

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; making various changes relating to the grounds for disciplinary action; 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 to 4.5, inclusive, 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 two*
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 must pay one-half of the fee required pursuant to*
6 *subsection 1 when he submits the application and the other one-half of*
7 *the fee when the board issues the license.*

8 3. *In addition to the fee required pursuant to subsection 1, the*
9 *applicant shall reimburse the board for the actual costs and expenses*
10 *incurred by the board in processing the application.*

11 4. *The board shall adopt regulations prescribing the procedures for*
12 *making an application pursuant to this section.*

13 **Sec. 4. 1.** *A contractor may apply to the board to have his license*
14 *placed on inactive status. The board may grant the application if the*
15 *license is in good standing and the licensee has met all requirements for*
16 *the issuance or renewal of a contractor's license as of the date of the*
17 *application.*

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

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

23 (a) *The requirement to execute and maintain a bond pursuant to NRS*
24 *624. 270; and*

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

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

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

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

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

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

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

38 **Sec. 4.5.** *The following acts or omissions, among others, constitute*
39 *cause for disciplinary action pursuant to NRS 624.300:*

40 1. *Contracting, offering to contract or submitting a bid as a*
41 *contractor if the contractor's license:*

42 (a) *Has been suspended or revoked pursuant to NRS 624.300; or*

43 (b) *Is* *inactive.*

1 **2. The suspension, revocation or other disciplinary action taken by**
2 **another state against a contractor based on a license issued by that state**
3 **if the contractor is licensed in this state or applies for a license in this**
4 **state. A certified copy of the suspension, revocation or other disciplinary**
5 **action taken by another state against a contractor based on a license**
6 **issued by that state is conclusive evidence of that action.**

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

8 624.120 The board shall adopt a seal for its own use. The seal must
9 have imprinted thereon the words "State Contractors' Board, State of
10 Nevada." The executive officer has the care and custody of the seal. **A**
11 **person shall not use, copy or reproduce the seal in any way not**
12 **authorized by this chapter or the regulations of the board.**

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

14 624.220 1. The board ~~may~~ **shall** adopt regulations necessary to
15 effect the classification and subclassification of contractors in a manner
16 consistent with established usage and procedure as found in the
17 construction business, and may limit the field and scope of the operations
18 of a licensed contractor to those in which he is classified and qualified to
19 engage as defined by NRS 624.215 and the regulations of the board.

20 2. The board ~~may~~ **shall** limit the field and scope of the operations of
21 a licensed contractor by establishing a monetary limit on a contractor's
22 license, and the limit must be the maximum contract a licensed contractor
23 may undertake on one or more construction contracts on a single
24 construction site or subdivision site for a single client. The board may take
25 any other action designed to limit the field and scope of the operations of a
26 contractor as may be necessary to protect the health, safety and general
27 welfare of the public. The limit ~~[, if any,]~~ must be determined after
28 consideration of the factors set forth in NRS 624.260, 624.263 and 624.265
29 **[.] and any other factors that the board determines are necessary to**
30 **assess or project the future financial solvency of the contractor.**

31 3. **A licensed contractor may request that the board increase the**
32 **monetary limit on his license, either on a permanent basis or for a single**
33 **construction project. A request submitted to the board pursuant to this**
34 **subsection must be in writing on a form prescribed by the board and**
35 **accompanied by such supporting documentation as the board may**
36 **require. If a request submitted pursuant to this section is for a single**
37 **construction project, the request must be submitted to the board at least 2**
38 **working days before the date on which the licensed contractor intends to**
39 **submit his bid for the project.**

40 4. Nothing contained in this section prohibits a specialty contractor
41 from taking and executing a contract involving the use of two or more
42 crafts or trades, if the performance of the work in the crafts or trades, other
43 than in which he is licensed, is incidental and supplemental to the

1 performance of work in the craft for which the specialty contractor is
2 licensed.

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

4 624.260 1. The board shall require an applicant *or licensee* to show
5 such a degree of experience, financial responsibility and such general
6 knowledge of the building, safety, health and lien laws of the State of
7 Nevada and the ~~rudimentary~~ *administrative* principles of the contracting
8 business as the board deems necessary for the safety and protection of the
9 public.

10 2. An applicant *or licensee* may qualify in regard to his experience and
11 knowledge in the following ways:

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

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

17 *If an applicant or licensee intends to qualify pursuant to this subsection*
18 *by the appearance of another person, the applicant or licensee shall*
19 *submit to the board such information as the board determines is*
20 *necessary to demonstrate the duties and responsibilities of the other*
21 *person so appearing with respect to the supervision and control of the*
22 *operations of the applicant or licensee relating to construction.*

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

29 (a) To make technical and administrative decisions;

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

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

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

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

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

42 *5. Except as otherwise provided in subsection 6, in addition to the*
43 *other requirements set forth in this section, each applicant for licensure*

1 *as a contractor must have had, within the 10 years immediately*
2 *preceding the filing of his application for licensure, at least 4 years of*
3 *experience as a journeyman, foreman, supervising employee or*
4 *contractor in the specific classification in which he is applying for*
5 *licensure. Training received in a program offered at an accredited*
6 *college or university or an equivalent program accepted by the board*
7 *may be used to satisfy not more than 3 years of experience required*
8 *pursuant to this subsection.*

9 *6. If the applicant who is applying for licensure has previously*
10 *qualified for a contractor's license in the same classification in which he*
11 *is applying for licensure, the experience required pursuant to subsection*
12 *5 need not be accrued within the 10 years immediately preceding the*
13 *application.*

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

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

17 *(b) Has successfully completed:*

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

21 *(2) An equivalent program accepted by the board.*

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

23 624.265 An applicant for a contractor's license *or a licensed*
24 *contractor* and each officer, director, partner and associate thereof ~~{shall}~~
25 *must* possess good character. Lack of character may be established by
26 showing that the applicant *or licensed contractor*, or any officer, director,
27 partner or associate thereof, has:

28 1. Committed any act which ~~{, if committed by any licensed~~
29 ~~contractor,}~~ would be grounds for the *denial*, suspension or revocation of a
30 contractor's license;

31 2. A bad reputation for honesty and integrity;

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

38 4. Had a license revoked *or suspended* for reasons that would preclude
39 the granting *or renewal* of a license for which the application has been
40 made.

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

2 624.273 1. Each bond or deposit required by NRS 624.270 must be
3 in favor of the State of Nevada for the benefit of any person who:

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

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

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

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

13 2. Any person claiming against the bond or deposit may bring an action
14 in a court of competent jurisdiction on the bond or against the board on the
15 deposit for the amount of damage he has suffered to the extent covered by
16 the bond or deposit. ~~[A person who brings action on a bond shall notify the~~
17 ~~board in writing upon filing the action.]~~ No action may be commenced on
18 the bond or deposit 2 years after the commission of the act on which the
19 action is based. *If an action is commenced on the bond, the surety that*
20 *executed the bond shall notify the board of the action within 30 days*
21 *after the date that:*

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

23 (b) *The action is commenced,*
24 *whichever occurs first.*

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

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

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

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

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

39 5. The surety or the board may bring an action for interpleader against
40 all claimants upon the bond or deposit. If ~~[it does so, it must]~~ *an action for*
41 *interpleader is commenced, the surety or the board must serve each*
42 *known claimant and* publish notice of the action at least once each week
43 for 2 weeks in a newspaper of general circulation in the county where the

1 contractor has his principal place of business. The surety ~~for the board~~ is
2 entitled to deduct its costs of the action, including ~~attorney's fees and~~
3 publication, from its liability under the bond . ~~for~~ *The board is entitled to*
4 *deduct its costs of the action, including attorney's fees and publication,*
5 from the deposit.

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

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

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

18 624.275 1. ~~The~~ *With respect to a surety bond that a licensed*
19 *contractor maintains in accordance with NRS 624.270:*

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

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

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

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

34 4. The notice mailed to the contractor by the board *pursuant to*
35 *subsection 2 or 3* must be ~~by certified mail~~ addressed to his latest address
36 of record in the office of the board.

37 ~~2.~~ 5. If the contractor does not comply with the requirements of the
38 notice from the board, his license must be suspended or revoked on the date
39 ~~the~~ :

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

42 *(b) The* bond is canceled ~~1~~ *, if the notice was provided to the*
43 *contractor pursuant to subsection 3.*

1 **Sec. 11.** NRS 624.280 is hereby amended to read as follows:
2 624.280 The board may adopt regulations fixing the fee for an
3 application, the fee for an examination and the annual fee for a license to be
4 paid by applicants and licensees . ~~[, but no such fee may]~~ *Except as*
5 *otherwise provided in section 3 of this act, the fee for:*

- 6 1. *An application must not exceed \$550.*
7 2. *A license must not exceed \$450 annually.*
8 3. *An examination must not* exceed \$300.

9 **Sec. 12.** NRS 624.3015 is hereby amended to read as follows:
10 624.3015 The following acts, among others, constitute cause for
11 disciplinary action under NRS 624.300:

- 12 1. Acting in the capacity of a contractor beyond the scope of the
13 license.
14 2. Bidding to contract or contracting for a sum for one construction
15 contract or project in excess of the limit placed on the license by the board.
16 3. Knowingly entering into a contract with a contractor while that
17 contractor is not licensed, or bidding to contract or entering into a contract
18 with a contractor for work in excess of his limit or beyond the scope of his
19 license.
20 4. Constructing or repairing a mobile home, manufactured home or
21 commercial coach, unless the contractor:
22 (a) Is licensed pursuant to NRS 489.311; or
23 (b) Owns, leases or rents the mobile home, manufactured home or
24 commercial coach.
25 5. *Engaging in any work or activities that require a contractor's*
26 *license while the license is placed on inactive status pursuant to section 4*
27 *of this act.*

28 **Sec. 13.** NRS 624.310 is hereby amended to read as follows:
29 624.310 1. Except as otherwise provided in subsection 4, if the board
30 refuses to issue or renew a license, suspends or revokes a license or
31 imposes an administrative fine pursuant to NRS 624.235, the board shall
32 hold a hearing. The time and place for the hearing must be fixed by the
33 board, and notice of the time and place of the hearing must be personally
34 served on the applicant or accused or mailed to the last known address of
35 the applicant or accused at least 30 days before the date fixed for the
36 hearing.
37 2. The testimony taken pursuant to NRS 624.170 to 624.210, inclusive,
38 must be considered a part of the record of the hearing before the board.
39 3. The hearing must be public if a request is made therefor.
40 4. The board may suspend the license of a contractor without a hearing
41 if the board finds, based upon evidence in its possession, that the public
42 health, safety or welfare imperatively requires summary suspension of the
43 license of the contractor and incorporates that finding in its order. If the

1 board summarily suspends the license of the contractor, ~~the~~ *the board must*
2 *notify the contractor by certified mail. A* hearing must be held within 30
3 days after the suspension ~~the~~ *if the contractor submits a written request for*
4 *a hearing to the board within 20 days after the board summarily*
5 *suspends his license.*

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