

Date of Hearing: June 20, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

SB 486(Monning) – As Amended April 20, 2017

SENATE VOTE: 39-0

SUBJECT: Contractors' State License Law: letter of admonishment

SUMMARY: Authorizes the Contractors State License Board (CSLB) to issue letters of admonishment to an applicant, licensee, or registrant rather than issuing a citation and sets specific conditions for issuing letters.

EXISTING LAW:

- 1) Provides for the licensure and regulation of contractors under the Contractors' State License Law by the CSLB within the Department of Consumer Affairs (DCA). The CSLB is under the direction of the Registrar of Contractors (Registrar). (Business and Professions Code (BPC) Section 7000 *et seq.*)
- 2) Provides that any entity authorized to issue a license or certificate may publicly reprove a licensee or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and revocation shall be conducted in accordance with the Administrative Procedure Act, as specified. (BPC Section 495)
- 3) Authorizes the Medical Board of California to issue a public letter of reprimand after it has conducted an investigation or inspection, as specified. (BPC Section 2233)
- 4) Authorizes the Physical Therapy Board of California to issue a public letter of reprimand after it has conducted an investigation or inspection, as specified. (BPC Section 2660.3)
- 5) Authorizes the Board of Pharmacy to issue a letter of admonishment to an applicant for licensure or licensee for failure to comply with the Pharmacy Law or regulations, as specified. (BPC Section 4315)
- 6) Requires the Registrar to make available to the public the date, nature, and status of all complaints on file against a licensee that do either of the following:
 - a) Have been referred for accusation; or
 - b) Have been referred for investigation, after a determination by CSLB enforcement staff, that a probable violation has occurred, and have been reviewed by a supervisor, and involve allegations that if proven would present a risk of harm to the public and would be appropriate for suspension or revocation of the contractor's license or criminal prosecution. (BPC Section 7124.6 (a))

- 7) Requires the CSLB to create a disclaimer to accompany the disclosure stating that it is an allegation and any other information the CSLB determines would be relevant to a person evaluating the complaint. (BPC Section 7124.6 (b))
- 8) Provides that a complaint resolved in favor of the contractor shall not be subject to disclosure. (BPC Section 7124.6(c))
- 9) Requires the Registrar to make available to the public the date, nature, and disposition of all legal actions, subject to the following:
 - a) Limits the disclosure of legal actions for citations from the date of issuance for five years after the date of compliance if no additional disciplinary actions have been taken against the licensee during that period;
 - b) Limits the disclosure of accusations that result in suspension, stayed suspension, or stayed revocation of the contractor's license from the date accusation is filed for seven years if no additional disciplinary actions have been taken against the licensee during that period; and
 - c) All revocations that are not stayed shall be disclosed indefinitely from the effective date of the revocation. (BPC Section 7124.6(d)-(e))

THIS BILL:

- 1) Allows the CSLB to issue letters of admonishment to applicants, licensees, or registrants for minor violations that do not involve financial harm or serious illness or injury.
- 2) Sets standards for the issuance of a letter of admonishment.
- 3) Allows parties that receive a letter of admonishment to respond and address violations and establishes the procedures for doing so.
- 4) Constrains the instances in which the CSLB may issue a letter of admonishment, including:
 - a) If the licensee, registrant, or applicant was unlicensed at the time of the violation.
 - b) If multiple violations have occurred and if the party has a history of similar violations.
 - c) The violation resulted in financial harm.
 - d) The victim is an elder or dependent adult.
 - e) The violation is related to repair of damage caused by a natural disaster.
- 5) Provides that a complaint resolved through a letter of admonishment is not considered resolved in favor of the contractor for the purposes of public disclosure of formal disciplinary actions. A letter of admonishment issued to a licensee shall be disclosed for a period of one year, as specified.
- 6) Makes Legislative findings and declarations that this measure imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant

to that constitutional provision, the measure underscores that the Legislature makes following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

“In order to allow the Contractors’ State License Board to fully accomplish its regulatory and disciplinary goals for minor violations, it is necessary to limit access to the letters of admonishment.”

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

COMMENTS:

Purpose. This bill is sponsored by the *Contractors State Licensing Board*. According to the author, “SB 486 provides CSLB the authority, after completing an investigation, to issue a letter of admonishment to a licensee that violates the Contractors’ State License Law. It would establish an informal appeals process, which would allow for a quick resolution of those complaints. While the existing citation system is effective, the process can be long, and at times costly. The average cost to CSLB for a citation that is appealed is \$9,860, whether or not the respondent appears at the hearing. Many citation appeals are for offenses that do not allege a financial injury or order of correction for consumers. From fiscal year 12-13 through fiscal year 15-16, CSLB issued 8,622 citations, approximately 43% of which were appealed.”

Background. The CSLB is responsible for administering and enforcing the Contractors State License Law, including provisions related to licensing and practice. All businesses and individuals who construct or alter, or offer to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost (labor and materials) of one or more contracts on the project is \$500 or more. The CSLB licenses approximately 290,000 contractors in 44 license classifications and two certifications. The CSLB issues some 15,000 licenses each year, and more than 121,000 licenses are renewed each year.

A letter of admonishment is a tool that would allow the CSLB to address minor violations. As noted by CSLB, pursuing citations, even for minor violations, can be very costly, both financially and in staff resources. Issuing a letter of admonishment may allow the CSLB to more effectively and efficiently address minor violations with a lower financial impact. Additionally, issuing a letter of admonishment would not prevent CSLB from pursuing formal administrative action if the violation is not resolved.

Prior Related Legislation. AB 960 (Morell, Chapter 247, Statutes of 2014), created a similar authority for the California Board of Pharmacy to issue a letter of admonishment for minor violations.

ARGUMENTS IN SUPPORT:

The **CSLB** writes, “CSLB believes that this letter of admonishment will increase opportunities to settle the less egregious offenses before they result in the need for a formal administrative citation, while still providing correction of the offending behavior. It will also provide for public disclosure, by posting the issuance of a letter of admonishment online for one year. For the reasons stated above, we are in support of SB 486.”

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

Contractors State License Board

REGISTERED OPPOSITION:

None on file

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