

BACKGROUND PAPER FOR The Contractors State License Board

**Joint Sunset Review Oversight Hearing, March 11, 2024
Senate Committee on Business, Professions, and Economic Development
and Assembly Committee on Business and Professions
IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS**

BRIEF OVERVIEW OF THE CONTRACTORS STATE LICENSE BOARD

History and Function of the Board

The Contractors State License Board (CSLB or board) is responsible for the 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 by themselves or through others construct, alter, or repair, or offer to construct, alter, or repair, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost, including both labor and materials of one or more contracts on the project is \$500 or more.

The CSLB began in 1929 as the Contractors' License Bureau under the Department of Professional and Vocational Standards. In 1935, that agency's duties moved under the direction of a seven-member board. Beginning in 1938, examinations for contractor license applicants were required and subsequently authority granted to establish the experience requirements, standards for practice, and the classifications of contractors consistent with the practices of the construction industry.

Today, the CSLB operates within the Department of Consumer Affairs (DCA). The CSLB issues four distinct license types, within three branches of contracting services, and separately registers home improvement sales persons (HIS). As of December 2023, the CSLB regulates approximately 285,000 licensees, issues two certifications and registers approximately 29,000 HIS. Each licensing classification specifies the type of contracting work permitted in that classification.

A summary of each licensure category and construction work allowed is as follows:

- “A”—General Engineering Contractor – A general engineering contractor’s principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill. Examples of fixed works projects include irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or

gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants, similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work, along with cement and concrete work in connection with the above mentioned fixed works. (Business and Professions Code (BPC) § 7056)

- “B”—General Building Contractor – A general building contractor is a contractor whose principal contracting business is in connection with any structure built or being built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind and requiring in that construction the use of at least two unrelated building trades or crafts. (BPC § 7057)
- “B-2”—Residential Remodeling Contractor—A contractor whose principal contracting business is in connection with any project to make improvements to, on, or in an existing residential wood frame structure, and the project requires the use of at least three unrelated building trades or crafts for a single contract. (BPC § 7057.5)
- “C”—Specialty Contractor – A specialty contractor’s operations involve the performance of construction work requiring special skill and involving the use of specialized building trades or crafts (BPC § 7058). In the “C” category there are 43 specialties. The specialties, which are described in Title 16, California Code of Regulations (CCR) Division 8, Article 3 are as follows:
 - C-2 - Insulation and Acoustical Contractor
 - C-4 - Boiler, Hot Water Heating and Steam Fitting Contractor
 - C-5 - Framing and Rough Carpentry Contractor
 - C-6 - Cabinet, Millwork and Finish Carpentry Contractor
 - C-7 - Low Voltage Systems Contractor
 - C-8 - Concrete Contractor
 - C-9 - Drywall Contractor
 - C-10 - Electrical Contractor
 - C-11 - Elevator Contractor
 - C-12 - Earthwork and Paving Contractors
 - C-13 - Fencing Contractor
 - C-15 - Flooring and Floor Covering Contractors
 - C-16 - Fire Protection Contractor
 - C-17 - Glazing Contractor
 - C-20 - Warm-Air Heating, Ventilating and Air-Conditioning Contractor
 - C-21 - Building Moving/Demolition Contractor
 - C-22 - Asbestos Abatement Contractor
 - C-23 - Ornamental Metal Contractor
 - C-27 - Landscaping Contractor
 - C-28 - Lock and Security Equipment Contractor
 - C-29 - Masonry Contractor
 - C-31 - Construction Zone Traffic Control Contractor

- C-32 - Parking and Highway Improvement Contractor
- C-33 - Painting and Decorating Contractor
- C-34 - Pipeline Contractor
- C-35 - Lathing and Plastering Contractor
- C-36 - Plumbing Contractor
- C-38 - Refrigeration Contractor
- C-39 - Roofing Contractor
- C-42 - Sanitation System Contractor
- C-43 - Sheet Metal Contractor
- C-45 - Sign Contractor
- C-46 - Solar Contractor
- C-47 - General Manufactured Housing Contractor
- C-49 - Tree and Palm Contractor
- C-50 - Reinforcing Steel Contractor
- C-51 - Structural Steel Contractor
- C-53 - Swimming Pool Contractor
- C-54 - Ceramic and Mosaic Tile Contractor
- C-55 - Water Conditioning Contractor
- C-57 - Well Drilling Contractor
- C-60 - Welding Contractor
- C-61 - Limited Specialty

Certifications:

- “Asbestos Certification” – A contractor shall not engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code (LC), that involves 100 square feet or more of surface area of asbestos containing materials, unless the contractor holds a C-22 Asbestos Abatement classification or the qualifier for the license passes an asbestos certification examination (BPC § 7058.5).
- “Hazardous Substance Certification” – A contractor shall not engage in a removal or remedial action, as specified, unless the qualifier for the license has passed an approved hazardous substance certification examination. For purposes of the hazardous substance certification examination, removal or remedial action” has the same meaning as found in Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code (HSC), if the action requires the contractor to dig into the surface of the earth and remove the dug material and the action is at a site listed pursuant to Section 25356 of the HSC or any other site listed as a hazardous waste site by the Department of Toxic Substances Control (DTSC) or a site listed on the National Priorities List compiled pursuant 42 U.S.C. Sec. 9601 et seq. (BPC § 7058.7)

Registration:

- “Home Improvement Salesperson”—a person who is registered by the CSLB and engaged in the business of soliciting, selling, negotiating, or executing contracts for home improvements, for the sale, installation or furnishing of home improvement goods or services, or of swimming

pools, spas, or hot tubs on behalf of a home improvement contractor licensed by the CSLB.
(BPC § 7152)

The current mission of the CSLB as noted in its 2022-2024 Strategic Plan is as follows:

CSLB 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, including home improvement.

As specified in BPC §§ 7000.5 and 7002, the CSLB is comprised of 15 members who may serve no more than two four-year terms. Seven board members are construction industry professionals and eight are public members. The Governor appoints 11 members and the Assembly Speaker and the Senate Rules Committee each appoint two public members. The professional members consist of one “A” General Engineering contractor, two “B” General Building contractors, two “C” Specialty contractors, one representative of a labor organization, and one local building official. As part of the eight public member appointees, one appointee must represent a statewide senior citizen organization. Board members receive a \$100-a-day per diem. There is currently one board member vacancy.

The CSLB is required to meet quarterly per BPC § 7006 and is authorized to call special meetings as necessary. All meetings are subject to the Bagley-Keene Open Meetings Act. The CSLB reports that it has not had to cancel any scheduled board meeting within the past four years due to a lack of quorum. The following is a listing of the current Board members and their background:

Name and Short Bio	Appointment Date	Term Expiration	Appointing Authority
<p>Diana Love, Chair. Public Member: Senior Citizen Organization Diana Love is the secretary of the California Democratic Party, a member and immediate past president of the Los Angeles County Commission for Older Adults, an ambassador for the City of Palmdale, as well as a former national district liaison for the AARP. Love is also a member of the California Senior Legislature, Mental Health America of Los Angeles Advisory Council, City of Palmdale Mobile Home Review Board, Friends of the Palmdale City Library, Public Health COVID-19 Community Ambassador and Forget Us Not Community Services. From 2015 to 2017, Love was children and youth group facilitator at Parents Anonymous Incorporated.</p>	10/7/19	06/01/26	Governor
<p>Michael Mark, Vice Chair. Public Member: Labor Organization Mr. Mark currently serves as the Planning and Development Director for Sheet Metal Workers Local 104, which covers the 49 northern counties of California. Previously Mark served as a business representative covering the San Joaquin County jurisdiction for Sheet Metal Workers’ Local Union No. 104 and elected as a union officer in 2012. He is a member of</p>	09/30/20	06/01/24	Governor

United Cerebral Palsy of San Joaquin, San Joaquin Central Labor Council, San Joaquin Building Trades, Northern California Valley Sheet Metal Industry Joint Apprenticeship Training Committee, and Leadership Stockton Class of 2014.			
Miguel Galarza, Secretary. Professional Member: “B” Contractor Mr. Galarza has been founder and president of Yerba Buena Engineering & Construction Inc. since 2002. He was senior program manager at Mendelian Construction from 1993 to 2002 and project manager estimator at Hopkins Heating and Cooling from 1991 to 1993. He is a member of the Associated General Contractors of America, National Diversity & Inclusion Council and district director for the San Francisco Chapter of Associated General Contractors of California. Galarza is a member of the United Contractors, and the Society of American Military Engineers.	07/23/20	06/01/27	Governor
Joël Barton, Public Member Mr. Barton currently serves as Business Manager/Financial Secretary of the International Brotherhood of Electrical Workers Local 11. Mr. Barton’s union career began in 1997, elected to the Executive Board, Vice President, President, and in 2018 as Business Manager/Financial Secretary of IBEW Local 11. He also serves as Secretary/Treasurer of the California State Association of Electrical Workers and the Executive Board of the State Building Trades and Construction Trades Council of California.	06/21/23	06/01/27	Senate
Rodney Cobos, Public Member Mr. Cobos is the business manager-financial secretary treasurer of the Southern California Pipe Trades District Council 16, representing 13 affiliated local unions with over 17,000 members throughout Southern California. Prior to becoming a plumbers’ apprentice in 1994, Mr. Cobos served as a sergeant in the United States Army from 1989-1993. He elected to serve as a union officer in 2002. Mr. Cobos has served as president, business representative, and in 2007 elected business manager-financial secretary-treasurer of United Association of Plumbers & Pipefitters Local Union 484, Ventura County. He also has served as president of the Southern California Pipe Trades and the California State Pipe Trades Council. Cobos joined CSLB as a Public Member.	09/11/20	06/01/24	Assembly
David De La Torre, Public Member Mr. De La Torre is secretary-treasurer of Laborers Union Local 261, representing 5,000 members in San Francisco, San Mateo, and Marin counties. Mr. De La Torre also serves as board president for the San Francisco chapter of the A. Philip Randolph Institute. He was appointed as a national board member for that group in 2017 and as its State President in 2018. Mr. De La Torre is also a representative on San Francisco’s 100% Renewable Energy Task Force.	05/06/15	06/01/24	Assembly
Amanda Gallo, Public Member	03/29/23	06/01/24	Governor

Ms. Gallo has been a Management Analyst in the Fremont City Manager’s Office since 2018. Ms. Gallo was a Senior Policy Analyst at the Santa Clara County Housing Authority from 2014 to 2018. Ms. Gallo is a member of the Municipal Management Association of Northern California, Emerge California, and the New Leaders Council – Oakland.			
Susan Granzella, Public Member Before her board appointment, Ms. Granzella retired from Visa Inc. in 2014 after holding various positions including vice president and senior director for technical publications and global development audit and compliance management for federal, state and industry regulations.	10/13/14	06/01/24	Governor
Alan Guy, Professional Member: “B” Contractor Mr. Guy is currently chief executive officer and president of Anvil Builders Inc, which he co-founded in 2010. Mr. Guy was previously a project manager at Webcor Builders Inc. Mr. Guy is a member of the Boy Scouts of America Luncheon Steering Committee, United Contractors, and The Beavers, which is a heavy civil industry association.	03/02/22	06/01/26	Governor
Jacob Lopez, Public Member. Mr. Lopez is the executive board member of the Southwest Regional Council of Carpenters, representing more than 63,000 members in Southern California, Nevada, Arizona, Utah, New Mexico, Colorado, Eastern Washington, Idaho, Montana, and Wyoming. Mr. Lopez is also a member of the SWRCC Negotiating Committee and a Trustee of the Southwest Carpenters Trust. Mr. Lopez is currently a regional manager overseeing daily operations in Los Angeles and Orange County and responsible for SoCal Interior Systems.	06/29/22	06/01/25	Senate
Steven Panelli, Public Member. Mr. Panelli has been the Chief Plumbing Inspector at the San Francisco Department of Building Inspection since 2009. Mr. Panelli has been a Plumbing Inspector with the department since 2000. Mr. Panelli is a member of the International Association of Plumbing and Mechanical Officials Board of Directors, and Plumbers and Steamfitters Local 38. Mr. Panelli is the Building Official appointee on the Board.	09/29/21	06/01/25	Governor
Mary Teichert, Professional Member: “A” General Engineering Contractor. Mary Teichert is president of Teichert Inc., and has held several positions at Teichert Inc., including chief operating officer overseeing the company’s aggregate mining and asphalt operations, as well as its heavy civil construction division. Ms. Teichert is president of The Beavers (a heavy civil industry association), a board member of the California Building Industry Association, the Associated General Contractors of America, and HomeAid and is a member of United Contractors and the Capital Region Family Business Center.	09/27/19	06/01/26	Governor
James Ruane, Professional Member: “C” Specialty	09/27/19	06/01/27	Governor

<p>Contractor. Mr. Ruane has been president of Patrick J. Ruane Inc. since 1976. He also is a member of the Wall and Ceiling Alliance, The San Bruno Community Foundation and the San Mateo County Historical Association. In addition, Mr. Ruane served as mayor of San Bruno from 2009 to 2017, helping lead that city through the aftermath of a deadly PG&E gas line explosion in September 2010.</p>			
<p>Henry Nutt III, Professional Member Mr. Nutt has been a Preconstruction Executive for Southland Industries since 2019 and a Sheet Metal General Superintendent for Southland Industries since 2007. Nutt is a member of the Lean Construction Institute, Associated General Contractors of America and the Associated General Contractors of California. <i>This appointment is pending Senate Confirmation.</i></p>	02/29/24	TBD	Governor
<p>Vacant: Public Member</p>			Governor

There are no statutorily required committees; however, BPC § 7008 authorizes the CSLB to appoint committees as necessary to fulfill its consumer protection mandate. Currently, the CSLB has five standing committees: Enforcement, Executive, Legislative, Licensing, and Public Affairs. Committees form as needed and the board chair appoints members. Each committee discusses various policy matters pertaining to that committee’s jurisdiction and make recommendations for consideration by the full board.

- Executive Committee focuses on organizational effectiveness and improving the quality of service in all divisions within CSLB. The Executive Committee reviews issues of concern to the Information Technology Division and Administrative Division.
- Enforcement Committee seeks best methods to reduce, eliminate, or prevent unlicensed activity and unprofessional conduct that pose a threat to public health, safety, and welfare.
- Legislative Committee develops and recommends changes to statutes, regulations, policies, and procedures to strengthen CSLB operations and support meeting its consumer protection mandate.
- Licensing Committee aims to ensure that all applicants and licensees meet minimum qualifications to provide construction services within California.
- Public Affairs Committee aims to educate consumers about making informed choices related to construction services and provide information to unlicensed contractors about licensing requirements and how to obtain licensure, and to licensed contractors to improve their technical, management, and service skills.

Committees discuss various policy matters to formulate recommendations for consideration by the full board, which reviews and takes formal action based on the various committees’ recommendations.

Board and committee meetings are open to the public to give stakeholders an opportunity to comment. These meetings are also webcasted to allow public access to committee recommendations and board actions.

CSLB’s 15-member board appoints the Executive Officer, more commonly referred to as the *Registrar of Contractors* who directs administrative policy for its operations. The current Registrar is David Fogt who has served as the Registrar since May 2, 2017.

As noted in the CSLB’s 2023 Sunset Review Report, the CSLB is authorized for 425 staff positions (PYs). Staff are located in offices across California. The CSLB’s headquarters is in Sacramento and has an additional administrative office in Norwalk. There are multiple investigative offices across the state including Fresno, San Francisco, Orange County, San Bernardino, San Diego, Valencia, and West Covina. Additionally, CSLB maintains four satellite offices in Bakersfield, Oxnard, Redding, and Santa Rosa.

According to information from the CSLB, the current vacancy rate is projected to be close to 10% for FY 2023/24. The CSLB’s vacancy rate has increased since FY 2019/20 (reported 5% vacancy rate), but is lower than the 12% vacancy rate reported in FY 2022/23. The CSLB notes increased vacancies pertain to multiple factors attributed to the COVID-19 pandemic, staff retirements, and administrative delays.

Staff are delegated to the various departments within the CSLB including the office of information technology (26 positions); licensing and examination division (102 positions); enforcement division (231 positions); executive division (35 positions) and, administration division (31 positions). The division with the most vacancies is the CSLB’s enforcement division (25 positions); but the division with greatest vacancy rate is executive division (5 positions, or 14%).

Fiscal, Fund, and Fee Analysis

As a special fund agency, the CSLB receives no General Fund (GF) support relying solely on fees set by statute and collected from licensing, renewal fees, and enforcement penalties. The Contractors License Fund is not continuously appropriated and the DCA in conjunction with the CSLB prepares the CSLB’s annual budget.

In 2019, when the CSLB was undergoing its last sunset review by the Legislature, the CSLB noted declining reserves, which led the CSLB to conduct a fee study and subsequently propose a fee increase. SB 607 (Min, Chapter 367, Statutes of 2021) increased various licensing, application, renewal and miscellaneous fees. As a result, the CSLB reports that the fiscal outlook has improved with a current four-month reserve, as provided in the following table.

Fund Condition						
(Dollars in Thousands)	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Beginning Balance	\$7,884	\$(448)	\$3,402	\$9,654	\$25,820	\$32,486

Fund Condition						
(Dollars in Thousands)	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
Revenues and Transfers	\$64,524	\$73,265	\$79,852	\$96,799	\$91,521	\$93,606
Total Resources	\$72,408	\$73,265	\$83,254	\$106,453	\$117,341	\$126,092
Budget Authority	\$70,102	\$70,333	\$74,922	\$79,897	\$78,520	\$80,876
Expenditures	\$71,781	\$70,952	\$74,201	\$80,633	\$84,855	\$87,211
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Fund Balance	\$627	\$1,865	\$9,053	\$25,820	\$32,486	\$38,881
Months in Reserve	0.1	0.3	1.3	3.7	4.5	5.0

*Table provided in the CSLB's 2023 Sunset Review Report

As a tool to address fiscal challenges with annual state budgets in past FYs, entities under the DCA have provided loans to the GF. Those GF loans are paid back over time in full with interest. The last loan the CSLB made to the GF was in FY 2008/09. That loan was repaid with interest in FY 2011/12. However, with a significant projected budget deficit in FY 2024/25, there is always the possibility that a special fund-DCA entity, like the CSLB, may again be selected to provide a GF loan to help balance the state budget.

Revenue and Expenditures

The total revenues anticipated by the CSLB for FY 2024/25 are approximately \$93 million, which is a \$2 million increase from FY 2023/24. The CSLB anticipates a reserve level of 5 months or \$5 million. This is a steady increase in projected reserves from 0.1 months in FY 2019/20. BPC § 7138.1 prohibits the CSLB from maintaining a reserve fund of more than six months.

Expenditures by Program Component

The following is a breakdown of the Board's average expenditures over the past four FYs. On average, the Board has spent approximately 57% on enforcement; 5% on examinations; 15% on licensing; and, 12% on administrative expenses. Per BPC § 7136, the CSLB is prohibited from spending more than 10% of the total income of the CSLB for each FY for the CSLB's share of the cost of administration of the DCA (pro rata).

Expenditures by Program Component	(list dollars in thousands)			
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23

	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$24,023	\$14,685	\$22,429	\$15,673	\$26,041	\$13,328	\$28,347	\$13,516
Examination	\$2,560	\$1,110	\$2,431	\$797	\$2,613	\$1,496	\$1,367	\$2,710
Licensing	\$9,038	\$1,881	\$8,534	\$1,764	\$9,773	\$1,672	\$8,952	\$1,212
Administration *	\$4,913	\$2,610	\$4,593	\$2,769	\$4,871	\$2,596	\$5,808	\$4,238
DCA Pro Rata	N/A	\$6,802	N/A	\$7,579	N/A	\$7,148	N/A	\$8,933
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS	\$40,534	\$27,088	\$37,987	\$28,582	\$43,298	\$26,240	\$44,474	\$30,609

*Administration includes costs for executive staff, board, administrative support, and fiscal services.

This table is from the CSLB's 2023 Sunset Review Report.

Fee ranges assessed by the CSLB are specified in statute (BPC § 7137) and fees within the ranges are set through regulations. (California Code of Regulations (CCR) Title 16 § 811). There are over 20 fee categories assessed by the CSLB. The initial licensing fee and the renewal fee for both a sole proprietor and partnership/corporation are the most significant sources of revenue for the CSLB, with renewals making up almost 50% of revenue. Since the CSLB's last sunset review, the CSLB has raised fees two separate times. In 2019, the CSLB amended its regulations through emergency rulemaking to increase its license and registration renewal fee to their then-statutory maximums and in 2022, SB 607 (Min, Chapter 367, Statutes of 2021) statutorily increased several other fees, implemented a new renewal fee structure based on license entity type, and set new fee floors and fees ceiling. The fee increases contained in SB 607, were based on a third-party fee study of the workload required to process each application type. The CSLB is in the process of updating regulations to reflect the CSLB's updated fee schedule per the fee increases in SB 607.

Transaction	Current Fee Amount	Statutory Limit
Original Application	\$450	\$563
Initial License Fee (active & inactive)	\$200	\$250
Initial License (Corp/Partners/JV/LLC)	\$350	\$438
Additional Classification (initial application)	\$150	\$188
Re-Exam Application	\$100	\$125
Supplemental Class & RME/RMO (existing license)	\$230	\$288
Add New Personnel/Office Change	\$125	\$157
Business Name Change	\$100	\$125
Home Improvement Salesman (HIS) Registration	\$200	\$250
Reactivate License (Sole)	\$450	\$563
Reactivate License (Corp/Partners/JV/LLC)	\$700	\$875
Hazard Certification	\$125	\$157
Asbestos Certification	\$125	\$157
Licensee Pocket Card/Wall Replacement	\$25	\$25
Dishonored Check	\$25	\$25
Active Renewal Contractor (sole)	\$450	\$563

Active Renewal Contractor (Corp/Partners/JV/LLC)	\$700	\$875
Home Improvement Salesperson Renewal	\$200	\$250
Electrician Certification Renewal	\$20	\$20

This table is from the CSLB's Sunset Review Report 2023.

Per BPC § 125.3, the CSLB is authorized to request licensees who are disciplined by the CSLB through the administrative process, to reimburse the CSLB for those enforcement-related costs, except in cases of citations, unlicensed activity investigations, or statements of issues that involve licensure denial, as the CSLB lacks authority in those instances. The CSLB also has authority to seek cost recovery as a condition of probation. In the case of probation, the cost recovery ordered must be met prior to the end of the licensee's probation. In disciplinary cases where a licensee must surrender their license, cost recovery may also be ordered. If the individual who surrenders a license seeks to reapply for licensure, they must then pay the full amount of any ordered cost recovery prior to issuance of a new license.

If the CSLB orders an individual to pay cost recovery and the person does not pay, the CSLB may utilize the Franchise Tax Board's (FTB) intercept program. CSLB reports that it has utilized the FTB's program 444 times since January 29, 2020. To date, only \$27,000 has been collected from that program. The FTB program requires a Social Security Number (SSN) to identify taxpayers with outstanding penalties. Unlicensed individuals do not have a SSN on file with the CSLB. In the past, not having a SSN has made non-licensees ineligible for the FTB's free program. To address the issue of unlicensed contractors, the CSLB utilizes a private collection agency to recover unpaid civil penalties from non-licensees. Recently, the FTB began accepting referrals to intercept program for individuals without a SSN if the CSLB pays a fee to the FTB to research the individual's identification number.

Cost Recovery	(list dollars in thousands)			
	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23
Total Enforcement Expenditures	\$38,708	\$38,102	\$39,369	\$41,863
Potential Cases for Recovery *	1,147	1,099	1,078	1,030
Cases Recovery Ordered	1,037	1,041	942	847
Amount of Cost Recovery Ordered	\$2,145	\$2,854	\$2,074	\$2,042
Amount Collected	\$457	\$567	\$925	\$645

* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.

** Table from the CSLB's 2023 Sunset Review Report

The CSLB was scheduled to be a part of the third release of the DCA's Information Technology (IT) project to replace multiple antiquated standalone IT systems with one fully integrated system used consistently across all regulatory entities. Unfortunately, due to numerous cost overruns, technical delays, and product inefficiencies, in 2015 the DCA-led technology upgrade was stopped, effectively canceling the intended system for those entities in the third release. Payment for the entire technology upgrade was the responsibility of ALL of the boards, bureaus and commissions under the DCA umbrella. Presumably, the decision to include all entities regardless of need was to spread the costs of the system across the entire regulatory landscape. However, those remaining boards and bureaus that never transitioned to the BreEZe system were still required to pay the costs associated with the project. As of FY 2017/18, the CSLB's contribution to the BreEZe project totaled \$4,255,555, a hefty figure for an IT project from which the CSLB will not receive any benefit. Any costs already contributed to

the system will not be paid back to the CSLB, even as the CSLB faced a depleted reserve level of 0.1 months for FY 2019/20 and was required to raise licensing fees. Further, the CSLB is still in need of a technology upgrade.

Prior to the DCA's attempt at a uniform DCA-wide IT system, the CSLB had and continues to utilize, its own IT system and division not supported by DCA-IT. The CSLB's IT division supports all of its licensing and enforcement programs, along with its website, public outreach and all other routine functions of the CSLB. CSLB's IT division has approximately 25 personnel. The CSLB notes that its IT system is effective and efficient; however, the CSLB notes that it continues to seek upgrades to its own system including an upgrade to application processing to help reduce the number of deficient applications it receives. According to CSLB, in FY 2022/23, it spent approximately \$9.9 million on its IT division staff and operations, a significant increase from FY 2018/19 when IT costs were approximately \$2.9 million.

Unfortunately, the CSLB's current stand-alone IT system is limited in its capability to accept certain licensing applications and payment information online. For the majority of CSLB applicants, they must fill-out and print a paper application and mail the application along with the required fee to the CSLB's Sacramento headquarters. Citations, and contractor license and HIS registration renewals are eligible for online payments (plus a 2.99% processing fee). Applications for additional classifications, asbestos certification and replacing a qualifier on a license can be paid online (\$1 processing fee), but the accompanying application must be mailed. All other payments must be paid via check, money order or cash (the correct cash amount-no change).

Licensing

The CSLB's licensing population for contractors is approximately 237,741 active licensed contractors and approximately 47,453 inactive license holders along with 28,900 HIS. Unlike the majority of other licensing boards in California, a CSLB license is issued to the business, including a sole proprietor as an individual (business) owner. Over the past three years, the CSLB received an average of approximately 22,000 license applications, and 121,000 renewal applications for contractor licenses.

The CSLB's licensing division provides a multitude of services including application review and processing, examination development and administration, and updating licensee and registrant information including address changes and replacing the qualified individuals on a license.

Below are specific programs within the licensing division:

- **Testing:** Develops and updates examinations when required and performs an occupational analysis for each examination every five-to-seven years.
- **Veterans Application Assistance:** Provides assistance with expedited application processing to veteran applicants. Staff evaluate military experience, training and education to meet experience requirements for licensure.
- **Judgments:** Processes all outstanding judgments, bond payment of claims, and outstanding liabilities reported to CSLB by licensees, consumers, attorneys, credit recovery firms, bonding companies, CSLB's enforcement division, and other governmental agencies.

Pursuant to 16 CCR § 827, applicants for licensure must be notified within 60 days whether their application is considered complete and the applicant is referred for examination, or if their application is considered deficient. If the application is deficient, the CSLB will inform the applicant of the deficiencies. The CSLB must notify an applicant (with a complete application and passage of the required examinations) if the applicant meets the qualifications for licensure within 115 days. According to the CSLB, for FY 2022/23, the CSLB is meeting these expectations—original complete applications for a contractor’s license were processed within 35 days.

As specified in 16 CCR § 828, applicants for a HIS registration must be notified within 30 days whether their application is considered complete or the application is deficient, and what information is needed to complete the application. According to the data collected for FY 2022/23, CSLB is meeting this expectation, as complete applications for HIS registrations processed within approximately 23 days.

While the CSLB is notifying applicants within designated timeframes as to whether their applications are complete or delinquent, the overall licensing process can take much longer (months) as applicants may need to pass (often after retaking) more than one examination, undergo fingerprint/background checks, and meet the bond and workers’ compensation insurance requirements.

All current applicants are required to submit fingerprints for background review to determine whether reported criminal convictions are *substantially* related to the duties, qualifications, or functions of a contractor prior to issuance of a license or certification. The CSLB did not receive authority to require fingerprints for criminal record offender inquiries until January 1, 2005; therefore, licensees who have held a license prior to 2005 may not have a fingerprint record on file.

The CSLB queries the National Association of State Contractors Licensing Agencies disciplinary database. The information provided to the database is voluntarily updated by participating out-of-state regulatory agencies. The CSLB utilizes the database to verify an applicant’s out-of-state history or other enforcement related issues. There is no charge to the CSLB to query the database and the CSLB notes it reciprocates disciplinary reporting to the database.

Neither education nor continuing education are required for contractor licenses in California; therefore, the CSLB does not approve any contractor school or education provided by any institutions. However, to obtain licensure as an “A”, “B”, or “C” contractor, an applicant is required to pass both a trade-related and a law and business examination (BPC §§ 7065 and 7068) unless they qualify for an examination waiver under specified circumstances (BPC §§ 7065 through 7065.4). Applicants are required to designate their business entity on each application and the CSLB requires primary source documentation to determine if any education or training submitted will qualify as education credit in lieu of up to three years of experience requirements for licensure (16 CCR § 825). The CSLB requires out-of-state license-holder applicants to meet the same threshold for licensure, as those in California, except those who hold a license in a state with reciprocity agreements are eligible to bypass the CSLB trade examination (but not the law and business examination).

Although there are no formal education or degree requirements necessary to obtain a license as a contractor, there are educational programs that provide important education in construction

management. The CSLB manages grant disbursements through the Construction Management Education Account (CMEA). The CMEA was created in 1991 to increase the quality and availability of educational programs for the construction industry. CMEA funding is from licensee donations and provides funding for post-secondary institutions that offer construction management education programs. Grant funds are utilized by institutions to provide “instructional materials, support, equipment, curriculum development, and delivery.” Although CSLB does not participate in developing or approving curricula of these programs, qualifying institutions must offer a bachelor of science or higher degree program or document placement of more than 50% of their graduates with California licensed contractors. To date, the CSLB has granted \$1.9 million to educational institutions and programs.

Until July 2022, the CSLB was responsible for computer-based testing of all examinations by administering examinations in Berkeley, Fresno, Norwalk, Oxnard, Sacramento, San Bernardino, San Diego, and San Jose. An applicant’s examination was automatically scheduled by the CSLB based on their zip code. The CSLB-operated test centers were available Monday through Friday during normal work hours. However, examination schedules varied and depended on the demand for the examination in a particular area.

AB 3087 (Brough, Chapter 295, Statutes of 2020) authorized the CSLB to contract with a third-party vendor to administer licensing examinations. Beginning in July 2022, the CSLB began transitioning the administration of all its 47 examinations to PSI Exams, as part of a cost savings measure. PSI Exams now administers all CSLB examinations. PSI Exams are computer-based and scheduled independently by the applicant at a PSI Exams testing location on a date of the applicant’s choice. PSI Exams has testing centers in 20 cities throughout California and 22 out-of-state sites.

There is not currently a national examination accepted by *all* states for licensed contractors. However, the National Association of State Contractor Licensing Agencies developed a “Commercial General Building” examination that is administered in five states and the U.S. Virgin Islands and is accepted by 14 other states. California does accept this examination in place of the current “General B” examination for applicants who have passed the examination in Louisiana. CSLB reports it continues to review reciprocity opportunities with other states. BPC §§ 7065 and 7068 require applicants to pass examinations that include questions relating California laws and business, as well as the trade for which they have applied. According to the CSLB, the national examination is not currently translated into any language other than English.

Beginning August 1, 2023, the CSLB’s Law and Business, “B” General Building, and “C-8” Concrete trade examinations became available in Spanish at the PSI Exams’ test centers. CSLB anticipated seven more examinations to be available by January 1, 2024, in Spanish. In addition, study guides for every examination have been translated into Spanish and are available on CSLB’s website. Until all examinations are translated into multiple languages, applicants may continue to request a translator to be present during the examination upon CSLB’s approval.

The CSLB reports that it conducts routine occupational analyses every five to seven years as required by BPC § 139. The CSLB has its own examination development unit and does not rely on the DCA’s Office of Professional Exam Services. The CSLB currently has 4.5 examination specialists responsible for conducting the occupational analyses for each examination. The CSLB notes that it conducted an

occupational analysis in August 2020 for the Law and Business Examination and anticipates the next occupational analysis in 2025.

Regarding examination pass rates, the CSLB notes that applicants are more successful passing the test on their first try rather than retakes.

Examination Pass Rates – First Time and Retakes						
	Number of First Attempts	Pass Count	First Time Pass %	Number of Retakes	Retake Pass Count	Retake Pass %
FY 2019/20	17,944	13,208	74%	6,851	2,614	38%
FY 2020/21	23,705	17,917	76%	6,937	2,542	37%
FY 2021/22	30,212	22,378	74%	11,999	4,822	40%
FY 2022/23	24,536	17,454	71%	7,497	2,778	37%

NOTE: This table is from the CSLB’s 2023 Sunset Review Report.

The CSLB began collecting data of the passage rates for Spanish language examinations beginning August 1, 2023. Between August 1 and November 1, 2023, PSI Exams administered 631 Spanish examinations (589 Law and Business, 33 “B” license, seven C-08 (concrete) trade, and two C-33 (painting) trade. Of those, 96 previously failed an exam in English. Upon retake in Spanish, 42 passed, which, according to the CSLB, brings the Spanish speaker retake pass rate equal to the overall retake pass rate.

Licensing requirements and processes for out-of-state and out-of-country applicants remain the same as provided for applicants from within California. BPC § 7065.4 authorizes CSLB to consider granting licensure to qualifying applicants who are licensed in another state where the licensing requirements meet or exceed CSLB’s requirements. Efforts to promote cross-border practice has led the CSLB to develop limited reciprocity agreements with Arizona, Louisiana, and Nevada. Until late 2020, Utah had a reciprocity agreement with California until it ended its reciprocity program.

Reciprocity agreements allow eligible applicants to waive California’s required trade examination for specific classifications; however, applicants must still take and pass the California Law and Business examination. Pursuant to BPC § 7065.4, *the Registrar may accept the qualifications of an applicant who is licensed as a contractor in a similar classification in another state if that state accepts the qualifications of a contractor licensed in this state for purposes of licensure in that other state, and if the board ascertains, on a case-by-case basis, that the professional qualifications and conditions of good standing for licensure and continued licensure are at least the same or greater in that state as in California.* The registrar may waive the trade examination for that applicant if the applicant provides written certification from that other state in which he or she is licensed, that the applicant’s license has been in good standing for the previous five years. The CSLB continues to review reciprocity opportunities.

In 2023, the Federal Government implemented the *Federal Servicemembers Civil Relief Act (SCRA)*, which authorizes service members or their spouses who currently hold a valid license in good standing in another state to practice in California within the same profession or vocation, if they are required to relocate to California because of military orders. California recognizes these qualifying out-of-state licenses as valid. For individuals who desire to practice in California under the terms of the SCRA, the State of California adopted a state registration process to help implement the license portability

provisions of the SCRA. As of February 2024, there is not a CSLB-licensee practicing in California under the SCRA.

Before the federal enactment of the SCRA, BPC § 115.5 required a DCA-board to expedite the licensure process and waive the application and license fee for an applicant who is married to, in a domestic partnership, or other legal union with an active duty member of the Armed Forces of the United States assigned to a duty station in California. The CSLB reports that it expedited one license application based on BPC § 115.5 since 2019.

Enforcement

CSLB's enforcement staff investigate complaints against licensees, registrants, non-licensees and unregistered HISs. In FY 2022/23, the CSLB received over 22,000 complaints, an increase of over 4% since the CSLB's last sunset review in 2019 when it reported at that time, a historical high of 19,687 complaints in FY 2017/18. The CSLB notes in its 2023 Sunset Review Report, "During the reporting period, the number of consumer complaints decreased in FY 2020/21, likely as a result of COVID, but has since surpassed the previous historical high of 19,687 in FY 2017/18 to 20,522 in FY 2022/23. Based on complaint data for the current fiscal year, particularly September and October, that upward trend is continuing and CSLB anticipates another record in FY 2023/24."

Complaints come from a variety of sources including, but not limited to, consumers, homeowners, licensees and registration holders, subcontractors, employees or other public agencies. The CSLB notes residential property owners, which relate to home improvement and repair projects, file the majority of complaints. Out of the 22,000 complaints received in FY 2022/23, over 18,000 were from the public.

All complaints received by the CSLB are investigated for violations of the License Law; however, not all complaints result in an enforcement action against a licensee. The CSLB prioritizes complaints based on order of receipt, the nature and seriousness of the allegations, and the availability of resources including both budget and staffing. The CSLB has two complaint intake centers, which review all incoming complaints, negotiate complaint settlements and refer cases to field investigation units.

An investigation that reveals a violation the License Law may result in one of the following actions:

- Referral to Local Prosecutor. Criminal investigations target egregious offenders, licensed and unlicensed, and those who financially injured consumers. Many criminal investigations involve unlicensed operators, including those caught during stings.
- Accusations. The most egregious violations of the License Law may result in an accusation to revoke a license through the Office of the Attorney General (AG). The AG may negotiate a stipulated agreement before the case is heard by an administrative law judge (ALJ). In these instances, the licensee may agree to a settlement whereby the license is revoked and stayed with probationary conditions imposed from two to five years. If terms are not met, the CSLB may impose license revocation.

- Citations. When an investigation finds a licensee has committed an act or omission for which a formal disciplinary action is not warranted, CSLB may issue a citation. CSLB also has authority to issue a citation when an investigation reveals unlicensed activity. A citation may include a civil penalty of up to \$30,000, an order of correction, or an order of restitution to the financially injured party. If a licensee does not comply with the terms and conditions of a citation, the license may be automatically suspended and subsequently revoked.
- Letters of Admonishment. The letter of admonishment is an intermediate corrective action between an advisory notice and a citation that CSLB began issuing on July 1, 2018. Recipients may appeal a letter of admonishment, which is heard by CSLB without a formal hearing.

The CSLB reports that complaints for solar contracting work and contracting work in a disaster area rise to a critical level in the enforcement process, given the number of complaints received and the consumer harm that results from potential bad actors in these areas. Between FYs 2018/19 through 2022/23, the CSLB reports a 176% increase in complaints related to solar.

The CSLB utilizes arbitration to assist consumers and licensees settle disputes without a formal enforcement process. Arbitration provides an opportunity for two disputing parties to submit their differences to neutral third party who make the final award for damages. The CSLB is responsible for any costs associated with its arbitration program, the parameters of which are specified in statute. The CSLB administers two different arbitration programs. With agreement from both parties, disputes pertaining to contracts \$25,000 or less are referred to the Mandatory Arbitration Program and disputes pertaining to contracts greater than \$25,000 but less than \$50,000 are referred to the Voluntary Arbitration Program. BPC § 7085 specifies the criteria that must be met in order for a case to proceed in arbitration. Only licensees in good standing with the CSLB are eligible to participate in arbitration. Licensees with past enforcement actions are ineligible. Arbitration decisions are binding and the parties have limited ability to challenge the arbitrator's decision in court. In binding arbitration, parties who refuse to comply with the arbitrator's decision can be taken to court, where the award can be confirmed and turned into a civil judgment, which would then be disclosed on the CSLB's website. Outcomes of the CSLB's arbitration program are confidential and not disclosed on the CSLB's website. However, if the arbitrator issues a monetary award and the contractor fails to pay the award within 90 days, the CSLB can suspend the contractor's license and the suspension is disclosed on its internet website. Arbitration only resolves workmanship and contract issues. Disciplinary issues, such as lack of workers' compensation insurance, unlicensed activity, or civil remedies are not within the arbitration program's jurisdiction. Within the last five years, the CSLB referred 3,060 contractors to arbitration.

Pursuant to BPC § 7099, the Registrar is authorized to issue a citation for acts that would otherwise be subject to formal disciplinary action. The CSLB utilizes cite and fine authority as an enforcement tool against licensed or unlicensed individuals who are found to be in violation of the CSLB's statutes or regulations. Cite and fine is used as a mechanism to address minor violations where formal probation, revocation, or suspension may not be warranted. A citation may include an order of abatement to correct the work. CSLB can also order payment of "a specified sum to an injured party" rather than require the contractor to fix the work. The amount is determined based on the cost either to correct the project deficiencies or to complete the project if that cost exceeds any remaining balance on the contract

The five most common violations for which citations are issued are as follows:

- Violation of home improvement contract requirements
- Willful departure from workmanship standards
- Filing a false workers' compensation exemption
- Acting as contractor under a name or personnel inconsistent with CSLB records
- Willful or deliberate violations of building laws, particularly building permit compliance

Violations of the home improvement contract requirements include not providing the consumer with a written contract including the contract price, not distinguishing between a finance charge and a charge for contracted work, exceeding allowable progress payments, and charging a down payment above the permitted down payment requirements. Licensees who fail to pay a fine are unable to renew their license until the fine is paid in full.

CSLB uses criteria in the DCA's Complaint Prioritization Guidelines for Health Care Agencies where applicable to CSLB complaint prioritization. Although CSLB's complaint prioritization guidelines are not identical to the guidelines developed for DCA's healing arts programs, CSLB reports that its complaint prioritization processes is fundamentally consistent with the healing arts program guidelines developed by the DCA.

In May 2019, CSLB revised its prioritization criteria, replacing the complaint prioritization matrix discussed during the previous sunset review. The revised criteria includes 21 complaint types, which are placed into four distinct prioritization categories: Urgent, High, Routine, and Low. Urgent complaints pertain to health and safety code violations, elder abuse, predatory criminal acts, diversion of funds, and significant public interest. Complaints considered low level are standalone contract violations, advertising violations, failure to display a license number and bond compliance issues.

Effective January 1, 2019, SB 1465 (Hill, Chapter 514, Statutes of 2018) requires licensees named as a defendant or cross-defendant in a civil action judgment, executed settlement agreement, or arbitration award for construction defects in residential structures that meet specified criteria to report that judgment, agreement, or award to CSLB within 90 days. Additionally, general liability insurance providers are required to report any payment, in part or total, of a judgment, settlement, or arbitration award meeting the same criteria to CSLB within 30 days. SB 1465 was in response to the 2015 collapse of an apartment building balcony in Berkeley that killed six people and injured seven others. CSLB reports that it is not aware of challenges associated with receiving the reports.

The CSLB is subject to statute of limitations periods for filing cases, depending on the violation being alleged and whether the violation is administrative or criminal as specified in BPC § 7091. Statutes of limitation for administrative actions depend on the issues present. Complaints alleging any patent actions or omissions must be filed within four years after the alleged act or omission. A disciplinary action resulting from such a complaint must be filed or referred to arbitration within four years of the act or omission, or within 18 months from the date the complaint is filed, whichever is later. Complaints alleging any latent act or omission regarding structural defects must be filed within 10 years after the latent act or omission. A disciplinary action resulting from such a complaint must be

filed within 10 years of the act or within 18 months from when the complaint is filed, whichever is later.

Other statutes of limitations in BPC § 7091 include two years for: 1) omissions or misrepresentation while obtaining or renewing a license or adding a classification, 2) when a licensee is convicted of a crime substantially related to the qualifications, functions and duties of a contractor, and 3) breach of an express, written warranty. CSLB also operates within the applicable statute of limitations when making criminal referrals. Specific to misdemeanor violations by contractors, Penal Code § 802(d) sets the statute of limitations for certain violations, at one, two, or three years from commission of the offense. Most recently, SB 601 (McGuire, Chapter 403, Statutes of 2023) extended the statute of limitations for when a licensee aids and abets unlicensed activity from one to three years.

The CSLB reports that between FYs 2018/19 through 2022/23, 981 cases were closed because the applicable statute of limitations had expired. In almost all of these cases, the statute of limitations expired before the complaint was filed with CSLB.

Public Information

Public information for consumers about the contracting industry and licensees is vital. The CSLB provides ample outreach to consumers, licensees, stakeholders and other interested parties. The CSLB maintains a “Board Meetings” page on its website that publicizes agendas and background materials for all committee and board meetings. The CSLB webcasts all board and committee meetings unless technical difficulties arise or if the meetings are emergency meetings.

The CSLB’s website also provides a variety of information available to both consumers and industry stakeholders. Consumers have access to licensee information, including a list of licensed contractors in a specific zip code and a resources page with reports and other pertinent information. Related to enforcement, the CSLB posts accusations and disciplinary actions on its website, and the CSLB provides a toll-free number for use by the public to obtain general license information about a contractor. License status, information about workers compensation insurance, contractors’ bond status, and a list of past and pending legal actions against a licensee are available for consumers to review. Additionally, the CSLB’s website has a “newsroom” page that includes links to all news releases, consumer alerts, industry bulletins, licensee newsletters, and any CSLB-produced videos. The CSLB discloses “pending legal actions” and “past legal actions,” excluding arbitration outcomes (unless the licensee fails to comply with payment of an award). Pending legal actions are only disclosed when the CSLB investigative staff have substantiated a complaint and legal action has been requested. Past legal actions include citations previously issued against any licensee resulting in probation, suspension, or revocation of a license. The CSLB provides a “Most Wanted” section on its website, on which CSLB has identified some of the worst unlicensed violators who are known to prey on vulnerable and unsuspecting homeowners.

The CSLB additionally participates in a consumer outreach and awareness program through its “Senior Scam Stopper Events” (SSSE) and the Speakers Bureau Program. The CSLB has participated in SSSEs seminars throughout California since 1999 in cooperation with legislators, state and local agencies, law enforcement, district attorneys, and community-based organizations. Seminars provide information about construction-related scams and how seniors can protect themselves when hiring a contractor. Sessions feature expert speakers from many local, state, and federal agencies, who present on a variety

of topics, including identity theft, auto repair, Medicare, foreign lotteries, and mail fraud. Prior to the pandemic, the CSLB participated in around 60 SSSEs events in a FY. During the pandemic FYs, the CSLB participated in closer to 20 SSSEs. During the last FY, 2022/23, the number increased to 33. To date in FY 2023/24, the CSLB has participated in 35 SSSEs. The CSLB strives to participate in as many SSSEs as invited to attend.

The CSLB additionally hosts a “get licensed” workshop which is accessible online and informs interested individuals on the steps and requirements necessary to obtain licensure. These workshops are offered in both English and Spanish. Workshops are the first Friday of every month and workshops in Spanish are held the third Friday of every month. Videos of the workshops are available on the CSLB’s YouTube page and the live events are available on WebEx, which allows for audience participation.

For more detailed information about the responsibilities, operations, and functions of the CSLB or to review a copy of the CSLB’s *2023 Sunset Review Report*, please refer to its website at www.cslb.ca.gov.

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

The CSLB was last reviewed by the Legislature through sunset review in 2018-2019. In January 2024, the CSLB submitted its required sunset report to the Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions (Committees). In this report, the CSLB described actions it has taken since its prior review to address the recommendations made. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under “Current Sunset Review Issues.”

- **CSLB’s fund is more stable.** The CSLB reports that it commissioned a fee study, which was finalized in December 2020. The study recommended a permanent increase to all fees to address continuing structural fund imbalances. SB 607 (Min, Chapter 367, Statutes of 2021) codified the emergency fee increases, increased remaining fees, and raised the statutory maximum of each fee by approximately 25 percent, effective January 1, 2022. In addition to fee increases, SB 607 implemented a reorganized fee structure to charge fees by the type of business (e.g., sole owner vs other entities). This tiered fee structure allows CSLB to assess fees commensurate with the workload required to process the application of a business types, which introduces fairness to sole owners, whose applications are not as work intensive to process as those with multiple owners.
- **Certification and licensing requirements are updated.** SB 1189 (McGuire, Chapter 364, Statutes of 2020) created the B-2 residential remodeling license type and revised the definition of “home improvement” to include the reconstruction, restoration, or rebuilding of a residential property that is damaged or destroyed by a natural disaster for which a state of emergency is proclaimed by the Governor. Following a disaster when there is an increased need for licensees in a specific location, there are frequent shortages of licensed contractors who can restore residential properties.
- **Information Technology systems are being evaluated.** CSLB incorporated the concept of business modernization into its 2022-2024 Strategic Plan. The goals and objectives involve updating traditional IT strategies to reflect current technological advancements, operational needs, and organizational achievements. Transition to a new system carries the risk of introducing compatibility issues and the loss of custom features critical to CSLB’s operations. However, incremental updates have been continuously implemented to improve the user experience while simultaneously protecting CSLB data and infrastructure.
- **Tree worker safety provisions are underway.** In 2020, AB 2210 (Aguilar-Curry, Chapter 128, Statutes of 2020) increased the CSLB’s enforcement authority for violations of the LC related to tree-worker safety. AB 2210 provided that a violation of any safety provision in the Department of Industrial Relations General Plant Equipment and Special Operations regulations (Title 8, CCR §§ 3420-3583) is cause for disciplinary action regardless of whether death or serious injury occurred. There have been three citations issued since the bill went into effect. The CSLB further reports on this issue that it plans to meet with DOSH and industry

partners in early 2024 to encourage them to notify CSLB when a construction worker is seriously injured or killed.

- **Additional Notable Highlights.** In April 2022, CSLB began translating several examinations into Spanish. Effective August 1, 2023, the Law and Business, “B” General Building, and “C-8” Concrete trade examinations are available in Spanish at the PSI test centers. CSLB closed obsolete testing centers, which are no longer necessary to operate as CSLB outsourced test administration to a third-party vendor. CSLB sponsored or provided technical expertise on 23 pieces of legislation between the years of 2019-2023. The Board entered a contract with an outside vendor to analyze and assess the CSLB’s enforcement division’s complaint and investigative process, which, as of January 1, 2024, is in the early phase of investigation. Multiple departments within the CSLB’s operations including enforcement, public affairs and licensing were reorganized and CSLB reclassified positions to ensure appropriate civil service classifications meet operational needs. CSLB also implemented the Solar Energy System Restitution Program and administered the program \$600,000 below estimates, freeing up more of the fund for consumer claims. License requirements for licensed applicants from outside of California have also been streamlined.

CURRENT SUNSET REVIEW ISSUES IDENTIFIED FOR THE CONTRACTORS STATE LICENSE BOARD

The following are unresolved issues pertaining to the CSLB or areas of concern that should be considered, along with background information for each issue. There are also recommendations Committee staff have made regarding particular issues or problem areas the CSLB needs to address. The CSLB and other interested parties have been provided with this Background Paper and the CSLB will respond to the issues presented and the recommendations of staff.

CSLB ADMINISTRATIVE ISSUES

ISSUE #1: Should the CSLB have authority to seek reimbursement from licensees for industry expert costs accrued by the CSLB?

Background: The CSLB is responsible for enforcement of the License Law. As part of its enforcement arm, the CSLB actively responds to and conducts investigations of consumer complaints. The CSLB reports that a primary goal of the CSLB's Intake and Mediation Unit is to resolve as many complaints as practical without further referral to a field investigation. An example provided by the CSLB, would be a consumer complaint about a workmanship issue, which may be a good candidate for mediation if the licensed contractor is willing to correct the work or provide a refund to resolve the matter and avoid further CSLB investigation and action.

For those complaints that cannot be resolved through the mediation process, the CSLB may need to refer the case for a field investigation. Investigations can increase costs for the CSLB, as greater resources are needed to conduct investigations. As noted by the CSLB, when a complaint is referred for a field investigation, the investigation is likely to result in a settlement, citation, letter of admonishment, or arbitration none of which provide a mechanism for cost recovery of the CSLB's work including staff-time or other resources necessary to investigate and resolve these complaints. According to the CSLB, to resolve a workmanship dispute, CSLB must evaluate the work that needs to be completed for a project to meet industry standards and any associated costs to complete that work. In order to make the proper assessment of workmanship and costs of a construction-related project, the CSLB must rely on the expertise of industry experts (IEs) and contracts with IEs as part of the investigation and enforcement process. Per BPC § 7019, if funding is made available, the CSLB may contract with other licensed professionals including architects, engineers and geologists as appropriate, for the site investigation of the consumer complaint. The registrar is responsible for determining the rate of reimbursement for the IE.

As noted by the CSLB, it annually receives more than 13,000 consumer-filed complaints, the majority of which allege incomplete and/or defective work. For the complaints that allege workmanship issues, IE services are required to determine if the contracted work was completed and performed to minimum trade standards.

In order to be an IE for the CSLB, an individual must meet the following:

- Be a qualifier for at least 5 years on a current contractor license, free of licensing issues or enforcement actions;
- Be knowledgeable about current trade standards in their areas of expertise;
- Be able to provide effective verbal communication;
- Be able to write an effective expert opinion; and
- Be able to testify at arbitration or disciplinary hearings, as needed.

While IEs provide valuable industry expertise in their evaluation of work as part of a complaint, the utilization of IEs is costly to the CSLB. As reported by the CSLB, costs can be around \$800 for a single IE to inspect the project site of a complaint and prepare a report utilized by the CSLB to make an enforcement determination. Between FYs 2019/20 through 2022/23, the CSLB spent \$2,061,446 on IEs, (one case may require more than one IE). Costs associated with the use of IEs also include travel to the job site. These costs can increase depending on the severity of the complaint and the type of work that must be inspected based on a complaint. Currently, the CSLB does not have the statutory authority to seek reimbursement for the costs associated with IEs during the enforcement process. However, in those cases with formal discipline, such as probation or suspension, an ALJ may require cost recovery as part of the formal discipline process but for less severe penalties such as citations CSLB does not have cost recovery authority.

As noted in the CSLB’s 2023 Sunset Review Report, CSLB requests authority to obtain reimbursement for the cost of repeatedly inspecting poor workmanship or incomplete work prior to, and in lieu of, the disciplinary stage of a complaint when appropriate. Providing authority to recover some IE costs will serve as a deterrent to contractors who do not respond timely to requests to correct work or who repeatedly rely on CSLB to incur the cost of an IE to tell them how to correct and complete their contracted work.

IE Costs Paid by CSLB						
	Total IE Fees Paid	Number of Invoices	Average IE Fee	Travel Claims Paid	Travel Claims	Average IE Travel
FY 2019/20	\$574,842	878	\$653	\$49,300	730	\$67
FY 2020/21	\$267,884	454	\$587	\$16,433	238	\$69
FY 2021/22	\$381,008	499	\$699	\$26,376	338	\$72
FY 2022/23	\$704,903	763	\$805	\$40,699	505	\$70
Total	\$1,928,637	2,594	\$743.50	\$132,808	1,811	\$73.33

At least one other DCA agency has authority to charge for inspections in the enforcement process. The Bureau of Household Goods and Services (BHGS), under the Home Furnishings and Thermal Insulation Act (BPC §§ 19213 and 19213.1), is authorized to charge a fee when an inspection is needed to establish a violation. These sections do not require cost recovery through disciplinary action to invoke the fee. Unlike BHGS, which has staff to conduct and report on inspections, CSLB does not have in-house expertise to identify workmanship violations or the staff resources to conduct inspections at the rate complaints are received. Thus, CSLB must rely on experts in the field to conduct inspections. The CSLB notes in its 2023 Sunset Review Report that “*To ensure CSLB can continue to*

contract with IEs as the cost of services rises, authorization would be recommended to charge actual costs.”

Staff Recommendation: *The CSLB should advise the Committees on any anticipated cost savings associated with authority to seek the cost reimbursement of IEs.*

ISSUE #2: Will the CSLB Continue Remote Meeting Options?

Background: Per BPC § 7006, the CSLB is required to meet at least once quarterly. Consistent with other boards and bureaus during the COVID-19 pandemic, the CSLB utilized remote board meetings to conduct board-business. Prior to 2020, all CSLB-board meetings were held in person or by conference call, but between June 2020 and June 2022, 17 board and committee meetings were held via WebEx, which allowed for remote board member participation and public viewing participants as well. The CSLB now utilizes a hybrid-model for its board meetings, allowing for both in-person and remote participation. The CSLB meeting notices include the location of the meeting for persons interested in attending, along with instructions for those who wish to participate remotely. Unlike a number of other boards under the jurisdiction of the DCA, the CSLB does not have a statutory mandate to hold meetings in any designated geographic region, so remote participation may be helpful in reaching stakeholders across California.

Staff Recommendation: *Does the CSLB plan to return to in-person meetings only?*

ISSUE #3: Implementation of SB 216-Workers Compensation Insurance: Mandatory Coverage.

Background: The License Law requires applicants and licensees, as a condition of licensure, to submit to the CSLB a valid Certificate of Workers’ Compensation Insurance, or a valid Certification of Self-Insurance from the Department of Industrial Relations if they have any employees. As specified in BPC § 7125, if an applicant or licensee does not have employees and does not hold a (C-8) concrete license, (C-20) Warm-Air Heating, Ventilating and Air-Conditioning license, (C-22) Asbestos Abatement contractor license, (D-49) Tree Service contractor license, or (C-39) roofing contractor license, they are able to provide a certification of exemption (meaning they have no employees) and are then not required to meet the workers’ compensation insurance requirements as a condition of licensure, until January 1, 2026, when all applicants and licensees will be required to provide a valid Certificate of Workers Compensation Insurance for initial licensure and renewal.

To address concerns that some applicants or licensees were providing a certification of exemption of employees in order to avoid obtaining the required workers’ compensation insurance, SB 216 (Dodd, Chapter 978, Statutes of 2022) expanded the license classifications required to have a Certificate of Workers’ Compensation Insurance on file with the CSLB to include the (C-8 Concrete), (C-20 HVAC,) (C-22 Asbestos Abatement), (D-49 Tree Service) regardless if the contractor has employees. Prior to the passage of SB 216, only a C-39 Roofing contractor was required to have workers’ compensation insurance regardless of whether or not they had any employees. Beginning January 1, 2026, all licensure classifications under the jurisdiction of the CSLB, regardless of whether or not they have employees, must obtain workers’ compensation insurance. The requirements in SB 216 stemmed

from work conducted by the CSLB in 2017, as it reviewed strategies to combat workers' compensation insurance avoidance. The CSLB reported that between January 2018 and March 2020, CSLB issued 500 stop work orders to licensed contractors on job sites for failure to secure workers' compensation and further made 342 legal actions against licensed contractors for workers' compensation insurance violations.

SB 216 provided a delayed implementation for all licensure classifications to meet the workers' compensation mandate. However, as noted in the CSLB's 2023 Sunset Review Report, there are concerns that the implementation of SB 216 will have a greater impact on CSLB's workload than anticipated and could potentially increase license-processing times. The CSLB is currently researching additional mechanisms to address the potential licensing challenges, including requesting new staff through the budget change proposal process.

In addition to concerns regarding implementation, there has been stakeholder feedback from contractors who will be required to obtain a certificate of workers compensation insurance even though they report to have no employees. California law requires that employers, including those in the construction industry, carry workers' compensation insurance, even if they have only *one* employee, including receptionists or other staff.

Staff Recommendation: *The CSLB should advise the Committees if legislative changes are necessary to ensure effective implementation of SB 216. Additionally, the CSLB should advise the Committees if it foresees any workforce issues resulting from the implementation. Is the CSLB conducting any outreach or informational sessions to help applicants and licensees meet this new requirement or better understand what it means to have "employees"? Does the CSLB need more time to implement the requirements?*

ISSUE #4: Should the board composition include a representative from the B-2 residential remodeling classification?

Background: SB 1189 (McGuire, Chapter 364, Statutes of 2020) added a new contracting classification, the B-2 residential remodeling classification, to help create an easier pathway for individuals to obtain a contractor license. For the general B classification, an applicant must have experience in framing and carpentry, which can be more difficult to obtain. Under the B-2 pathway, an applicant can apply for licensure without having a carpentry and framing experience, allowing the contractor to take a contract involving three unrelated trades, potentially expanding the pool of applicants able to qualify for the new residential contracting license. Prior to the passage of SB 1189, the CSLB held multiple licensing workshops and found that approximately 80-85% of those attendees would have benefited from the new licensure category, as many perform remodeling work but lack the rough carpentry and framing experience necessary to obtain the general B license. CSLB began accepting B-2 applications effective January 1, 2021, and as of December 2023, has issued 627 B-2 licenses. The license population is quickly growing, having increased by 250% in the past 12 months from 252 to 627.

Seven of the 15 board members are required to construction industry professionals, including one "A" General Engineering contractor, two "B" General Building contractors, two "C" Specialty contractors,

one representative of a labor organization, and one local building official. BPC § 7002 specifies the professional members that must be appointed to the board. Although there is a requirement that two General B contractors serve as appointees, current law does not specify the appointment of a B-2 contractor.

Staff Recommendation: *Do the current requirements for professional representation adequately represent the B-2 industry? How would CSLB recommend incorporating B-2 representation? Are any adjustments necessary?*

ISSUE #5: Does the CSLB have appropriate resources to implement recent legislation?

Background: Since 2019, when the CSLB last participated in the sunset review process, there have been 13 bills chaptered into law that affect the CSLB and its licensing population. The issue of legislative impacts on CSLB operations was previously raised during the CSLB’s 2019 sunset review and at the time the CSLB responded, “all proposed legislation related to CSLB licensees, applicants, consumers, and internal operations are analyzed to determine their effect. CSLB responds to new legislation in different ways, depending on the legislative requirements and, when necessary, will request additional resources to ensure that the board meets statutory mandates.”

More recently, as an update to the CSLB’s prior response to the question from 2019, in the CSLB’s 2023 Sunset Review Report, it noted that previous legislation resulted in an unanticipated workload for the CSLB, meaning there are new challenges with implementation of two bills. CSLB reports information technology challenges when implementing legislation. As reported, the majority of legislation affect CSLB’s IT Division. The CSLB notes that it would benefit from a delayed implementation whenever legislation affect IT systems because the both IT system and website are self-supported by CSLB and not supported by DCA. Therefore, CSLB is responsible for the full breadth of implementation. Because most bills are effective on January 1 of the following year, the IT Division does not have lead-time required to create positions and hire staff or to contract with a temporary staff member to implement legislation. This leads to the IT Division absorbing a significant amount of work for which it would likely request resources under a longer implementation timeline.

Staff Recommendation: *The CSLB should advise the Committees on what additional tools or resources may be necessary when considering legislative changes or proposals. How can the CSLB better identify implementation challenges during the legislative process?*

ISSUE #6: Attorney fees and liability risks associated with deposits in lieu of bonds.

Background: As noted in the CSLB’s Sunset Review Report 2023:

At the March 25, 2021, board meeting, a public commenter alerted the Board and its legal counsel to a California Appellate Court case (Karton v. Ari Design & Construction: https://scholar.google.com/scholar_case?case=11045464683830676391&hl=en&as_sdt=6&as_vis=1&oi=scholar). The case involved a civil dispute between a contractor and a consumer where the court found a surety bond company (Wesco Insurance Company) liable for \$90,000 in attorney fees for the litigation. This judgment amount is well more than the surety liability on any contractor bond (\$12,500

at the time of the Karton case, \$25,000 today). The case greatly expands surety financial liability on contractor bond cases, which could increase the cost of the license bond, require more license bond underwriting, and/or preclude potential licensees from obtaining a bond at all.

Separately, on or about April 20, 2023, a deputy attorney general representing CSLB in a routine “cash deposit” bond case where CSLB is listed as a codefendant because of the cash deposit, alerted the CSLB Executive Office that the Karton case was being used to make CSLB liable for consumer’s attorney fees in a civil case against a contractor. This was the first CSLB learned of the case being used in this way.

Cash deposits refer to cashier’s checks (filed with the state) or certificates of deposits (filed with private banks) by contractors who do not want to use a surety company for their required license bond. The law provides that only CSLB can “release” these bonds to a consumer and only when a civil court has issued an order to do so (usually at the end of a civil case involving a bond). For several years with minimal issues, CSLB has paid deputy attorney generals to monitor these cases and alert CSLB when to release the bond. There are fewer than 10 of these cases a year.

Additionally noted in the CSLB’s 2023 Sunset Review Report:

“Based on the Karton decision, CSLB may currently be liable for over \$100,000 attorney fees in the current consumer/contractor civil case, and is exposed to financial liability for attorney fees in all future “cash deposit” civil cases, and must pay the Attorney General to defend CSLB from not paying out without a court order. This legal interpretation is possible because California Bonds and Undertaking laws (Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure) considers CSLB a “surety” in situations when it is holding cash deposits for contractors until their dispute is resolved. This is contrary to the policy and purpose behind “cash deposits,” which is simply to provide contractors with poor credit, no social security number, or other reasons for not wanting to use a surety company alternative means of complying with the CSLB bond requirement. When a contractor commits an act that exposes their bond to payout, CSLB is not legally responsible. CSLB’s only role in these cases is to protect the consumer (and the funds) by making the cash deposit bond funds available when the court has directed CSLB to dispense the funds to an injured party.”

Staff Recommendation: *The CSLB should advise the Committees on what remedies it sees as necessary to address this potential liability.*

CSLB BUDGET ISSUES

ISSUE #7: Does the CSLB Examination Fee Statute Need Revision?

Background: In July of 2022, the CSLB entered into a master contract held by the DCA, joining several boards and bureaus whose license examinations are administered by a third-party vendor. Prior to CSLB joining that contract, it was responsible for scheduling, creating, developing and administering its own examinations. Because the CSLB was involved in all aspects of the examination process, any fees associated with examinations were set in statute and paid directly to the CSLB by the applicant. However, since the transition to PSI Exams, the existing fee structure for applicant

examinations may be outdated. Because of current specifications in statute, applicants are paying the CSLB for examination administration instead of the vendor PSI Exams.

Current law (BPC § 7137) specifies the fees applicants are required to pay the CSLB directly for examinations. CSLB then pays the vendor to administer the examination. The vendor in turn charges CSLB for each examination administered. This is a costly duplication of effort and paperwork for all parties involved.

Scheduling examinations and retakes requires significant staff resources to receive and process payments and then notify candidates and PSI Exams that they may schedule a second (or subsequent) examination, some as many as 12 times. Applicants could pay a lesser fee for rescheduling an exam or retaking after failing if CSLB was not required to process examination reschedules. BPC § 7137(a)(2) specifies the fee to reschedule an examination is \$100; however, PSI Exams invoices CSLB \$45.65 for each standard examination. Therefore, the CSLB has recommended in its 2023 Sunset Review Report to amend the License Law to require candidates to pay examination fees directly to PSI Exams, instead of the CSLB, saving both time and money for the applicant and CSLB staff resources.

Staff Recommendation: *The CSLB should advise the Committees on the statutory language necessary to make this change. The CSLB should advise the Committees on whether outsourcing the administration of the examinations has created efficiencies for the CSLB and/or applicants.*

CSLB LICENSING ISSUES

ISSUE #8: Issuing licenses to tribes/tribally-owned businesses.

Background: According to information in the CSLB’s 2023 Sunset Review Report, the CSLB has found that current law does not provide a pathway for a federally recognized tribe, seeking to operate as a licensed contractor outside of its tribal boundaries, to obtain a contractor license. Unlike many other license types in California, which are issued to the individual, (i.e., a nurse, a veterinarian, a physician and surgeon, a funeral director, or a cosmetologist), a contractor license is issued to the “business.” A CSLB license may be issued to a variety of business types including individual owners, partnerships, corporations, and limited liability companies. As noted in the CSLB’s 2023 Sunset Review Report, several tribes have attempted to apply for a contractor license, but denied, as there is no authority in current law to issue a license to a tribe. The License Law authorizes licenses to be issued to individual sole proprietorships or entities that are registered with the Secretary of State.

BPC § 7026, defines a contractor as, “...a **person** who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, ...” The term “person” in the definition of a contractor is defined in BPC § 7025(b), as “an individual, a firm, partnership, corporation, limited liability company, association or other organization, or any combination thereof,”

BPC § 7065(b) specifies that contractor licenses are to be issued to individual owners, partnerships, corporations, and limited liability companies. This creates a barrier for tribes, which are distinctly not any of the above entities. Further, BPC 7076.2 requires licensed contractors that do business as a

corporation or limited liability company to register with the Secretary of State, and maintain good standing, failure to do so results in suspension.

A tribe may form a corporation as a tribally chartered corporation under tribal law, a state chartered corporation formed under state law, or a federally chartered corporation under Section 17 of the Indian Reorganization Act. However, the License Law only recognizes registration with the Secretary of State as a valid method of forming a corporation for purposes of CSLB licenses. As sovereign governments, tribes often pursue economic development initiatives by operating for-profit businesses. These businesses can, but are not required to, register their businesses with the Secretary of State as foreign corporations. Additionally, tribes cannot obtain a license as a sole proprietor, because a tribe has a right to self-governance that is not afforded to an individual. As a result, CSLB is unable to issue contractor licenses to tribal businesses. Federally recognized tribes do not need licenses to operate within their boundaries, unless their tribal laws designate such specific requirements.

Other boards and bureaus share similar challenges associated with issuing licenses to tribal businesses including the Bureau of Automotive Repair, the Bureau of Security and Investigative Services and the Structural Pest Control Board. The CSLB recommends in its 2023 Sunset Review Report to address this issue to expand business opportunities and reduce licensure barriers for federally recognized tribes conducting business operations outside of its tribal boundaries.

Staff Recommendation: *The CSLB should advise the Committees on the appropriate legislative changes necessary to permit a tribe or tribally owned business to obtain a contractor license.*

ISSUE #9: Civil Remedies. Is current law being applied appropriately?

Background: Current law requires all persons who provide contracting services (labor and materials over \$500) to hold an active license issued by the CSLB, and the law further authorizes civil, administrative, and potentially criminal penalties for various violations of the License Law.

The License Law also permits an individual that hires a contractor, and later discovers the contractor to be *unlicensed* at any point during the project, to seek recovery in a court of law for the cost of all construction-related work performed by the unlicensed contractor. In civil cases in which a contractor's licensure is questioned, the contractor may assert in defense that they were previously duly licensed, made a "good faith" effort to comply with the licensing requirements and corrected their licensure status immediately upon discovering a lapse.

BPC § 7031(b) specifically states: *a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract...*

There are concerns that this section of the License Law is potentially being used in certain cases where licensees have been sued in court to recover *all* of the compensation paid or owned on a contract, even if the licensee incurred some type of minor lapse in licensure.

The CSLB may take enforcement actions against an individual providing contracting services without a license, operating with an expired or otherwise disciplined license, non-compliance of workers' compensation or bond requirements, and when a licensee operates outside of their licensing classification. However, the CSLB does not have a role in civil cases stemming from BPC § 7031 other than providing the verified certificate of licensure referred to in subdivision (d), when requested. Further, because these cases are not the result of CSLB enforcement work, the CSLB does not have data as to the number of instances when these cases are brought to court. It would be helpful to understand the practical impacts of this provision and whether updates are necessary to ensure that it is applied as intended.

Staff Recommendation: *CSLB should inform the committees of statutory changes, historically or necessary moving forward, that may assist licensees in maintaining compliance with licensure requirements. The Committees may wish to evaluate the necessity of updating the License Law to ensure that minor violations are adjudicated by CSLB appropriately.*

ISSUE #10: Why are pass rates low for some examinations?

Background: To become a licensed contractor in California, an applicant is required to take and pass a trade examination relevant to the contractor classification they are seeking licensure for (A, B, B-2 or C) and the law and business examination, unless they have a waiver for the trade examination. Today, a third-party vendor administers the examinations while the CSLB is responsible for examination development.

CSLB required examinations include the “A” General Engineering examination, “B” General Building examination, “B-2” Residential examination, 41 specialty classification examinations and two specialty certifications examinations, along with the law and business examination. The law and business examination is required for all applicants regardless of licensing classification.

In Table 8, beginning on page 50 of the CSLB’s 2023 Sunset Review Report , there is a list of each examination administered by the CSLB, the passage rate of each examination for both first-time and repeat test-takers (those who failed passage the first time), and the combined total of both during the last four FYs. Across all of the 47 examinations offered, the CSLB reports a passage rate for FY 2022/23 of 71%, down 3% from FY 2019-20 when 74% of test takers passed the examinations on their first attempt. The total number of test takers has increased between those years by approximately 37%. Although, 74% is the average pass rate for all examinations, there are a number of examinations with notably low passage rates as reported in the CSLB’s 2023 Sunset Review Report : C-2 24%, C-11 32%, C-13 39%, C-16 30%, C-21 36%, C-27 38%, C-29 38%, C-46 35%, C-50 29%, to name a few. The CSLB develops its licensing examinations with the aid of industry experts, and each examination undergoes an occupational analysis approximately every five to seven years.

The CSLB notes that recently it began to offer a few of its licensing examinations in Spanish, as opposed to the applicant requesting a translation provider at the time of the examination. It is unclear how much language barriers may have contributed to low passage rates, and because examinations translated into Spanish is new and not yet available for all examinations, it is too early to attribute this solely to poor passage rates. The top ten examinations for which CSLB received requests to use Spanish translators were the first translated into Spanish language and into production between August 1 and December 1, 2023. The examinations now offered in Spanish are law and business, B (General

Building), C-8 (Concrete), C-9 (Drywall), C-15 (Flooring and Floor Covering), C-27 (Landscaping), C-33 (Painting and Decorating), C-36 (Plumbing), C-39 (Roofing), and C-54 (Ceramic and Mosaic Tile).

Additionally, CSLB has translated all study guides into Spanish including those examinations not translated into Spanish. Although it is too early to determine if these actions are attributed any increase in passage rates, the CSLB notes that early response has shown promise.

In addition, in its current response to prior issues, the CSLB notes the following contributing factors currently with examination passage rates:

“Individual trade examination passage rates may appear artificially low for examinations that have a small number of candidates, i.e., one candidate’s failure (or multiple failures) will have a disproportionate impact on the overall results for that particular examination. Examples of these are C-4 (Boiler, Hot Water Heating, and Steam Fitting), C-11 (Elevator), and C-55 (Water Conditioning), which average 34, 25, and 21 examinations each year, respectively.

Finally, there is not a limit on how many times an individual may retake a failed examination so candidates who fail will often retake and fail the examination multiple times. These multiple failures decrease the passage rate as an overall percentage of tests administered. In FY 2022/23, first time candidates comprised 56% of the candidates who failed the examinations; therefore, 44 percent of candidates failing the exam were taking the exam a second or subsequent time with some having taken the exam and failing eight attempts.”

Staff Recommendation: *The CSLB should provide the Committees with any information on first-time passage rates. In addition, the CSLB should advise the Committees on what additional languages the CSLB is considering offering examinations and the timeline for such updates.*

ISSUE #11: Acceptance of the national examination.

Background: Currently, the CSLB develops all of the different trade examinations that must be passed to receive a contractor’s license. These examinations help verify that a license-holding contractor can perform their work in accordance with industry standards and legal requirements within the license classification they are seeking (A), (B), (B-2) or (C). Applicants who hold a license outside of California and apply for licensure in this state must take and pass both the trade-specific examination and the law and business examination. Unless those applicants apply from a state that holds a reciprocity agreement with CSLB, they may bypass CSLB’s trade examination, but are required to take and pass the law and business examination. CSLB currently holds reciprocity agreements with Arizona, Louisiana, and Nevada. Under current law, BPC § 7065.4 authorizes CSLB to consider granting licensure to qualifying applicants who are licensed in another state where the licensing requirements meet or exceed CSLB’s requirements.

On the national level, the National Association of State Contractor Licensing Agencies (NASCLA) provides two examinations, a commercial general building contractor examination and a trade examination for electricians. According to information on the NASCLA website, “The NASCLA Accredited Examination Program was designed to reduce redundant licensing requirements and assist contractors who need to be licensed in multiple jurisdictions.”

The NASCLA general building contractor examination is administered and accepted in nine states. The NASCLA is not currently offered in other languages.

Staff Recommendation: *The CSLB should advise the Committees of any concerns with accepting the national examination in place of California-specific examinations.*

ISSUE #12: Contractor classifications and public works projects.

Background: BPC § 7059 provides the CSLB with authority to adopt rules and regulations pertaining to the classifications, including establishing limits in the field and scope of the operations a licensed contractor may engage in based upon the classification of license held (A-General Engineering, B-General Building, B-2-Residential Remodeling and C-Specialty). BPC § 7117.6 specifically prohibits working outside of the licensee’s classification and subjects that contractor to enforcement actions by the CSLB.

The various classifications of contractor work in which licensees operate are consistent amongst all types of projects on which a contractor may engage. Regardless of the scope or size of a project, or who hires the licensed contractor (a private or public entity), a contractor must abide by all parameters of the License Law, including contracting for work within the licensee’s classification. With respect to larger public works projects, BPC § 7059 requires in public works contracts that the awarding authority determines the classification necessary to bid and perform the project, and prohibits the awarding authority from issuing a contract to a specialty contractor whose classification constitutes less than a majority of the project. Stakeholders have noted that current law may lead to confusion for awarding agencies when determining the appropriate classification as BPC § 7059 specifies the awarding authority determines the classification necessary without specifying that those classifications should be consistent with the classifications specified in the License Law.

Staff Recommendation: *The CSLB should advise the Committees if statutory clarification would be beneficial to ensure that public works projects are only awarded to contractors with the appropriate license type.*

ENFORCEMENT ISSUES

ISSUE #13: What additional resources does the CSLB need to deter unlicensed contractors?

Background: Any contracting work that exceeds \$500, including both materials and labor, requires a licensed contractor. According to the CSLB, “unlicensed contracting is part of California’s estimated annual \$60 to \$140 billion dollar underground economy.” As reported in the CSLB’s 2023 Sunset Review Report, unlicensed contracting work continues to be a problem in California.

Some of the proactive measures undertaken by the CSLB to address the underground economy include interagency task force work that helps to address both violations of the contractor laws as part of unlicensed activity, but also the LC, workplace safety, and tax laws that are also violations under the

“unlicensed activity umbrella.” The SWIFT unit (Statewide Investigative Fraud Team) investigates and enforces construction-related laws and requirements through sweeps and stings. The CSLB also collaborates with other state agencies to help enforce unlicensed activity. SWIFT investigators participate in two specialized task forces assembled to help address unlicensed activity. The Joint Enforcement Strike Force (JESF), led by the Employment Development Department enforces tax, labor, and licensing laws while the Labor Enforcement Task Force (LETf), a coalition led by the Department of Industrial Relations, works with local and state agencies to ensure employee compensation reflects labor law and have safe working conditions.

Although the CSLB continues to take proactive measures to address unlicensed activity, unlicensed activity continues to plague the profession. If existing resources, partnerships and programs are not enough to reduce the burden of unlicensed activity, the question arises as to what other enforcement mechanisms would be helpful for the CSLB or if there are any identified problems with the local jurisdictions prosecuting the illegal operators. The CSLB’s enforcement jurisdiction is limited when a licensee is not involved. The CSLB must rely on local law enforcement and district attorneys to assist with enforcement. The CSLB can send unlimited fines, but an unlicensed individual has little to no incentive to pay, unless they seek compliance and wish to obtain a license. It is unknown how many unlicensed individuals who receive a fine for unlicensed activity apply to the CSLB for licensure and pay the required fine.

Staff Recommendation: *The CSLB should advise the Committees if additional enforcement tools are necessary to help address unlicensed activity. Further, the CSLB should explain to the Committee any challenges faced when working with local authorities with respect to unlicensed activity.*

ISSUE #14: Should minimum fine amounts for various violations of the License Law be set in statute?

Background: BPC § 7099.2 requires the CSLB to promulgate regulations for assessing civil penalties for violations of the License Law. There are a number of current civil penalties between \$8,000 and \$30,000, which are set in statute. For the majority of violations, the civil penalties are capped at \$8,000; however, more severe violations including aiding and abetting an unlicensed person, entering into a contract with an unlicensed person, or filing false workers’ compensation materials are capped in statute at \$30,000. All minimum fine amounts are specified in current regulations (16, CCR § 884) where the majority of fine minimums are set at \$100. Currently, there are over 50 different civil penalties and the fines for each violation and penalty range depending on the violation.

Many of CSLB’s enforcement fines are set in statute but only include the maximum fine amounts, not the minimum amounts. As noted by the CSLB in its 2023 Sunset Review Report, this leads to frequent and significant fine reductions during citation appeals by administrative law judges, which creates great disparities in fine assessed compared to the maximum fine available. The CSLB would like to see the minimum set in statute for swifter modifications.

The fines listed in regulation depend on the violation. For example, the lowest maximum fine amount is \$500 for a violation of BPC 7029.1, 7029.5, 7031.5, 7071.11, 7071.13, 7125, and 7159.5(a)(2) (a)(4)

(a)(6), (a)(7), and (a)(8). The other maximum fine amounts vary from \$1,000 to \$30,000. The challenge with the lower fine amounts as reported by the CSLB is those minimum fine amounts, which are specified in regulations often lead to reduced or low fines for the violation during the adjudication process. For example, the administrative fine for unlicensed practiced as specified in BPC § 7028.7 is between \$200 and \$15,000.

CSLB reports that between FYs 2019/20 through 2022/23 it assessed fines of \$18,091,356 based on 5,597 citations. During this time, the average pre-appeal fine was \$3,232, and ALJs further reduced 2,014 fines on appeal to \$1,840. The CSLB reports that these reductions ensure fines are not commensurate with the violation, are not sufficient to cover the work of the enforcement division activity, and do not provide an incentive to comply with the License Law.

CSLB minimum fines are in regulation and last amended via the regulatory process in 2007. In 2003, the Legislature more than doubled the maximum fine for most violations of the License Law from \$2,000 to \$5,000. In response, CSLB amended its citation regulations in 2007 to reflect the increased maximums and applied the rationale of doubling the maximum fines to the minimum fines. In this rulemaking, CSLB increased its minimum fines from \$50 to \$100. The minimum fines have not been amended since then. Prior legislation has statutorily increased maximum fines by statute for specified violations (for example from \$5,000 to \$8,000 and from \$15,000 to \$30,000 for specified violations) (AB 569 (Grayson, Chapter 94, Statutes of 2021) and AB 1474 (Quirk, Chapter 757, Statutes of 2022). However, the minimum fines set forth in regulation remained unchanged.

The CSLB proposes incorporating enforcement fine floors into statute to help ensure that those enforcement floors are commensurate with recent statutory maximum increases and allow future increases for minimum fine amounts. The CSLB's proposal entails enacting a statutory minimum fine that is based on the egregiousness of the violation, taking into consideration the maximum already set by the Legislature. The CSLB's proposal would also provide that minimum fines be adjusted every five years in line with the Consumer Price Index.

Staff Recommendation: *The CSLB should advise the Committee on how the fine minimums specified in regulations impact their enforcement mission. The CSLB should advise the committees if it believes that minimum fine levels be increased.*

WORKFORCE ISSUES

ISSUE #15: Should the Hazardous Substance Certification be expanded to include excavation and debris removal?

Background: In the wake of unprecedented disasters in California over the past several years, rebuilding efforts have commenced across the state in residential areas devastated by floods, fires, and earthquakes. CSLB has received several inquiries from concerned parties about whether contractors digging to remove contaminated materials from these devastated areas are properly trained or qualified. CSLB updates the hazardous substances certification examination every five years based on input from subject matter experts who help design questions based on federal, state, and local law.

However, existing statute only requires the hazardous substance certification for removal and installation of underground storage tanks for project sites listed on state or federal websites. As a result, the certification examination questions are limited in scope to these issues. CSLB issues a hazardous substance certificate to contractors who already have a contractor's license and need the certification to engage in "removal or remedial action." The certification is required for all work in which the contractor is required to dig into the surface of the earth and remove dug material, "at hazardous sites that are identified by the DTSC's Hazardous Waste and Substances Site List under state law or are listed on the United States Environmental Protection Agency's National Priorities List under federal law."

The criteria for inclusion on these lists are not the same as those to designate a declared disaster area. Consequently, the hazardous substance certification does not permit a certificate holder to perform removal or remediated action in areas where consumers are victims of disasters, unless the work needed is to install or remove underground storage tanks. CSLB has identified the need to evaluate whether CSLB's hazardous substance certification needs to be updated to include construction related digging in disaster areas. CSLB is currently working with the Department of Toxics and Substance Control (DTSC) to clarify the criteria for inclusion of a dig site within a declared disaster area on their website. If DTSC is unable to list residential sites in declared disaster areas on their website, then there will be a need to expand the CSLB hazardous substance certification to include additional work encompassing hazardous removal.

Staff Recommendation: *The CSLB should provide the Committees with the number of licensees potentially impacted by this change and if there is any risk to consumer protection or safety by expanding the potential provisions that could be covered. Would expanding the provisions result in a benefit to consumer protection?*

ENFORCEMENT ISSUES

ISSUE #16: Are there any additional tools to help CSLB improve cost recovery?

Background: Cost recovery can be an effective tool to help a Board recoup a portion of costs associated with taking enforcement actions against a licensee. In the Board's 2019 Sunset Review Report, it reported that it spent \$5,954,025 on enforcement, ordered \$732,158.88 in cost recovery yet, only collected a fraction of that for a total of \$56,830.38. The CSLB notes that it recently avoided a fund deficit through increasing fees and notes higher costs associated with enforcement, including an increase in enforcement related actions, the CSLB should identify methods to strengthen its collection of cost recovery in an effort to help offset the expense of enforcement. Cost recovery is different from reimbursement costs for IEs, as noted in Issue# above, but IEs can be included in the total of cost recovery; however, cost recovery includes staff time, attorney's fees, and DOJ costs, among others.

According to the CSLB's 2022/23 Annual Statistics Report, in FY 2022/23, the amount of cost recovery ordered was approximately \$2,000,000; however, the CSLB reports that it only collected 645,094-only 32% of the amount ordered. Given that enforcement related expenditures account for 57% of the CSLB's budget, being able to collect on ordered cost recovery is an important tool for the CSLB to maintain fiscal solvency and ensure that bad actors do not negatively impact the CSLB's

budget and potentially increase administrative costs. There should be consideration to enhance the CSLB's ability to collect ordered cost recovery that does not place the entire fiscal burden for the CSLB's enforcement program on the many thousands of law-abiding licensed contractors and registered HIS.

Staff Recommendation: *The Board should advise the Committees on efforts to collect cost recovery as a way to mitigate the expenses associated with taking enforcement actions.*

OTHER ISSUES

ISSUE #17: Technical changes may provide operation efficiencies of the License Law administered by the CSLB.

Background: Since the CSLB's last sunset review in 2019, the CSLB has sponsored or been impacted by numerous pieces of legislation which address all or parts of the CSLB's duties, oversight authority, licensing requirements, examination standards, among others. As a result, there may be a number of non-substantive and technical changes to the License Law to correct deficiencies or other inconsistencies in law. Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The Board's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation: *The CSLB should recommend cleanup or technical amendments to the Committees.*

CONTINUED REGULATION OF THE PROFESSION BY THE CONTRACTORS STATE LICENSE BOARD

ISSUE #18: Should the licensing and regulation of the contractor profession be continued and regulated by the current composition?

Background: The safety and welfare of consumers persists under the presence of a strong licensing and regulatory structure to oversee the contractor profession. The CSLB's focus is consumer protection, to that end, has demonstrated its commitment to ensuring a robust contractor marketplace. Although, there are places where the CSLB can improve, including fiscal prudence, strengthening its licensing and enforcement objectives and those respective programmatic units, and identifying legislative priorities sooner, the CSLB should continue with a four-year extension so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: *Recommend that the licensing and regulation of contractors and HIS continue under the CSLB's regulatory authority in order to protect the interests and safety of the public. The CSLB should continue its work to help address the unlicensed economy through its enforcement operations and continue its administrative efforts to increase examinations in multiple languages. The CSLB should continue to develop staff management policies to ensure it has well-trained and cross-trained staff to alleviate pressures when disaster response is necessary. Further, the recommendation is for the CSLB to be reviewed by the appropriate policy committees of the Legislature once again in four years.*