

SENATE BILL NO. 423—SENATOR SCHNEIDER

MARCH 15, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions concerning contractors. (BDR 54-1479)

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 ~~omitted material~~ is material to be omitted.

AN ACT relating to construction; requiring the governing body of a city or county to notify the state contractors' board if a contractor has violated a provision of any building code adopted by the governing body under certain circumstances; requiring the state contractors' board to establish a program to provide educational requirements for an applicant for a contractor's license and continuing education for licensed contractors; changing the membership of the state contractors' board; lengthening the time that a contractor must be licensed in this state before he may be relieved by the state contractors' board from filing a bond or establishing a cash deposit under certain circumstances; shortening the period during which certain licenses may be reinstated; authorizing the state contractors' board to require a licensee to file an additional bond under certain circumstances; requiring certain certificates of occupancy in certain circumstances; 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 and 3 of this act.
- 3 **Sec. 2. 1. *If the governing body of a city or county or an agent***
- 4 ***thereof determines that a contractor has violated a provision of any***
- 5 ***building code adopted by that governing body and has failed to comply***
- 6 ***with any order issued by the governing body requiring the contractor to***
- 7 ***correct the violation, the governing body shall, not later than 10 days***
- 8 ***after making that determination, notify the board in writing of its***
- 9 ***determination.***

1 2. Upon receipt of a notice required pursuant to subsection 1, the
2 board shall conduct an investigation to determine whether any action
3 may be taken against the contractor.

4 3. A member of the board or a person authorized by the board may
5 enter the site of a construction project or any other private property
6 during regular business hours to conduct an investigation or to carry out
7 its duties pursuant to the provisions of this chapter.

8 **Sec. 3. 1. The board, by regulation:**

9 (a) Shall establish a program to provide educational requirements for
10 an applicant for a contractor's license; and

11 (b) May establish a program to provide continuing education for
12 licensed contractors.

13 Any program established pursuant to this subsection must include
14 instruction in compliance with applicable building codes, the provisions
15 of chapter 624 of NRS and any regulations adopted pursuant thereto and
16 laws related to mechanics' and materialmen's liens.

17 2. The regulations adopted pursuant to the provisions of subsection
18 1:

19 (a) Must require an applicant for a contractor's license to comply with
20 the educational requirements as a prerequisite for the issuance of a
21 contractor's license by the board; and

22 (b) May require a licensed contractor to comply with the requirements
23 for continuing education as a prerequisite for the renewal of his license
24 by the board.

25 **Sec. 4. NRS 624.050 is hereby amended to read as follows:**

26 624.050 1. ~~Six~~ **Three** members of the board must each:

27 (a) At the time of appointment, hold an unexpired license to operate as a
28 **general engineering contractor or a general building** contractor.

29 (b) Be a contractor actively engaged in the contracting business and
30 must have been so engaged for not less than 5 years preceding the date of
31 his appointment.

32 (c) Have been a citizen and resident of the State of Nevada for at least 5
33 years next preceding his appointment.

34 2. **Three members of the board must each:**

35 (a) At the time of appointment, hold an unexpired license to operate
36 as a specialty contractor.

37 (b) Be a contractor actively engaged in the contracting business and
38 must have been so engaged for not less than 5 years preceding the date of
39 his appointment.

40 (c) Have been a citizen and resident of the State of Nevada for at least
41 5 years next preceding his appointment.

42 3. One member of the board must be a representative of the general
43 public.

1 **4. Each member serves a term of 4 years or until his successor is**
2 **appointed.**

3 **5. A member of the board may not serve more than two consecutive**
4 **terms of any length.**

5 **Sec. 5.** NRS 624.270 is hereby amended to read as follows:

6 624.270 1. Before issuing a contractor's license to any applicant, the
7 board shall require that the applicant:

8 (a) File with the board a surety bond in a form acceptable to the board
9 executed by the contractor as principal with a corporation authorized to
10 transact surety business in the State of Nevada as surety; or

11 (b) In lieu of ~~such a~~ **the** bond, establish with the board a cash deposit
12 as provided in this section.

13 2. Before granting renewal of a contractor's license to any applicant,
14 the board shall require that the applicant file with the board satisfactory
15 evidence that his surety bond or cash deposit is in full force . ~~unless the~~
16 ~~applicant has been relieved of the requirement as provided in this section.~~
17 ~~3. Failure~~

18 **3. The failure** of an applicant or licensee to file or maintain in full
19 force the required bond or to establish the required cash deposit constitutes
20 cause for the board to deny, revoke, suspend or refuse to renew a license.

21 4. Except as otherwise provided in subsection 6, the amount of each
22 bond or cash deposit required by this section must be fixed by the board
23 with reference to the contractor's financial and professional responsibility
24 and the magnitude of his operations, but must be not less than \$1,000 or
25 more than \$100,000. The bond must be continuous in form and must be
26 conditioned that the total aggregate liability of the surety for all claims is
27 limited to the face amount of the bond irrespective of the number of years
28 the bond is in force. The board may increase or reduce the amount of any
29 bond or cash deposit if evidence supporting such a change in the amount is
30 presented to the board at the time application is made for renewal of a
31 license or at any hearing conducted pursuant to NRS 624.310. Unless
32 released earlier pursuant to subsection 5, any cash deposit may be
33 withdrawn 2 years after termination of the license in connection with which
34 it was established, or 2 years after completion of all work authorized by the
35 board after termination of the license, whichever occurs later, if there is no
36 outstanding claim against it.

37 5. After a licensee has acted in the capacity of a licensed contractor in
38 the State of Nevada for not less than ~~5~~ **10** consecutive years, **and if no**
39 **substantiated complaints have been filed with the board in the**
40 **immediately preceding 5 years,** the board may relieve the licensee of the
41 requirement of filing a bond or establishing a cash deposit if evidence
42 supporting such relief is presented to the board. The board may at any time
43 thereafter require the licensee to file a new bond or establish a new cash

1 deposit as provided in subsection 4 if evidence is presented to the board
2 supporting this requirement or, pursuant to subsection 6, after notification
3 of a final written decision by the labor commissioner. If a licensee is
4 relieved of the requirement of establishing a cash deposit, the deposit may
5 be withdrawn 2 years after such relief is granted, if there is no outstanding
6 claim against it.

7 6. If the board is notified by the labor commissioner pursuant to NRS
8 607.165 that three substantiated claims for wages have been filed against a
9 contractor within a 2-year period, the board shall require the contractor to
10 file a bond or establish a cash deposit in an amount fixed by the board. The
11 contractor shall maintain the bond or cash deposit for the period required
12 by the board.

13 7. As used in this section, "substantiated claims for wages" has the
14 meaning ascribed to it in NRS 607.165.

15 **Sec. 6.** NRS 624.283 is hereby amended to read as follows:

16 624.283 1. Each license issued under the provisions of this chapter
17 expires 1 year after the date on which it is issued, except that the board may
18 by regulation prescribe shorter or longer periods and prorated fees to
19 establish a system of staggered renewals. Any license which is not renewed
20 on or before the date for renewal is automatically suspended.

21 2. A license may be renewed by submitting to the board:

22 (a) An application for renewal;

23 (b) The statement required pursuant to NRS 624.268 if the holder of the
24 license is a natural person; and

25 (c) The fee for renewal fixed by the board.

26 3. The board may require the licensee to submit at any time a financial
27 statement that is prepared by a certified public accountant, if the board
28 believes that:

29 (a) The licensee did not pay an undisputed debt;

30 (b) The licensee has violated or may be violating a provision of chapter
31 624 of NRS or a regulation adopted pursuant thereto; or

32 (c) The licensee's financial responsibility may be impaired.

33 4. If a license is automatically suspended pursuant to subsection 1, the
34 licensee may have his license reinstated upon filing an application for
35 renewal within ~~{6 months}~~ 90 days after the date of suspension and paying,
36 in addition to the fee for renewal, a fee for reinstatement fixed by the board,
37 if he is otherwise in good standing and there are no complaints pending
38 against him. If he is otherwise not in good standing or there is a complaint
39 pending, the board shall require him to provide a current financial
40 statement prepared by a certified public accountant or establish other
41 conditions for reinstatement. If the licensee is a natural person, his

1 application for renewal must be accompanied by the statement required
2 pursuant to NRS 624.268. A license which is not reinstated within ~~16~~
3 ~~months~~ **90 days** after it is automatically suspended may be canceled by the
4 board, and a new license may be issued only upon application for an
5 original contractor's license.

6 **Sec. 7.** NRS 624.300 is hereby amended to read as follows:

7 624.300 1. Except as otherwise provided in subsection 6, the board
8 may:

- 9 (a) Suspend or revoke licenses already issued;
- 10 (b) Refuse renewals of licenses;
- 11 (c) Impose limits on the field, scope and monetary limit of the license;
- 12 (d) Impose an administrative fine of not more than \$10,000;
- 13 (e) Order the licensee to take action to correct a condition resulting from
14 an act which constitutes a cause for disciplinary action, at the licensee's
15 cost; or
- 16 (f) Reprimand or take other less severe disciplinary action, including,
17 without limitation, increasing the amount of the surety bond or cash deposit
18 of the licensee,
19 if the licensee commits any act which constitutes a cause for disciplinary
20 action.

21 2. *The board may, in addition to any other conditions for reinstating
22 or renewing the license, require the licensee to file with the board a bond
23 in an amount fixed by the board based on the nature of the violation. The
24 bond is in addition to, may not be combined with, and does not replace
25 any other bond required pursuant to the provisions of this chapter. The
26 contractor shall maintain the bond for at least 2 years, or for a longer
27 period, as determined by the board.*

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

35 ~~13.1~~ 4. If a licensee commits a fraudulent act which is a cause for
36 disciplinary action under NRS 624.3016, the correction of any condition
37 resulting from the act does not preclude the board from taking disciplinary
38 action.

39 ~~14.1~~ 5. If the board finds that a licensee has engaged in repeated acts
40 that would be cause for disciplinary action, the correction of any resulting
41 conditions does not preclude the board from taking disciplinary action
42 pursuant to this section.

1 ~~[5.]~~ 6. The expiration of a license by operation of law or by order or
2 decision of the board or a court, or the voluntary surrender of a license by a
3 licensee, does not deprive the board of jurisdiction to proceed with any
4 investigation of, or action or disciplinary proceeding against, the licensee
5 or to render a decision suspending or revoking the license.

6 ~~[6.]~~ 7. The board shall not take any disciplinary action pursuant to this
7 section regarding a constructional defect, as that term is defined in NRS
8 40.615, during the period in which any claim arising out of that defect is
9 being settled, mediated or otherwise resolved pursuant to NRS 40.600 to
10 40.695, inclusive, unless the disciplinary action is necessary to protect the
11 public health or safety.

12 ~~[7.]~~ 8. If discipline is imposed pursuant to this section, the costs of the
13 proceeding, including investigative costs and attorney's fees, may be
14 recovered by the board.

15 **Sec. 8.** NRS 624.321 is hereby amended to read as follows:

16 624.321 A ~~[general building]~~ contractor shall provide in writing to the
17 owner of a single-family residence *for whom he performs a service or* with
18 whom he has contracted:

19 1. The name, license number, business address and telephone number
20 of:

21 (a) All subcontractors with whom he has contracted on the project; and

22 (b) All persons who furnish material of the value of \$500 or more to be
23 used in the project.

24 2. A notice that a person described in subsection 1 may record a notice
25 of lien upon the residence of the owner and any building, structure and
26 improvement thereon pursuant to the provisions of NRS 108.226.

27 3. An informational form, whose contents must be prescribed by the
28 board, regarding:

29 (a) Contractors pursuant to chapter 624 of NRS; and

30 (b) Mechanics' and materialmen's liens pursuant to chapter 108 of NRS.

31 **Sec. 9.** NRS 624.330 is hereby amended to read as follows:

32 624.330 ~~[This chapter does]~~ *The provisions of this chapter do* not
33 apply to:

34 1. Work ~~[done]~~ *performed* exclusively by an authorized representative
35 of the United States Government, the State of Nevada, or an incorporated
36 city, county, irrigation district, reclamation district, or other municipal or
37 political corporation or subdivision of this state.

38 2. An officer of a court when acting within the scope of his office.

39 3. Work ~~[done]~~ *performed* exclusively by a public utility operating
40 pursuant to the regulations of the public utilities commission of Nevada on
41 construction, maintenance and development work incidental to its ~~[own]~~
42 business.

1 4. An owner of property who is building or improving a residential
2 structure on the property for his own occupancy and not intended for sale
3 ~~to~~ or lease. The sale or lease or offering for sale or lease of the newly built
4 structure within 1 year after its completion creates a rebuttable presumption
5 for the purposes of this section that the building of the structure was
6 performed with the intent to sell ~~to~~ or lease that structure.

7 5. An owner of a complex containing not more than four
8 condominiums, townhouses, apartments or cooperative units, the managing
9 officer of the owner or an employee of the managing officer, who performs
10 work to repair or maintain that property the value of which is less than
11 \$500, including labor and materials, unless:

12 (a) A building permit is required to perform the work;

13 (b) The work is of a type performed by a plumbing, electrical,
14 refrigeration, heating or air-conditioning contractor;

15 (c) The work is of a type performed by a contractor licensed in a
16 classification prescribed by the board that significantly affects the health,
17 safety and welfare of members of the general public;

18 (d) The work is performed as a part of a larger project:

19 (1) The value of which is \$500 or more; or

20 (2) For which contracts of less than \$500 have been awarded to evade
21 the provisions of this chapter; or

22 (e) The work is performed by a person who is licensed pursuant to this
23 chapter or by an employee of ~~such a~~ that person.

24 6. The sale or installation of any finished product, material or article of
25 merchandise which is not ~~actually~~ fabricated into and does not become a
26 permanent fixed part of the structure.

27 7. The construction, alteration, improvement or repair of personal
28 property.

29 8. The construction, alteration, improvement or repair financed in
30 whole or in part by the Federal Government and ~~carried on~~ conducted
31 within the limits and boundaries of a site or reservation, the title of which
32 rests in the Federal Government.

33 9. An owner of property, the primary use of which is as an agricultural
34 or farming enterprise, building or improving a structure on the property for
35 his ~~own~~ use or occupancy and not intended for sale or lease.

36 10. An owner of property who builds or improves a structure upon his
37 property and who contracts solely with a managing contractor licensed
38 pursuant to the provisions of this chapter for the building or improvement,
39 if the owner is and remains financially responsible for the building or
40 improving of all buildings and structures built by the owner upon his
41 property pursuant to the exemption ~~of~~ specified in this subsection.

1 **Sec. 10.** Chapter 278 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 11 and 12 of this act.

3 **Sec. 11. 1.** *In a county whose population is 100,000 or more, each*
4 *certificate of occupancy issued for a single-family residence must be*
5 *issued at the time of final inspection in substantially the following form:*

6
7 **CERTIFICATE OF RESIDENTIAL OCCUPANCY**

8
9 *This certificate of occupancy does not create an express or implied*
10 *warranty or guarantee.*

11
12 *Address: Permit Number:*

13
14
15
16 *Name of Builder: Date of Final Inspection:*

17 *Owner-Builder: ☐ Yes ☐ No*

18 *Name of Building:*

19 *Inspector:*

20
21 *This building is deemed to be in substantial compliance with fire, safety*
22 *and structural provisions of the adopted building codes. Records*
23 *concerning the construction of this building are on file with the building*
24 *department for 12 years after the date that the records are filed with the*
25 *building department.*

26 *2. A certificate of occupancy issued pursuant to the provisions of*
27 *subsection 1 must be issued to the person to whom the building permit*
28 *for the single-family residence was issued.*

29 *3. If the single-family residence for which the certificate of*
30 *occupancy is issued pursuant to subsection 1 is sold, the owner of the*
31 *single-family residence shall provide a copy of the certificate of*
32 *occupancy to the purchaser of the residence. The copy must be provided*
33 *at the close of escrow for the residence.*

34 *4. The building department of a county whose population is 100,000*
35 *or more shall maintain on file the records concerning a building for*
36 *which a certificate of occupancy is issued pursuant to subsection 1 for at*
37 *least 12 years after the date those records are filed with the building*
38 *department.*

39 *5. A certificate of occupancy issued pursuant to the provisions of*
40 *subsection 1 may not be used as evidence that the construction is in*
41 *actual compliance with applicable building codes or that the construction*
42 *meets the minimum standards of the industry:*

43 *(a) In a proceeding pursuant to chapter 624 of NRS; or*

1 **(b) In a civil action.**

2 **Sec. 12.** *A city or county building inspector shall send monthly to*
3 *the state contractors' board a list that identifies any person to whom a*
4 *building permit was issued during the preceding month. If a building*
5 *officer of a local government has reason to believe that a person is acting*
6 *as a contractor without the appropriate license, the building officer shall*
7 *notify the board in writing of the suspected violation. Upon receipt of*
8 *such a notice, the board shall conduct an investigation to determine*
9 *whether any action may be taken against the person.*

10 **Sec. 13.** 1. Except as otherwise provided in subsection 2, the terms
11 of office of all members of the board expire upon the commencement of the
12 terms of their successors appointed pursuant to subsection 3. A member of
13 the board may be appointed to succeed himself if he meets the requirements
14 set forth in NRS 624.050 as amended by this act.

15 2. The contractor on the board whose term expires on October 30,
16 2000, and the representative of the general public on the board whose term
17 expires on October 30, 2000, shall serve out the remainder of their terms.

18 3. Notwithstanding the provisions of subsection 4 of NRS 624.050 as
19 amended by this act, on or before October 31, 1999, the governor shall,
20 pursuant to subsections 1, 2 and 3 of NRS 624.050 as amended by this act,
21 appoint to the state contractors' board:

22 (a) Two members who are general engineering contractors or general
23 building contractors and one member who is a specialty contractor whose
24 initial terms expire on October 30, 2002; and

25 (b) Two members who are specialty contractors whose initial terms
26 expire on October 30, 2004.

27 4. For the purposes of subsection 5 of NRS 624.050 as amended by
28 this act, the term of office of each member of the board that expires after
29 October 30, 2000, shall be deemed the first term of office for that member.

30 **Sec. 14.** The amendatory provisions of this act do not apply to
31 offenses that are committed before October 1, 1999.

32 **Sec. 15.** 1. This section, sections 1, 2, 4 to 9, inclusive, and 11 to 14,
33 inclusive, of this act become effective on October 1, 1999.

34 2. Sections 3 and 10 of this act become effective on July 1, 2000.