related to its existing classification structure as the installation of dual-use materials now appear to cross classification lines. For example, may a Class C-17 glazing contractor take a prime contract for the installation of glass whose primary or "dual" purpose is to generate energy through the use of solar collecting glass? Currently CSLB laws and regulations restrict the contracting for and performance of solar projects to the following classifications:

- Class A – General Engineering contractors are authorized to install solar energy systems.
- Class B – General Building contractors are authorized to install solar energy systems within the definition of B&P Code Section 7057, since a solar energy system constitutes the use of two unrelated building trades or crafts as required by Section 7057.
- Class C-4 – Boiler, Hot-Water Heating and Steam Fitting contractors are authorized to perform projects including solar heating equipment associated with systems authorized by this classification.

- Class C-10 – Electrical contractors are authorized to perform any solar projects which generate, transmit, transform or utilize electrical energy in any form for any purpose.
- Class C-36 – Plumbing contractors are authorized to perform any project using solar equipment to heat water or fluids to a suitable temperature.
- Class C-46 – Solar contractors install, modify, maintain, and repair thermal and photovoltaic solar energy systems. A licensee in this classification shall not undertake or perform building or construction trades, crafts or skills, except when required to install a thermal or photovoltaic solar energy system.
- Class C-53 – Swimming Pool contractors are authorized to include the installation of solar heating in swimming pool projects.

Clearly the CSLB should not be an impediment to the contracting industry as technologies change and new products come on the market not previously envisioned by the Contractors Law, however, public protection must remain paramount and the Board must ensure that licensed contractors are qualified when they undertake projects have a solar component.

***Staff Recommendation:*** *CSLB should discuss with the Committee its thoughts on dealing with solar and other emerging technologies, and its impact upon the various contractor classifications. CSLB should further consider these issues as a Board, and report back to the Committee on any findings and recommendations that it may have.*

## **ENFORCEMENT ISSUES**

### **ISSUE # 7: Implementation of Enforcement Monitor Recommendations.**

**Background:** As indicated above, in 2001, the Department, under the provisions of SB 2029, appointed an enforcement monitor for CSLB. As a result of the monitor's findings and recommendations made over the course of two years in reviewing, analyzing and redesigning CSLB's enforcement processes, the Board has made great strides in protecting the public in California. Over the course of the project, the monitor issued four reports, including a *Final Report of CSLB Enforcement Program Monitor* in which numerous recommendations for improvements, including legislative changes were made, including:

- **SB 1953** (Figueroa, Chapter 744, Statutes of 2002) clarified that CSLB's highest priority is public protection; authorized the Board to increase its fees by approximately 20% to rebuild and improve its enforcement program; required CSLB to annually submit detailed and consistent enforcement statistics to the Legislature; required applicants for licensure and registration to submit fingerprints to enable criminal history verification; enabled the Board to verify the experience claimed by license applicants by giving CSLB access to the records of the Employment Development Department.
- **SB 1919** (Figueroa, Chapter 1123, Statutes of 2002) increased the licensing bond amount by steps to \$10,000 in 2004, and \$12,500 in 2007, and reserved a portion of each surety bond exclusively for homeowner victims.
- **SB 30** (Figueroa, Chapter 566, Statutes of 2004) improved the clarity and effectiveness of consumer contracts for the benefit of consumers, contractors, regulators, and law enforcement.

In total, the enforcement monitor made 40 separate recommendations, many of which have been implemented by enabling legislation or by CSLB action. In its Final Report, issued April 1, 2003, after the last Sunset Review of CSLB by the Joint Committee, the monitor listed all 40 recommendations and the current status of each recommendation. At that time, approximately one-fourth of the recommendations were partially implemented or were awaiting budget or legislative action for completion.

To understand the final status of the enforcement monitor's recommendations, it would be helpful if the Board would give a current update on the status and outcomes of the recommendations.

***Staff Recommendation: CSLB should report to the Committee on the status of implementing the recommendations of the enforcement monitor. Are there recommendations that still have not been implemented? Why have they not been implemented? Are legislative changes needed?***

## **ISSUE # 8: AG Costs and Timeframes.**

**Background:** In its Sunset Review Report, CSLB indicates that it has been able to maintain its disciplinary process within existing budgets. CSLB has developed an internal tracking system, in conjunction with the Attorney General's (AG's) office, which allows it to work with the AG to track timelines and expenses.

The Report indicates that in FY 2009/10 the average cost of cases referred to the AG was \$14,044. This is below the average cost in FY 2007/08 of \$16,256 and FY 2008/09 of \$17,517, but above the average costs of cases referred to the AG in FY 2006/07 of \$13,392.

CSLB additionally indicates that during 2009, enforcement significantly lowered the AG's office and Office of Administrative Hearing expenses by utilizing mandatory settlement conferences (MSCs). MSCs resolve administrative disciplinary actions without incurring the cost of a formal hearing. Currently, MSCs are scheduled by the Board monthly in Norwalk and Sacramento. Because of the success of the MSC program and the savings to the Board in AG costs, Case Management's goal is to expand the MSC program to other geographical areas. This should help reduce Board costs even further and will also be beneficial to respondents facilitating their compliance, thus avoiding additional legal action against them.

CSLB has further spoken of the internal AG tracking system in meetings with Committee staff. If this tracking system is helping to achieve efficiencies in costs and in timeframes of cases, it would be helpful for the Committee to understand more about it.

***Staff Recommendation: CSLB should tell the Committee more about how it is working to control enforcement costs and timeframes by using the internal tracking system for cases to the AG and by using mandatory settlement conferences.***

## **ISSUE # 9: Enforcement Priorities: How does the Board balance its enforcement efforts between Licensed Contractors and Unlicensed Contractors?**

**Background:** In the early to mid-1990s, several reports were issued that were critical of the Board's enforcement programs. In 2000, systematic administrative and enforcement problems with CSLB prompted the appointment of a new Registrar and the enactment of SB 2029 (Figueroa) which required the appointment of an enforcement monitor. Since that time, the Board had made great strides by reengineering numerous licensing, enforcement, administrative and regulatory processes.

The Board has also developed several programs to work with other state agencies to coordinate labor, tax, and regulatory enforcement efforts. The number of formal disciplinary actions taken by the Board (i.e., license revocations, license suspensions, and probationary licenses issued) has increased from 959 in FY 2006/07 to 1,702 in FY 2009/10.

While those who follow the Board believe that its enforcement actions are better than in the past, the Board has focused much of its attention and resources on the problems of unlicensed contracting. At times the Board has been criticized for being too focused on unlicensed practitioners and not taking disciplinary action on its own licensees who violate the law.

For example, the Board's Statewide Investigative Fraud Team (SWIFT) seeks to identify and shut down unlicensed operators in the construction industry by setting up stings throughout the state. In 2010, the Board's SWIFT unit conducted 63 undercover stings and 107 sweeps for unlicensed activities. These resulted in 42 arrests, 181 citations, and 338 warning letters. The number of convictions is unknown, nor is the type of charges for which the arrests were made.

Admittedly, taking enforcement actions against licensed contractors who violate the law and against unlicensed contractors who thumb their noses at the licensing law requires a balancing of priorities and resources. It would be helpful for the Committee for CSLB to discuss its enforcement priorities and how it balances enforcement actions against licensed and unlicensed contractors.

**Staff Recommendation:** *CSLB should discuss with the Committee its priorities in enforcement, and how in protecting the public, it balances enforcement action against licensed contractors and unlicensed contractors.*

## **ISSUE # 10: Fingerprinting License Applicants and Existing License Holders.**

**Background:** Beginning January 1, 2005, all individuals listed as personnel of record on an original application, an application to add a classification to an existing license, an application to replace the qualifier, an application to report new officers, and an application for registration as a home improvement salesperson are required to submit fingerprints to the Board. The fingerprints are submitted to the California Department of Justice (DOJ) where they are compared to the records of the DOJ and the Federal Bureau of Investigation (FBI) to determine whether a criminal history exists.

CSLB staff in the Criminal Background Unit (CBU) review all criminal convictions to determine whether the crime is substantially related to the duties, qualifications, or functions of a contractor and to determine whether the applicant has demonstrated sufficient rehabilitation. CBU begins processing the conviction information on the same day that it is received by conducting a triage and clearance of all those applicants with no convictions and those with minor, clearable convictions, provided the applicant was honest on the application. Applicants who were not honest on the application but who have minor, clearable convictions and who, had they been honest on the application, would have been cleared are given the opportunity to withdraw the false application and submit new fees and application on which they accurately disclose their convictions. These withdrawal offers are also processed as part of the triage. CSLB indicates that throughout 2010, the timelines for pulling the conviction records for review were held at less than 30 days, usually as low as one to two weeks.

In 2010, CSLB received 3,086 misdemeanor subsequent arrest and/or conviction notices and 726 felony arrest notices on licensees; 145 complaints were opened and 109 were referred for further action, most of which went to legal action to suspend or revoke the license.

The number of subsequent arrest and conviction records received for licensed personnel has grown dramatically, increasing approximately 27.8 percent each fiscal year since fingerprinting was implemented in 2005. Further, only 33.6 percent of personnel associated with a license (approximately 151,000) had been fingerprinted as of mid-July 2010. As more personnel associated with contractor licenses submit fingerprints, this workload is expected to grow significantly. As a result of the ongoing state budget crisis and other factors, twice CSLB has been unsuccessful in obtaining approval for budget change proposals that would increase the enforcement workload staffing. In order to manage the current workload, some of the cases against licensees convicted of felony acts have been outsourced to CSLB Investigative Centers.

To date, all of CSLB fingerprinting of licensees has been prospective; focusing upon new applicants or upon those who are added as personnel of record to an existing license. Up to this point, the law has not required those persons who were issued licenses prior to the fingerprint requirement to submit fingerprint images to CSLB for criminal history background checks.

In 2009, Senator Negrete McLeod carried SB 389 to require various licensing programs under the DCA to ensure that all licensees are fingerprinted to obtain criminal history background checks, as well as notices of any future convictions. That bill would have required a number of boards, including CSLB, to obtain fingerprints from those licensees who had not previously been fingerprinted. SB 389 met serious opposition from a number of contractor associations, and ultimately failed passage in the Assembly Public Safety Committee.

At that time, based upon its experience fingerprinting new licensees and changes in personnel listed on the license, CSLB estimated that if all existing licensees were fingerprinted approximately 16% of those existing licensees would be found to have some type of criminal record that would be noted in the DOJ and FBI background check. It is likely that a number of those convictions would not be substantially related to the practice of contracting, and others would be so old they would not be relevant for current licensing

purposes. However, it is still true that a number of those criminal records would involve convictions that are relevant to the activities for which the contractor holds the license. And without fingerprinting those individuals, it is unlikely that there would be any other way for the Board to be notified of those criminal convictions.

Since protection of the public is the foremost priority of CSLB, it necessarily follows that it is essential for the Board to be informed of the criminal convictions of existing licensees.

**Staff Recommendation: CSLB should develop a plan and make recommendations to the Committee on an appropriate way to establish a fingerprint requirement for all existing licensees of the Board, so that the Board will receive criminal record information and subsequent arrest information from the DOJ and FBI.**

**ISSUE # 11: Does the CSLB share information with other agencies for enforcement purposes, and have there been problems sharing essential information with other state agencies?**

**Background:** CSLB has entered into MOUs for the purpose of sharing enforcement information with the Employment Development Department (EDD), the Division of Occupational Health and Safety (DOSH), the Division of Labor Standards Enforcement (DLSE), the Division of Apprenticeship Standards (DAS), the Department of Transportation (Caltrans), the Franchise Tax Board (FTB), and the Department of Industrial Relations' (DIR) Office of Director – Legal (ODL). These agencies are members, along with CSLB, of the Joint Enforcement Strike Force on the Underground Economy.

CSLB has entered into an MOU with the California Energy Commission (CEC) which allows the agencies to work jointly to enforce and educate the industry, consumers, and contractors about California Building Standards, appliance regulations, and Heating Energy Rating Standards (HERS) regulations. CSLB has further partnered with the CEC, the Public Utilities Commission, and local building officials in undercover sting operations targeting licensed contractors suspected of performing warm-air heating, ventilating, or air-conditioning (HVAC) repair or replacement without obtaining required building permits.

Under the terms of an initial MOU with EDD, CSLB investigators team up with agents to conduct a minimum of two field inspections per month as part of their joint Employment Enforcement Task Force (EETF). CSLB and EDD share statistical information in battling both licensed contractor violations and underground economy complaints against unlicensed contractors. In addition, CSLB provides EDD query access to CSLB's licensing system, including licensing data, and the CSLB backlog table, within agreed upon security and confidentiality provisions. Rather than sending license data and hold and release requests by email, the newly revised MOU allows both CSLB and EDD to share information online, thereby expediting the exchange of information and allowing integration with EDD's new Automated Collection System (ACES). EDD continues to refer unresolved final tax liability cases to CSLB, which result in the automatic suspension of those licenses until the outstanding liabilities are satisfied. In 2010, 490 licenses were suspended and over \$10,000,000 in outstanding liabilities were resolved.

Although coordinating enforcement activities across state agencies can bring effective results, it has come to the attention of Committee staff that there may be impediments in California law to efficient sharing the information necessary to the success of these joint operations.

**Staff Recommendation:** *CSLB should advise the Committee of what improvements it believes could be made to facilitate increased cooperation on joint enforcement operations between state agencies? Do changes need to be made to California law to enable agencies to share information with CSLB for enforcement purposes?*

### **BUDGET ISSUES**

**ISSUE # 12:** Is the recent fee increase adequate to sustain CSLB’s budget into the foreseeable future?

**Background:** CSLB is a self-supporting, special fund agency that obtains its revenues from licensing and certification fees. CSLB receives no General Fund support, relying solely on fees set by statute and collected from contractors and applicants. The Governor’s current proposed Budget anticipates total revenues to CSLB for FY 2010/11 to be \$48,236,000, and \$57,655,000 for FY 2011/12. The total expenditures anticipated for CSLB for FY 2010/11 are \$57,121,000, and for FY 2011/12, \$59,769,000. Based upon these figures, CSLB would have approximately 2.5 months in reserve in FY 2010/11, and 2 months in reserve in FY 2011/12.

Last year, CSLB promulgated regulations to increase nearly all fees to their statutory maximum beginning July 1, 2011. This is the first fee increase for CSLB since 1993. According to CSLB, the fee increases will help generate sufficient revenue to maintain current service levels in licensing and enforcement, and ensure that contractors will be licensed quickly and be able to play an important role in California's economic recovery.

#### 2011 CSLB FEE INCREASES

FEE	CURRENT AMOUNT	NEW AMOUNT	INCREASE	PERCENT INCREASE
Application for Original Contractor License	\$250.00	\$300.00	\$50.00	20%
Application to Add a Supplemental Classification or to Replace the Responsible Managing Officer or Employee on an Existing License	\$50.00	\$75.00	\$25.00	50%
Rescheduling an Examination	\$50.00	\$60.00	\$10.00	20%
Initial License Fee	\$150.00	\$180.00	\$30.00	20%
Renewal–Contractor License (Biennial)	\$300.00	\$360.00	\$60.00	20%
Renewal–4-Year Inactive License	\$150.00	\$180.00	\$30.00	20%
Reactive Contractor License	\$300.00	\$360.00	\$60.00	20%

Home Improvement Salesperson (HIS) Registration Fee	\$50.00	\$75.00	\$25.00	50%
Asbestos Certification Fee	\$50.00	\$75.00	\$25.00	50%
Hazardous Substance Removal Certificate	\$50.00	\$75.00	\$25.00	50%
Delinquent Renewal Contractor–License	\$150.00	\$180.00	\$30.00	20%
Delinquent Renewal–4-Year Inactive License	\$75.00	\$90.00	\$15.00	20%
Delinquent Renewal–HIS Registration	\$25.00	\$37.50	\$12.50	50%

While it appears that the increased fees will keep the Board solvent over the next few years, it is unclear whether the current revenue levels are sufficient to fund the Board’s regulatory operations into the foreseeable future.

**Staff Recommendation:** *CSLB should discuss its fund projections, and whether it will have sufficient funds to cover its administrative, licensing and enforcement costs and to provide for adequate staffing levels for critical program areas into the foreseeable future.*

**CONTINUED REGULATION OF THE PROFESSION BY THE  
CURRENT MEMBERS OF CSLB**

**ISSUE # 13: (CONTINUED REGULATION BY CSLB?) Should the licensing and regulation of contractors be continued and be regulated by the current Board membership?**

**Background:** The health, safety and welfare of consumers are protected by a well-regulated contractor profession. CSLB has shown over the years a strong commitment to improve the Board’s overall efficiency and effectiveness and has worked cooperatively with the Legislature and this Committee to bring about necessary changes. CSLB should be continued with a four-year extension of its sunset date so that the Committee may review once again if the issues and recommendations in this Paper and others of the Committee have been addressed.

**Staff Recommendation:** *Recommend that contractors continue to be regulated by the current CSLB members in order to protect the interests of the public and be reviewed once again in four years.*