

ASSEMBLY BILL NO. 259—ASSEMBLYMEN LEE, GIUNCHIGLIANI, ARBERRY, GOLDWATER, THOMAS, BERMAN, CHOWNING, DINI, PERKINS, NEIGHBORS, CARPENTER, SEGERBLOM, GIBBONS, BUCKLEY, HETTRICK, HUMKE, GUSTAVSON, ANGLE, CLABORN, MCCLAIN, KOIVISTO, TIFFANY, FREEMAN, BACHE, ANDERSON, WILLIAMS, PARKS, MANENDO, COLLINS, OHRENSCHALL AND PRICE

FEBRUARY 16, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning state contractors' board. (BDR 54-350)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to the state contractors' board; revising the membership, terms of office and duties of the board; specifying that the attorney general shall enforce the requirements of chapter 624 of NRS; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 624 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
- 3 **Sec. 2.** *The attorney general shall take such action as is necessary to*
4 *ensure compliance with this chapter and the regulations of the board,*
5 *including, without limitation, commencing proceedings in a court of*
6 *competent jurisdiction, if appropriate.*
- 7 **Sec. 3. 1.** *The board may adopt such reasonable bylaws, rules of*
8 *procedure and regulations as are necessary to carry out the provisions of*
9 *this chapter.*
- 10 **2.** *In addition to complying with the procedure set forth in chapter*
11 *233B of NRS, at least 60 days before the hearing for a proposed bylaw,*
12 *rule or regulation, the board shall make a good-faith effort to mail to*
13 *each person licensed pursuant to this chapter, to the address shown in*
14 *the records of the board for that person:*

- 1 (a) A copy of the proposed bylaw, rule or regulation; and
- 2 (b) A notice that sets forth the date, time and place of the hearing for
- 3 the proposed bylaw, rule or regulation.

4 If the board fails to make such an effort, the bylaw, rule or regulation is

5 not effective.

6 **Sec. 4.** On or before September 1 of each even-numbered year, the

7 board shall:

8 1. Prepare a written report concerning the activity engaged in by the

9 board pursuant to the provisions of this chapter during the preceding

10 biennium; and

11 2. Submit the report to the governor and to the director of the

12 legislative counsel bureau for transmittal to the next regular session of

13 the Nevada legislature.

14 **Sec. 5.** NRS 624.050 is hereby amended to read as follows:

15 624.050 1. ~~{Six members of the board must each:~~

16 ~~-(a) At}~~ The board must be composed of:

17 (a) Two members who operate as general contractors and one

18 member who operates exclusively as a subcontractor, each of whom at

19 the time of his appointment ~~{, hold}~~ :

20 (1) Holds an unexpired license to operate as a contractor ~~{,~~

21 ~~-(b) Be}~~ ;

22 (2) Has been a contractor actively engaged in the contracting

23 business ~~{and must have been so engaged}~~ for not less than 5 years

24 immediately preceding ~~{the date of}~~ his appointment ~~{,~~

25 ~~-(c) Have}~~ ; and

26 (3) Has been a citizen and resident of the State of Nevada for ~~{at~~

27 ~~least}~~ not less than 5 years ~~{next}~~ immediately preceding his appointment.

28 ~~{2.}~~ (b) One member who is a building inspector employed by a county

29 whose population is 100,000 or more.

30 (c) One member who is a certified public accountant.

31 (d) One member who is an architect registered pursuant to chapter

32 623 of NRS or a professional engineer licensed pursuant to chapter 625

33 of NRS.

34 (e) One member ~~{of the board must be}~~ who is a representative of the

35 general public.

36 2. The chairman of the board must be chosen from among the

37 members who are qualified pursuant to paragraphs (c), (d) and (e) of

38 subsection 1.

39 3. A member shall serve for a term of 4 years or until his successor

40 has been appointed. A member may not serve for more than two

41 consecutive terms.

1 **Sec. 6.** NRS 624.100 is hereby amended to read as follows:

2 624.100 1. The board may appoint such committees ~~{and make such~~
3 ~~reasonable bylaws, rules of procedure and regulations}~~ as are necessary to
4 carry out the provisions of this chapter.

5 2. The board may establish advisory committees composed of its
6 members or employees, homeowners, contractors or other qualified
7 persons to provide assistance with respect to fraud in construction, or in
8 any other area that the board considers necessary.

9 3. If the board establishes an advisory committee, the board shall:

10 (a) Select five members for the committee from a list of volunteers
11 approved by the board; and

12 (b) Adopt rules of procedure for informal conferences of the committee.

13 4. If the board establishes an advisory committee, the members:

14 (a) Serve at the pleasure of the board.

15 (b) Serve without compensation, but must be reimbursed for travel
16 expenses necessarily incurred in the performance of their duties. The rate
17 must not exceed the rate provided for state officers and employees
18 generally.

19 (c) Shall provide a written summary report to the board, within 15 days
20 after the final informal conference of the committee, that includes
21 recommendations with respect to actions that are necessary to reduce and
22 prevent the occurrence of fraud in construction, or on such other issues as
23 requested by the board.

24 5. The board is not bound by any recommendation made by an
25 advisory committee.

26 **Sec. 7.** NRS 624.115 is hereby amended to read as follows:

27 624.115 1. *The board shall employ at least one person to receive*
28 *and facilitate the resolution of complaints from the general public.*

29 2. The board may employ attorneys, investigators and other
30 professional consultants and clerical personnel necessary to the discharge
31 of its duties.

32 ~~{2-}~~ 3. *The board shall adopt regulations that specify the*
33 *qualifications of an investigator.*

34 4. The board may require investigators who are employed by the board
35 to locate persons who:

36 (a) Engage in the business or act in the capacity of a contractor within
37 this state; or

38 (b) Submit bids on jobs situated within this state,
39 in violation of NRS 624.230.

40 **Sec. 8.** NRS 624.160 is hereby amended to read as follows:

41 624.160 1. The board is vested with all of the functions and duties
42 relating to the administration of this chapter.

43 2. The board

shall:

1 (a) Carry out a program of education for customers of contractors.

2 (b) Maintain and make known a telephone number for the public to
3 obtain information about self-protection from fraud in construction and
4 other information concerning contractors and contracting.

5 *(c) Review and, as necessary, investigate in a timely manner each*
6 *complaint received from the general public.*

7 3. The board may provide advisory opinions and take other actions
8 that are necessary for the effective administration of this chapter and the
9 regulations of the board.

10 **Sec. 9.** NRS 624.230 is hereby amended to read as follows:

11 624.230 1. It is unlawful for any person or combination of persons
12 to:

13 (a) Engage in the business or act in the capacity of a contractor within
14 this state; or

15 (b) Submit a bid on a job situated within this state,
16 without having a license therefor as provided in this chapter, unless that
17 person or combination of persons is exempted from licensure as provided
18 in this chapter.

19 2. ~~{The district attorneys in this state}~~ *Except as otherwise provided in*
20 *this subsection, the attorney general* shall prosecute all violations of this
21 section . ~~{which occur in their respective counties, unless the violations are~~
22 ~~prosecuted by the attorney general.}~~ Upon the request of the ~~{board, the}~~
23 attorney general , *a district attorney* shall prosecute ~~{any}~~ *a* violation of
24 this section in lieu of prosecution by the ~~{district attorney.}~~ *attorney*
25 *general.*

26 3. In addition to any other penalty imposed pursuant to this chapter, a
27 person who is convicted of violating subsection 1 may be required to pay:

28 (a) Court costs and the costs of prosecution;

29 (b) Reasonable costs of the investigation of the violation to the board;

30 (c) Damages he caused as a result of the violation up to the amount of
31 his pecuniary gain from the violation; or

32 (d) Any combination of paragraphs (a), (b) and (c).

33 4. Any bid submitted by a person who is neither licensed nor
34 exempted from licensure as provided in this chapter at the time the bid is
35 submitted is void.

36 **Sec. 10.** NRS 624.300 is hereby amended to read as follows:

37 624.300 1. Except as otherwise provided in subsection ~~{6.}~~ *7*, the
38 board may:

39 (a) Suspend or revoke licenses already issued;

40 (b) Refuse renewals of licenses;

41 (c) Impose limits on the field, scope and monetary limit of the license;

42 (d) Impose an administrative fine of not more than \$10,000;

(e) Order the licensee to take action to correct a condition resulting from an act which constitutes a cause for disciplinary action, at the licensee's cost; or

(f) Reprimand or take other less severe disciplinary action, including, without limitation, increasing the amount of the surety bond or cash deposit of the licensee, if the licensee commits any act which constitutes a cause for disciplinary action.

2. *The board shall notify:*

(a) *The licensee; and*

(b) *Each person with whom the board knows the licensee has an uncompleted contract, of an action taken by the board pursuant to subsection 1. The board is immune from civil liability for claims based on the board's provision of notice or failure to provide notice pursuant to this subsection.*

3. If the board suspends or revokes the license of a contractor for failure to establish financial responsibility, the board may, in addition to any other conditions for reinstating or renewing the license, require that each contract undertaken by the licensee for a period to be designated by the board, not to exceed 12 months, be separately covered by a bond or bonds approved by the board and conditioned upon the performance of and the payment of labor and materials required by the contract.

~~3.~~ 4. If a licensee commits a fraudulent act which is a cause for disciplinary action under NRS 624.3016, the correction of any condition resulting from the act does not preclude the board from taking disciplinary action.

~~4.~~ 5. If the board finds that a licensee has engaged in repeated acts that would be cause for disciplinary action, the correction of any resulting conditions does not preclude the board from taking disciplinary action pursuant to this section.

~~5.~~ 6. The expiration of a license by operation of law or by order or decision of the board or a court, or the voluntary surrender of a license by a licensee, does not deprive the board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

~~6.~~ 7. The board shall not take any disciplinary action pursuant to this section regarding a constructional defect, as that term is defined in NRS 40.615, during the period in which any claim arising out of that defect is being settled, mediated or otherwise resolved pursuant to NRS 40.600 to 40.695, inclusive, unless the disciplinary action is necessary to protect the public health or safety.

1 ~~[7]~~ 8. If discipline is imposed pursuant to this section, the costs of the
2 proceeding, including investigative costs and attorney's fees, may be
3 recovered by the board.

4 **Sec. 11.** 1. The terms of office of all members of the state
5 contractors' board who are serving on June 30, 1999, expire upon the
6 commencement of the terms of their successors appointed pursuant to
7 subsection 2. A member of the board may be appointed pursuant to
8 subsection 2 to succeed himself if he is qualified pursuant to subsection 1
9 of NRS 624.050 as amended by this act. For the purposes of subsection 3
10 of NRS 624.050 as amended by this act, the term of office for each
11 member beginning July 1, 1999, shall be deemed his first term of office.

12 2. On or before July 1, 1999, the governor shall appoint members to
13 the state contractors' board as follows:

14 (a) Two members who are qualified pursuant to paragraph (a) of
15 subsection 1 of NRS 624.050 as amended by this act, whose terms of
16 office commence on July 1, 1999, and expire on July 1, 2001.

17 (b) The member who is qualified pursuant to paragraph (d) of
18 subsection 1 of NRS 624.050 as amended by this act, whose term of office
19 commences on July 1, 1999, and expires on July 1, 2001.

20 (c) The remaining members of the board who are qualified pursuant to
21 subsection 1 of NRS 624.050 as amended by this act, whose terms of
22 office commence on July 1, 1999, and expire on July 1, 2003.

23 3. After the expiration of the terms of office set forth in subsection 2,
24 the new or reappointed members of the state contractors' board serve for a
25 term of 4 years or until their successors have been appointed, as required
26 by subsection 3 of NRS 624.050 as amended by this act.

27 **Sec. 12.** 1. This section and section 11 of this act become effective
28 upon passage and approval for purposes of appointing members to the state
29 contractors' board and on July 1, 1999, for all other purposes.

30 2. Sections 1 to 10, inclusive, of this act become effective on July 1,
31 1999.