

CONTRACTORS STATE LICENSE BOARD

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Protection of the public shall be the highest priority for Contractors' State License Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

— Business and Professions Code § 7000.6

Created in 1929, the Contractors State License Board (CSLB) licenses and regulates construction contractors, handles consumer complaints, and enforces existing laws pertaining to contractors. A consumer protection agency within the Department of Consumer Affairs (DCA), CSLB is authorized pursuant to the Contractors' State License Law (CSLL), and Business and Professions Code section 7000 *et seq.*; the Board's regulations are codified in Division 8, Title 16 of the California Code of Regulations (CCR). CSLB licenses almost 290,000 contractors in California.

CSLB licenses general engineering contractors (classified as "A"), general building contractors ("B"), and approximately 40 specialty contractor categories ("C"); in addition, the Board registers home improvement salespersons who market contractor services to consumers. The fifteen-member Board consists of one general engineering contractor, two general building contractors, two specialty contractors, one member from a labor organization representing building trades, one local building official, and eight public members (including one who represents a statewide senior citizen organization). Under Business and Professions Code section 7002(b), a representative of a labor organization is eligible to serve as a public member of CSLB. The Board

currently maintains five committees: executive, enforcement, licensing, legislation, and public affairs.

On June 25, 2021, Governor Newsom [reappointed](#) Donald R. Giarratano as a “C” Contractor member of the Board. (Mr. Giarratano initially began serving in 2020).

On September 29, 2021, Governor Newsom [appointed](#) Cynthia L. Rich as a Public member of the Board. Dr. Rich has worked as a clinical psychologist in her own private practice since 2015. In 2010, she received her Master of Arts degree in Psychology from the California School of Professional Psychology (CSPP) at Alliant International University. She went on to earn her Doctor of Clinical Psychology degree in 2013, also from CSPP/Alliant.

Also, on September 29, 2021, Governor Newsom appointed Steven Panelli as a Public Member of the Board. Steven Panelli has been the Chief Plumbing Inspector at the San Francisco Department of Building Inspection since 2009. Prior to that, he had 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.

At this writing, there is currently one public member vacancy on the Board to be appointed by the Governor.

On June 3, 2021, the Board elected public member Susan Granzella as chair, while Mary Teichert and Diana Love were elected to vice-chair and secretary, respectively.

HIGHLIGHTS

New Law Makes Illegal Dumping a Cause for Disciplinary Action by CSLB

[AB 246 \(Quirk\)](#), as introduced January 13, 2021, and revised April 8, 2021, repeals and adds section 7110 to the Business and Professions Code relating to contractors. This bill explicitly makes a licensed contractor's unlawful dumping of construction debris or a contractor's willful or deliberate violation of local or state dumping laws a cause of disciplinary action against the contractor under the Contractors State License law.

CSLB is the sponsor of the bill, as the Board unanimously [voted](#) to sponsor this bill at its December 2020 [meeting](#). As noted by CSLB, it will rely on the finding of a local or state agency that a violation occurred as the necessary evidence to take disciplinary action against a licensee. According to the author, there is evidence that licensed contractors' unlawful dumping of construction debris is a problem in California, and it is going unaddressed. The author noted that several California cities and counties have reported that discarded construction material is being dumped illegally and have documented instances of CSLB-licensed contractors doing the dumping.

There is no listed opposition to the bill, and supporters of the bill opine that ensuring unscrupulous contractors who do not follow the rules are held accountable helps level the playing field for contractors who follow the law. As one county task force stated in support:

The bill would help deter illegal dumping and help to ensure that waste is properly processed, reducing environmental damage and public health risks. Illegal dumping has significant social, environmental, and economic impacts statewide. California

local governments spend tens of millions of dollars annually to remove and clean up illegally dumped materials.

Governor Newsom signed AB 246 on July 9, 2021 (Chapter 46, Statutes of 2021).

Litigation Challenging CSLB's July 27, 2021 Decision to Restrict C-46 Licenses

On September 17, 2021, in *California Solar Energy Industries Association vs. Contractors State License Board, et al.*, Case No. CGC-21-594911 (Super. Ct., County of San Francisco), petitioner California Solar Energy Industries Association, filed a [Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief](#) in superior court against CSLB and David Fogt, in his official capacity as Registrar of Contractors, alleging that defendants engaged in underground rulemaking in violation of California's Administrative Procedure Act. Petitioner also alleges that CSLB violated the Bagley-Keene Open Meeting Act by failing to properly include a specific agenda or a brief description of the items to be discussed at its July 27, 2021 meeting. Petitioner further claims that the defendants' actions undermine the state's efforts to dramatically increase battery storage to reduce greenhouse gas emissions and to provide Californians greater electrical reliability—at a time when the Governor has declared a state of emergency due to energy shortages.

On July 27, 2021, the Board approved a decision to restrict C-46 solar classifications with a 90-day grace period to educate licensees [Industry Bulletin CSLB [21-14](#); [21-15](#)]. This decision precludes the C-46 license classification from installing battery energy storage systems (BESS) and requires a certified electrician with a C-10 license to install solar BESS. After the restriction

was approved, the trade association, California Solar Energy Industries Association, initiated litigation.

On September 28, 2021, the petitioner filed a [motion for a preliminary injunction](#). On September 29, 2021, CSLB held a special [meeting](#) to discuss this litigation in a closed session. On October 1, 2021, to resolve the pending preliminary injunction motion, the Board stipulated to not enforce or implement its July 27 decision until the above-referenced case, and any appeals are resolved. On October 4, 2021, the Attorney General filed a written [stipulation](#) with the court agreeing to a voluntary stay of enforcement of CSLB's July 27 decision.

On October 21, 2021, Respondents filed their [answer](#) to the complaint. At the time of this writing, no further action has been taken.

Board's Expert Recommends Limiting C-46 Licenses for Solar Battery Energy Storage Systems

At its July 27, 2021 teleconference [meeting](#) [Agenda Item C], CSLB heard a [presentation](#) from University California, Berkeley's Labor Center (UC Berkeley) on the BESS Study, which strongly recommended that CSLB preclude C-46 licensees from installing BESS in all residential, commercial, and utility-scale BESS projects as this work should be performed by certified electricians. CSLB staff asked UC Berkeley to research whether C-46 contractors should be permitted to install solar-power BESS, and if so, under what specific conditions. Specifically, CSLB asked UC Berkeley to review and recommend one of the following four options: (1) preclude the C-46 Solar classification from installing battery energy storage systems; (2) permit the C-46 Solar classification to install battery energy storage systems on specified residential units that do not require electrical system upgrades, with size restrictions of <20kW; (3) permit the C-

46 Solar classification to install battery energy storage systems on specified residential units that do not require electrical system upgrades, with plans approved by an electrical engineer; or (4) make no change to the existing C-46 classification, interpreted as allowing C-46 licensees to install solar PV with BESS.

The [UC Berkeley BESS Study](#) had three key findings. First, the profile of contractors performing BESS installations in California includes a “very small percentage of contractors holding a C-46 but no C-10, A, or B license,” and “that precluding or restricting C-46 (no C-10, A or B) contractors will have a negligible effect on the current pool of contractors.” Second, an analysis of the hazards, risks, and safety issues revealed that BESS incidents are rare but “have serious consequences,” and certified electricians have the “technical capacity and knowledge” to deal with rapidly developing BESS technologies. Third, the “minor cost increases due to requirements for certification are unlikely to constrict demand for BESS or undermine the effectiveness of government incentives.” Regarding the availability of contractors and workforce, the study found an ample supply of C-10 workers and certified electricians and existing pathways for increasing supply of both. Regarding the cost of these recommendations, the study found that the cost of BESS installations by C-10 contractors is comparable to C-46 contractors, even though certified electricians have higher wages. Finally, the study found the recommendations would provide additional benefits, such as higher wages for certified electricians, clear signals to training institutions about relevant in-demand skills, and pathways to equity via certified apprenticeship.

CSLB member comments were split regarding how the Board should proceed based on the study and expert recommendations. The split was between whether the Board should follow California Administrative Procedures Act rulemaking procedures or if a majority Board-approved

motion was sufficient to adopt UC Berkeley’s recommendations. A Board member comment also addressed the issue of whether new technologies could change the findings in the analysis.

At the same July Board meeting, there were 138 public comments. Some members of the public against adopting the study’s recommendations raised issues with CSLB becoming involved in regulating policy rather than consumer complaints, especially with the lack of evidence in support of the safety risks that would be mitigated by the recommendations. Members of the public in favor of adopting the study’s recommendations highlighted the importance of having “qualified” installers to best promote consumer and employee safety.

Ultimately, the Board [approved](#) the expert recommendation to limit the scope of C-46 licenses. On August 12, 2021, the Board published an [Industry Bulletin](#) announcing the new license classification, which has since then been rescinded. On September 17, 2021, a complaint was filed against CSLB in Superior Court, alleging that CSLB had engaged in “underground rulemaking” in violation of California’s Administrative Procedure Act. On October 4, 2021, the Attorney General filed a written [stipulation](#) agreeing to voluntarily stay enforcement of CSLB’s July 27 decision. The Board is currently working on the rulemaking package to implement the expert recommendations to limit the scope of C-46 licenses.

RULEMAKING

The following is a status update on recent rulemaking proceedings that CSLB has initiated:

- **C-49 – Tree and Palm Contractor Classification:** On April 23, 2021, CSLB [notice](#) of its intent to amend section 832 and adopt section 832.49, Title 16 of the CCR, to add a new contractor classification for tree and palm contractors as set forth in the [proposed](#)

[text](#). According to the [initial statement of reasons](#), issues being addressed are the bark beetle infestation in California forests, the increased number of accidents and lack of a prevailing wage within the California tree trimming industry, and other topics. The written comment period expired on June 8, 2021. At this writing, the Board has not taken further action on this proposed rulemaking.

- **C-47 – General Manufactured Housing Contractor Initial Installer Training Requirement:** On April 23, 2021, CSLB published [notice](#) of its intent to adopt CCR, Title 16, Division 8, to establish the requirement for initial installer training as a prerequisite for a C-47 General Manufactured Housing contractor license to address the manufactured home initial installer training requirement mandated by HUD. On September 22, 2021, CSLB held a [meeting](#) regarding possible action to amend or adopt Title 16, section 825.5 of the CCR. On September 30, 2021, the Office of Administrative Law (OAL) approved CSLB’s C-47—General Manufactured Housing contractor initial installer training requirement regulations and filed the action with the Secretary of State. This regulatory action became effective on September 30, 2021.

- **Assembly Bill (AB) 2138 Criminal Background Reviews:** On May 3, 2021, the [approved](#) CSLB’s AB 2138 criminal background review regulations and filed the action with the Secretary of State. The sections affected are 868, 868.1, 869, 869.5, and 869.9 of the CCR. The Board originally published [notice](#) of its intent to modify these sections on June 10, 2020. This regulatory action became effective on May 3, 2021. [[24:1 CRLR 129–130](#); [24:2 CRLR 96–98](#); [25:2 CRLR 71–73](#); [26:1 CRLR 88–89](#)]

- **Fee Increase:** On May 20, 2021, the OAL [approved](#) CSLB’s fee regulations and filed the action with the Secretary of State. This regulatory action amends Title 16, section 811 of

the CCR, and became effective on May 20, 2021. These regulations make permanent the emergency regulations which increased fees for license renewal for active licenses, inactive licenses, and renewal of a home improvement salesperson registration. (Renewal of an active license is now \$450.00, renewal of inactive licenses is now \$255.00, and renewal of a home improvement salesperson registration is now \$95.00). CSLB published its original [notice](#) on August 4, 2020. [[25:2 CRLR 69–70](#); [26:1 CRLR 89](#)]

- **Blanket Performance and Payment Bond Form:** On November 9, 2021, the OAL [approved](#) amendments to CSLB’s Blanket Performance and Payment Bond Form listed at Title 11, section 30.14 of the CCR. This regulatory action was requested by the Department of Justice and became effective November 9, 2021.

- **Assessment of Civil Penalties:** On November 10, 2021, OAL [approved](#) CSLB’s civil penalties regulations as changes without regulatory effect pursuant to the requirements of the CCRs, Title 1, section 100, and filed the action with the Secretary of State. This regulatory action becomes effective on January 1, 2022.

- **Criminal Background Reviews:** On May 3, 2021, OAL [approved](#) CSLB’s AB 2138 criminal background review regulations and filed the action with the Secretary of State. This regulatory action became effective on May 3, 2021.

LEGISLATION

- [AB 137 \(Ting\)](#), as amended June 27, 2021, is a budget trailer bill that, as it applies to CSLB, adds and repeals Article 6.5 (commencing with section 7086) the Business and Professions Code to establish the Solar Energy System Restitution Program for providing

restitution to certain eligible consumers with a solar energy system. The bill will repeal these provisions on June 30, 2024. Governor Newsom signed AB 137 on July 16, 2021 (Chapter 77, Statutes of 2021).

- [AB 569 \(Grayson\)](#), as introduced February 11, 2021, amends sections 7099.2 and 7099.9 of the Business and Professions Code to increase the civil penalty limit from \$5,000 to \$8,000 for violations relating to workers' compensation insurance coverage and to delete the restriction that prohibits CSLB from issuing a letter of admonishment if multiple violations have been established. Governor Newsom signed AB 569 on July 16, 2021 (Chapter 94, Statutes of 2021).

- [AB 246 \(Quirk\)](#), as introduced January 13, 2021, repeals and adds section 7110 of the Business and Professions Code to reorganize the provisions and would add illegal dumping to the list of violations that constitute cause for disciplinary action against a contractor by CSLB. Governor Newsom signed AB 246 on July 9, 2021 (Chapter 46, Statutes of 2021) (see HIGHLIGHTS).

- [AB 830 \(Flora\)](#), as amended September 3, 2021, as it applies to CSLB, amends sections 7068 and 7068.1 of the Business and Professions Code to define “a bona fide employee of the applicant” to mean an employee who is permanently employed by the applicant, and “actively engaged” to mean working 32 hours per week, or 80% of the total hours per week that the applicant’s business is in operation, whichever is less. The bill also makes the person qualifying on behalf of an individual or firm responsible for exercising supervision and control of their employer’s or principal’s construction operations as necessary to secure full compliance with CSLB and the rules and regulations of CSLB. This bill would, for these purposes, define

“supervision or control” to mean direct supervision and control has been delegated, and “direct supervision or control” to mean supervising construction, managing construction activities by making technical and administrative decisions, checking jobs for proper workmanship, or supervision on construction job sites. Governor Newsom signed AB 830 on September 28, 2021 (Chapter 376, Statutes of 2021).

- [SB 607 \(Min\)](#), as amended September 3, 2021, as it applies to CSLB, amends section 7137, and adds sections 7071.6, 7071.8, and 7071.9 to the Business and Professions Code. Beginning January 1, 2023, an applicant or licensee must file, or have on file with CSLB, a contractor’s bond in the sum of \$25,000. This bill will also revise and recast CSLB’s authority to set fees by regulation and increase various fee amounts for processing and issuance of a duplicate copy of any certificate of licensure, to change the business name of a license, and for a dishonored check. The increased and new fees will be deposited into the Contractors License Fund. Governor Newsom signed SB 607 on September 28, 2021 (Chapter 367, Statutes of 2021).

- [SB 757 \(Limon\)](#), as amended June 22, 2021, amends sections 7151, 7152, 7156, 7159.5, 7162, and 7170 of the Business and Professions Code to add the installation of solar energy systems to the definition of “home improvement,” and impose additional oversight over home improvement salespersons related to solar energy systems. Specifically, this bill permits a home improvement salesperson to be employed by one, or more than one, home improvement contractor provided that the salesperson identifies to the owner or tenant specified information about the contractor. This bill would additionally make a misdemeanor an action by a home improvement salesperson to assist an owner or tenant in the selection of a contractor if the employer fails to provide CSLB with notification of the salesperson’s employment. According to the author, the

purpose of this bill is to protect consumers as the number of people installing solar systems rises. Governor Newsom signed SB 757 on September 23, 2021 (Chapter 249, Statutes of 2021).

- [SB 826 \(Committee on Business, Professions and Economic Development\)](#), as amended August 16, 2021, and as it relates to CSLB, amends sections 7011.4, 7017.3, 7058.5, 7058.6, 7124.6, 7169, and 7846 of the Business and Professions Code to make a series of technical and clarifying changes to the Contractors State License Law. Of note, the bill amends sections 7058.5 and 7058.6, pursuant to CLSB's request, to require the C-22 Asbestos Abatement Contractor license among the statutory requirements that allow a contractor to perform asbestos-related work in California, in addition to the passage of the asbestos certification examination. Governor Newsom signed SB 826 on September 16, 2021 (Chapter 188, Statutes of 2021).

The following bills, reported in [Volume 26, No. 2 \(Spring 2021\)](#), died in committee or otherwise failed to be enacted in 2021: [AB 899 \(Cunningham\)](#), which would have required CSLB to annually adjust the \$500 amount (which unlicensed contractors are allowed to advertise for construction projects) to reflect the rate of inflation, as measured by the Consumer Price Index; [SB 304 \(Archuleta\)](#), which would have increased the value of a construction contract that is not subject to regulation under the CSLL from \$500 to \$1,000; [SB 216 \(Dodd\)](#), which would have eliminated all workers' compensation insurance exemptions for CSLB licensees by 2025.