

Date of Hearing: September 14, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1705 (Low) – As Amended September 8, 2017

SUBJECT: State Board of Guide Dogs for the Blind: guide dog instructors.

SUMMARY: Sunsets the State Board of Guide Dogs effective January 1, 2018 and establishes consumer protections.

EXISTING LAW:

- 1) Establishes the Board within in the Department of Consumer Affairs (DCA) for the licensing and enforcement of licensees who operate schools for the training of guide dogs and the instruction of persons who are blind and visually impaired in the use of guide dogs. (Business and Professions Code (BPC) Section 7200, et seq.)
- 2) Requires the Board to consist of seven members appointed by the Governor, of which one member is the Director of Rehabilitation or his or her designated representative; the remaining members are persons who have shown a particular interest in dealing with the problems of persons who are blind or visually impaired and at least three of them are persons who are blind or visually impaired who use guide dogs. (BPC Section 7200(a))
- 3) Provides the Board with exclusive authority to issue licenses for the instruction of persons who are blind or visually impaired in the use of guide dogs and for the training of guide dogs for use by persons who are blind and visually impaired, and also provides the Board with exclusive authority to issue licenses to operate schools for the training of guide dogs and the instruction of persons who are blind or visually impaired. (BPC Section 7200.5(a))
- 4) Establishes an arbitration procedure pilot project in order to provide a procedure for the resolution of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of a guide dog, as specified. (BPC Section 7215.6(a))
- 5) Requires, until January 1, 2018, the Board to prepare a fact sheet which contains the following: (BPC Section 7217.7(a)(c))
- 6) A description of the purpose of the Board;
- 7) A description of the Board's role in assisting guide dog users who are victims of alleged guide dog discrimination; and,
- 8) A description of the Board's arbitration procedure.
- 9) Requires, until January 1, 2018, the Board to post the factsheet on its website and provide copies to each licensed guide dog school. BPC Section 7215(b)(c))

THIS BILL:

- 1) Repeals the Chapter authorizing the State Board of Guide Dogs (Board), eliminating the Board, effective January 1, 2018.

- 2) Establishes title protections for the term "guide dog instructor" and "certified guide dog instructor."
- 3) Requires guide dog schools to annually submit a list of its instructors to the Department of Consumer Affairs
- 4) Makes other technical and conforming changes
- 5) Incorporates chaptering provisions

FISCAL EFFECT: According to Senate Committee on Appropriations, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Purpose. Unless legislation is carried this year to extend the sunset date for the Board, it will be repealed on January 1, 2018. After consultation with stakeholders, amendments were accepted in the Senate that will result in the Board being sunset in 2018. These amendments include title protections to ensure continued consumer protection and other technical changes.

Background. *State Guide Dogs for the Blind.* The Board was established in 1948 to ensure that blind or visually impaired individuals receive well-trained guide dogs. The Board also confirms that blind or visually impaired individuals are thoroughly trained to be effective and safe guide dog users. Furthermore, the Board was also designed to assure donors of guide dog charities their donations are used for their intended charitable purpose. The Board licenses and regulates: 1) guide dog instructors; 2) guide dog schools; and, 3) fundraising programs that open new schools as specified in BPC sections 7200.5-7210.6. Currently, the Board oversees 103 guide dog instructors, including 47 out of state instructors and three guide dog schools. The Board annually inspects all schools, requires new active guide dog instructors to take written, practical, and oral examinations, and requires instructors to submit proof of eight hours of continuing education (CE) each year to remain licensed. California is the only State that has such a regulatory program.

Joint Oversight Hearings and Sunset Review of DCA Licensing Boards. In February and March of 2017, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development (Committees) conducted multiple joint oversight hearings to review 12 regulatory boards within the DCA and one regulatory entity outside of the DCA. The sunset bills are intended to implement legislative changes recommended in the respective background reports drafted by the Committees for the agencies reviewed this year. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency.

The Sunset Review Process. The sunset review process provides a formal mechanism for the DCA, the Legislature, the regulatory boards, bureaus and committees, interested parties, and stakeholders to make recommendations for improvements to the authority of consumer protection boards and bureaus. This is performed on a standard four-year cycle and was mandated by SB 2036 (McCorquodale), Chapter 908, Statutes of 1994. Each eligible agency is required to submit to the Committees a report covering the entire period since last reviewed that

includes, among other things, the purpose and necessity of the agency and any recommendations of the agency for changes or reorganization in order to better fulfill its purpose. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. This bill simply extends the Board by one year, until January 1, 2019, and requires a task force be convened under the jurisdiction of the Board to assess whether or not there is a need for the continued regulation of guide dogs instructors and guide dog schools. In addition, this bill makes other technical and non-controversial changes to provisions of the act.

Sunset of the Board. According to a previous sunset review of the Board in early 2000, in the mid 1990's the Joint Legislative Sunset Review Committee recommended, at that time, that the Board sunset on July 1, 1997 based on the following findings: 1) the Board licenses few instructors and has not licensed any new schools or fundraising organizations since the licensing requirements were first enacted; and 2) there appeared to be little problem with unlicensed activity, in part due to the close community related to the activities of the Board's licensees. Upon its sunset, all of the duties and responsibilities of the Board would have been passed to the department under the bureau structure. However, contrary to the recommendation of the JLSRC, AB 1546, Chapter 475, Statutes of 1997, sponsored by the DCA, extended the Board for five years.

During the Business and Professions Committee Joint Oversight hearing held on February 27, 2017, the Committees heard testimony in support of eliminating the Board by a number of constituent groups and guide dog users. Guide dog users in California have argued that the Board does not act in accordance with the needs of the blind community and that its existence creates regulatory barriers to obtaining guide dogs for those that need them.

In accordance with the constituent feedback of the blind community, including numerous guide dog users, AB 1705 sunsets the Board while maintaining a number of consumer protections. Specifically, this bill would impose a fine or civil penalty for any person that uses the words "guide dog instructor" in a sign, business card, or advertisement without being employed by a school certified by the International Guide Dog Federation or who cannot demonstrate that they are familiar with the needs and training of guide dogs and their users. These provisions will protect consumers from unscrupulous individuals that might seek to sell inappropriately trained or untrained dogs to guide dog users. Additionally, the bill requires guide dog schools to annually submit to the Department of Consumer Affairs a list of all instructors employed by the school. The disciplinary caseload of the Board is minimal and the sector does not demonstrate a need for regulation that would justify the continued existence of the Board.

Prior Related Legislation. SB 1331 (Pavley) Chapter, 595, Statutes of 2016, allowed out-of-state personnel to provide follow-up services in California without a license, under specified conditions; revised the composition of the Board to include three, instead of two, representatives of the legally blind or visually impaired community; and, required the Board to create a factsheet that provides specified information about the Board which must be made available to each licensed school to provide to every student receiving training from that school.

SB 308 (Lieu) Chapter 333, Statutes of 2013, extended until January 1, 2018 the provisions of the Interior Design Law and the Board, and extended until January 1, 2016 the provisions of the

Board of Barbering and Cosmetology and the term of its executive officer, and makes various other technical changes and improvements to those provisions.

SB 822 (Committee on Business and Professions and Economic Development) Chapter 319, Statutes of 2017, made several technical changes to provisions within the BPC related to the regulation of various professions, including those overseen by the California Board of Accountancy, the Contractors' State License Board, the Board, and the Board for Professional Engineers, Land Surveyors and Geologists.

ARGUMENTS IN SUPPORT:

The National Federation of the Blind of California, Inc. writes, "The two consumer organizations in California composed of blind people- the National Federation of the Blind of California (NFBCA) and the California Council of the Blind (CCB)-as well as the largest guide dog school in California, other service providers which serve blind and low vision consumers, and guide dog handlers throughout California, support AB 1705. Elimination of the Board will save taxpayer money used by the Board and for oversight by the Department of Consumer Affairs. It will also save guide dog school resources used both to support the Board and to complete the redundant paperwork that the Board requires."

The California Association of Guide Dog Users writes, "in summary, AB 1705 will bring about a win-win situation, both for those who use guide dogs and for the industry itself. We appreciate the work that the Assembly Business and Professions Committee and Assemblymember Low have done on this bill. We ask you to support AB 1705 as amended and to abolish the Board."

Guide Dogs for the Blind writes, "GDB enthusiastically supports AB 1705. This bill confirms the sunset of the California State Guide Dog Board as of Jan. 1, 2018 by repealing provisions relating to the board, and adopting protections to ensure proficiency of competence of persons who provide instruction and training to individuals who use guide dogs."

ARGUMENTS IN OPPOSITION:

The California State Board of Guide Dogs for the Blind writes, "This bill not only sunsets the Board, but also dismantles 70 years of law and regulation designed to protect consumers from the substandard guide dog instruction that left many blind individuals and veterans dead on the streets. Guide dogs are considered the most elite service animals, due primarily to their level of highly specified instruction; removing regulation of the guide dog industry will result in degradation of this status. The mere reporting of information to the Department does not satisfy any form of consumer protection whatsoever."

REGISTERED SUPPORT:

National Federation of the Blind of California
California Association of Guide Dog Users
Guide Dogs for the Blind
14 Individuals

REGISTERED OPPOSITION:

The California State Board of Guide Dogs for the Blind

1 Individual

Analysis Prepared by: Jimmy Fremgen / B. & P. / (916) 319-3301