

ASSEMBLY BILL NO. 633—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF CONTRACTORS' BOARD)

MARCH 22, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions concerning contractors. (BDR 54-761)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to contractors; establishing a program for the issuance of a license in an expedited manner; establishing a fee; establishing an inactive status for a contractor's license; authorizing the state contractors' board to prescribe a fee; prohibiting the unauthorized use, copying or reproduction of the seal of the state contractors' board; making various changes with respect to a monetary limit on a contractor's license; expanding certain requirements concerning experience, knowledge, financial responsibility and good character with respect to applicants and licensed contractors; providing for notification to the board by a surety within a certain time after an action is commenced by or against the surety; establishing provisions relating to the suspension or revocation of the license of a contractor if a surety pays a claim against the bond of the licensed contractor; increasing the amount of certain fees that the board may charge; amending certain requirements for a hearing if the board summarily suspends the license of a contractor; 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 board may establish a program for the issuance of a*
- 4 *license in an expedited manner. The board shall not allow the operation*
- 5 *of the program for the issuance of a license in an expedited manner to*
- 6 *affect adversely the amount of time the board requires to issue any other*
- 7 *contractor's license.*

1 **Sec. 3. 1.** *If an applicant wishes to have his license issued in an*
2 *expedited manner, he must pay a fee for an application equal to four*
3 *times the amount of the fee regularly paid for an application pursuant to*
4 *subsection 1 of NRS 624.280.*

5 **2.** *The applicant who wishes to have his license issued in an*
6 *expedited manner must pay one-half of the fee required pursuant to*
7 *subsection 1 when he submits the application and the other one-half of*
8 *the fee when the board issues the license.*

9 **Sec. 4. 1.** *A contractor may apply to the board to have his license*
10 *be placed on inactive status on a form provided by the board. The board*
11 *may grant the application if the applicant is in good standing and has*
12 *met all requirements for the issuance or renewal of a contractor's license*
13 *as of the date of the application.*

14 **2.** *If the application is granted, the applicant shall not engage in any*
15 *work or activities that require a contractor's license in this state unless he*
16 *is returned to active status.*

17 **3.** *A person whose license has been placed on inactive status*
18 *pursuant to this section is exempt from:*

19 **(a)** *The requirement to execute a bond pursuant to NRS 624. 270; and*

20 **(b)** *The requirement to qualify in regard to his experience and*
21 *knowledge pursuant to NRS 624.260.*

22 **4.** *The inactive status of a license is valid for 5 years after the date*
23 *that the inactive status is granted.*

24 **5.** *The board shall not refund any portion of the renewal fee of a*
25 *contractor's license that was paid before the license was placed on*
26 *inactive status.*

27 **6.** *The board shall adopt regulations prescribing the:*

28 **(a)** *Procedures for making an application pursuant to this section;*

29 **(b)** *Procedures and terms upon which a person whose license has*
30 *been placed on inactive status may resume work or activities that require*
31 *a contractor's license; and*

32 **(c)** *Fees for the renewal of the inactive status of a license.*

33 **Sec. 5.** NRS 624.120 is hereby amended to read as follows:

34 624.120 The board shall adopt a seal for its own use. The seal must
35 have imprinted thereon the words "State Contractors' Board, State of
36 Nevada." The executive officer has the care and custody of the seal. **A**
37 **person shall not use, copy or reproduce the seal in any way not**
38 **authorized by this chapter or the regulations of the board.**

39 **Sec. 6.** NRS 624.220 is hereby amended to read as follows:

40 624.220 1. The board may adopt regulations necessary to effect the
41 classification and subclassification of contractors in a manner consistent
42 with established usage and procedure as found in the construction business,

1 and may limit the field and scope of the operations of a licensed contractor
2 to those in which he is classified and qualified to engage as defined by NRS
3 624.215 and the regulations of the board.

4 2. The board ~~{may}~~ **shall** limit the field and scope of the operations of
5 a licensed contractor by establishing a monetary limit on a contractor's
6 license, and the limit must be the maximum contract a licensed contractor
7 may undertake on one or more construction contracts on a single
8 construction site or subdivision site for a single client. The board may take
9 any other action designed to limit the field and scope of the operations of a
10 contractor as may be necessary to protect the health, safety and general
11 welfare of the public. The limit ~~{, if any, }~~ must be determined after
12 consideration of the factors set forth in NRS 624.260, 624.263 and 624.265
13 ~~{, }~~ **and any other factors that the board determines are necessary to**
14 **assess or project the future financial solvency of the contractor.**

15 3. ***A licensed contractor may request that the board increase the***
16 ***monetary limit on his license, either on a permanent basis or for a single***
17 ***construction project. A request submitted to the board pursuant to this***
18 ***subsection must be in writing on a form prescribed by the board and***
19 ***accompanied by such supporting documentation as the board may***
20 ***require. If a request submitted pursuant to this section is for a single***
21 ***construction project, the request must be submitted to the board at least 2***
22 ***working days before the date on which the contractor intends to submit***
23 ***his bid for the project.***

24 4. Nothing contained in this section prohibits a specialty contractor
25 from taking and executing a contract involving the use of two or more
26 crafts or trades, if the performance of the work in the crafts or trades, other
27 than in which he is licensed, is incidental and supplemental to the
28 performance of work in the craft for which the specialty contractor is
29 licensed.

30 **Sec. 7.** NRS 624.260 is hereby amended to read as follows:

31 624.260 1. The board shall require an applicant ***or licensed***
32 ***contractor*** to show such a degree of experience, financial responsibility
33 and such general knowledge of the building, safety, health and lien laws of
34 the State of Nevada and the ~~{rudimentary}~~ ***administrative*** principles of the
35 contracting business as the board deems necessary for the safety and
36 protection of the public.

37 2. An applicant ***or licensed contractor*** may qualify in regard to his
38 experience and knowledge in the following ways:

39 (a) If a natural person, he may qualify by personal appearance or by the
40 appearance of his responsible managing employee.

41 (b) If a copartnership, a corporation or any other combination or
42 organization, it may qualify by the appearance of the responsible managing
43 officer or member of the personnel of the applicant firm.

1 *If an applicant or licensed contractor intends to qualify pursuant to this*
2 *subsection by the appearance of another person, the applicant or licensed*
3 *contractor shall submit to the board such information as the board*
4 *determines is necessary to demonstrate the duties and responsibilities of*
5 *the other person so appearing with respect to the supervision and control*
6 *of the operations of the applicant relating to construction.*

7 3. The natural person qualifying on behalf of another natural person or
8 firm under paragraphs (a) and (b) of subsection 2 must prove that he is a
9 bona fide member or employee of that person or firm and when his
10 principal or employer is actively engaged as a contractor shall exercise
11 authority in connection with his principal or employer's contracting
12 business in the following manner:

13 (a) To make technical and administrative decisions;

14 (b) To hire, superintend, promote, transfer, lay off, discipline or
15 discharge other employees and to direct them, either by himself or through
16 others, or effectively to recommend such action on behalf of his principal
17 or employer; and

18 (c) To devote himself solely to his principal or employer's business and
19 not to take any other employment which would conflict with his duties
20 under this subsection.

21 4. A natural person may not qualify on behalf of another for more than
22 one active license unless:

23 (a) One person owns at least 25 percent of each licensee for which he
24 qualifies; or

25 (b) One licensee owns at least 25 percent of the other licensee.

26 5. *Except as otherwise provided in subsection 6, in addition to the*
27 *other requirements set forth in this section, each applicant for licensure*
28 *as a contractor must have had, within the 10 years immediately*
29 *preceding the filing of his application for licensure, at least 4 years of*
30 *experience as a journeyman, foreman, supervising employee or*
31 *contractor in the specific classification in which he is applying for*
32 *licensure. Training received in a program offered at an accredited*
33 *college or university or an equivalent program approved by the board*
34 *may be used to satisfy not more than 3 years of experience required*
35 *pursuant to this subsection.*

36 6. *If the applicant who is applying for licensure has previously*
37 *qualified for a contractor's license in the same classification in which he*
38 *is applying for licensure, the experience required pursuant to subsection*
39 *5 need not be accrued within the 10 years immediately preceding the*
40 *application.*

41 7. As used in this section, "journeyman" means a person who:

42 (a) *Is fully qualified to perform, without supervision, work in the*
43 *classification in which he is applying for licensure; or*

1 **(b) Has successfully completed:**

2 **(1) A program of apprenticeship for the classification in which he is**
3 **applying for licensure that has been approved by the state apprenticeship**
4 **council; or**

5 **(2) An equivalent program approved by the board.**

6 **Sec. 8.** NRS 624.265 is hereby amended to read as follows:

7 624.265 An applicant for a contractor's license **or a licensed**
8 **contractor** and each officer, director, partner and associate thereof ~~{shall}~~
9 **must** possess good character. Lack of character may be established by
10 showing that the applicant **or licensed contractor**, or any officer, director,
11 partner or associate thereof, has:

12 1. Committed any act which ~~[, if committed by any licensed~~
13 ~~contractor,]~~ would be grounds for the **denial**, suspension or revocation of a
14 contractor's license;

15 2. A bad reputation for honesty and integrity;

16 3. Entered a plea of **nolo contendere**, guilty or guilty but mentally ill
17 to, been found guilty of or been convicted of a **misdemeanor**, felony or
18 crime involving moral turpitude arising out of, in connection with or related
19 to the activities of such person in such a manner as to demonstrate his
20 unfitness to act as a contractor, and the time for appeal has elapsed or the
21 judgment of conviction has been affirmed on appeal; or

22 4. Had a license revoked **or suspended** for reasons that would preclude
23 the granting **or renewal** of a license for which the application has been
24 made.

25 **Sec. 9.** NRS 624.273 is hereby amended to read as follows:

26 624.273 1. Each bond or deposit required by NRS 624.270 must be
27 in favor of the State of Nevada for the benefit of any person who:

28 (a) As owner of the property to be improved entered into a construction
29 contract with the contractor and is damaged by failure of the contractor to
30 perform the contract or to remove liens filed against the property;

31 (b) As an employee of the contractor performed labor on or about the
32 site of the construction covered by the contract;

33 (c) As a supplier or materialman furnished materials or equipment for
34 the construction covered by the contract; or

35 (d) Is injured by any unlawful act or omission of the contractor in the
36 performance of a contract.

37 2. Any person claiming against the bond or deposit may bring an action
38 in a court of competent jurisdiction on the bond or against the board on the
39 deposit for the amount of damage he has suffered to the extent covered by
40 the bond or deposit. ~~[A person who brings action on a bond shall notify the~~
41 ~~board in writing upon filing the action.]~~ No action may be commenced on
42 the bond or deposit 2 years after the commission of the act on which the

1 action is based. *If an action is commenced on the bond, the surety that*
2 *executed the bond shall notify the board of the action within 30 days*
3 *after the date that:*

4 *(a) The surety is served with a complaint and summons; or*

5 *(b) The action is commenced,*

6 *whichever occurs first.*

7 3. Upon receiving a request from a person for whose benefit a bond or
8 deposit is required, the board shall notify him that:

9 (a) A bond is in effect or that a deposit has been made, and the amount
10 of either;

11 (b) There is an action against a bond, if that is the case, and the court,
12 the title and number of the action and the amount sought by the plaintiff;
13 and

14 (c) There is an action against the board, if that is the case, and the
15 amount sought by the plaintiff.

16 4. If a surety, or in the case of a deposit, the board, desires to make
17 payment without awaiting court action, the amount of the bond or deposit
18 must be reduced to the extent of any payment made by the surety or the
19 board in good faith under the bond or deposit. Any payment must be based
20 on written claims received by the surety or board before the court action.

21 5. The surety or the board may bring an action for interpleader against
22 all claimants upon the bond or deposit. If ~~it does so, it must~~ *an action for*
23 *interpleader is commenced, the surety or the board must serve each*
24 *known claimant and* publish notice of the action at least once each week
25 for 2 weeks in a newspaper of general circulation in the county where the
26 contractor has his principal place of business. The surety ~~for the board~~ is
27 entitled to deduct its costs of the action, including ~~attorney's fees and~~
28 publication, from its liability under the bond . ~~for~~ *The board is entitled to*
29 *deduct its costs of the action, including attorney's fees and publication,*
30 *from the deposit.*

31 6. A claim of any employee of the contractor for labor is a preferred
32 claim against a bond or deposit. If any bond or deposit is insufficient to pay
33 all claims for labor in full, the sum recovered must be distributed among all
34 claimants for labor in proportion to the amounts of their respective claims.
35 Partial payment of claims is not full payment, and the claimants may bring
36 actions against the contractor for the unpaid balances.

37 7. Claims, other than claims for labor, against a bond or deposit have
38 equal priority, except where otherwise provided by law, and if the bond or
39 deposit is insufficient to pay all of those claims in full, they must be paid
40 pro rata. Partial payment of claims is not full payment, and the claimants
41 may bring actions against the contractor for the unpaid balances.

1 **Sec. 10.** NRS 624.275 is hereby amended to read as follows:

2 624.275 1. ~~{The}~~ *With respect to a surety bond that a licensed*
3 *contractor maintains in accordance with NRS 624.270:*

4 *(a) The surety shall give prompt notice to the board of any claims paid*
5 *against the bond of the licensed contractor.*

6 *(b) The* surety may cancel the bond upon giving 60 days' notice to the
7 board and to the contractor by certified mail.

8 2. *Upon receipt by the board of the notice described in paragraph (a)*
9 *of subsection 1, the board shall immediately notify the contractor who is*
10 *the principal on the bond that his license will be suspended or revoked*
11 *unless he furnishes an equivalent bond or establishes an equivalent cash*
12 *deposit before a date set by the board.*

13 3. Upon receipt by the board of the notice ~~{}~~ *described in paragraph*
14 *(b) of subsection 1*, the board shall immediately notify the contractor who
15 is the principal on the bond that his license will be suspended or revoked
16 unless he furnishes an equivalent bond or establishes an equivalent cash
17 deposit before the effective date of the cancellation.

18 4. The notice mailed to the contractor by the board *pursuant to*
19 *subsection 2 or 3* must be ~~{by certified mail}~~ addressed to his latest address
20 of record in the office of the board.

21 ~~{2-}~~ 5. If the contractor does not comply with the requirements of the
22 notice from the board, his license must be suspended or revoked on the date
23 ~~{the}~~ :

24 *(a) Set by the board, if the notice was provided to the contractor*
25 *pursuant to subsection 2; or*

26 *(b) The* bond is canceled ~~{}~~ *, if the notice was provided to the*
27 *contractor pursuant to subsection 3.*

28 **Sec. 11.** NRS 624.280 is hereby amended to read as follows:

29 624.280 The board may adopt regulations fixing the fee for an
30 application, the fee for an examination and the annual fee for a license to be
31 paid by applicants and licensees . ~~{, but no such fee may}~~ *The fee for:*

32 1. *An application must not exceed \$550.*

33 2. *A license must not exceed \$450 annually.*

34 3. *An examination must not* exceed \$300.

35 **Sec. 12.** NRS 624.3015 is hereby amended to read as follows:

36 624.3015 The following acts, among others, constitute cause for
37 disciplinary action under NRS 624.300:

38 1. Acting in the capacity of a contractor beyond the scope of the
39 license.

40 2. Bidding to contract or contracting for a sum for one construction
41 contract or project in excess of the limit placed on the license by the board.

1 3. Knowingly entering into a contract with a contractor while that
2 contractor is not licensed, or bidding to contract or entering into a contract
3 with a contractor for work in excess of his limit or beyond the scope of his
4 license.

5 4. Constructing or repairing a mobile home, manufactured home or
6 commercial coach, unless the contractor:

7 (a) Is licensed pursuant to NRS 489.311; or

8 (b) Owns, leases or rents the mobile home, manufactured home or
9 commercial coach.

10 **5. *Engaging in any work or activities that require a contractor's***
11 ***license while the license is placed on inactive status pursuant to section 4***
12 ***of this act.***

13 **Sec. 13.** NRS 624.310 is hereby amended to read as follows:

14 624.310 1. Except as otherwise provided in subsection 4, if the board
15 refuses to issue or renew a license, suspends or revokes a license or
16 imposes an administrative fine pursuant to NRS 624.235, the board shall
17 hold a hearing. The time and place for the hearing must be fixed by the
18 board, and notice of the time and place of the hearing must be personally
19 served on the applicant or accused or mailed to the last known address of
20 the applicant or accused at least 30 days before the date fixed for the
21 hearing.

22 2. The testimony taken pursuant to NRS 624.170 to 624.210, inclusive,
23 must be considered a part of the record of the hearing before the board.

24 3. The hearing must be public if a request is made therefor.

25 4. The board may suspend the license of a contractor without a hearing
26 if the board finds, based upon evidence in its possession, that the public
27 health, safety or welfare imperatively requires summary suspension of the
28 license of the contractor and incorporates that finding in its order. If the
29 board summarily suspends the license of the contractor, ~~the~~ ***the board must***
30 ***notify the contractor by certified mail. A*** hearing must be held within 30
31 days after the suspension ~~if~~ ***if the contractor submits a written request for***
32 ***a hearing to the board within 20 days after the board summarily***
33 ***suspends his license.***

34 **Sec. 14.** This act becomes effective upon passage and approval.