

ASSEMBLY BILL NO. 620—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF CONTRACTORS BOARD)

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to contractors. (BDR 54-407)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 contractors; creating a commission on construction education; creating a construction education account; authorizing the commission to grant money from the account for programs of construction education; requiring that certain fines received by the state contractors' board be credited to the construction education account; removing the requirement that the board require certain applicants for a contractor's license or a licensee to establish financial responsibility by submitting certain information; authorizing the board to require an applicant or licensee to establish financial responsibility; removing provisions that automatically require the board to hold a hearing if the board refuses to issue or renew a license; changing certain time requirements relating to hearings; requiring the board to send a certain notice to an applicant or licensee if the board denies an application for the issuance or renewal of a license; authorizing an applicant or licensee whose application for the issuance or renewal of a license is denied to request a hearing before the board; requiring the board to hold a hearing if it receives such a request; requiring the board to include certain information on an application for the issuance or renewal of a license; 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. 1. *The commission on construction education is hereby***
4 ***created.***

5 ***2. The commission consists of one member who is a member of the***
6 ***board and six members appointed by the governor as follows:***

7 ***(a) Four members who are representatives of the construction***
8 ***industry; and***



- 1 (b) Two members who have knowledge of construction education
2 programs.
- 3 3. Each member of the commission serves a term of 3 years.
- 4 4. The members of the commission who are appointed by the
5 governor serve without compensation, per diem allowance or
6 reimbursement for travel expenses. While engaged in the business of the
7 commission, the member who is a member of the board shall receive
8 from the board the same salary, per diem allowance and reimbursement
9 for travel expenses he receives while engaged in the business of the
10 board.
- 11 5. The commission shall review programs of education which relate
12 to building construction and distribute grants from the construction
13 education account created pursuant to section 3 of this act for programs
14 that the commission determines qualify for such a grant.
- 15 6. The board may adopt regulations which establish the rules of
16 procedure for meetings of the commission.
- 17 7. The commission shall adopt regulations providing:
- 18 (a) Procedures for applying for a grant of money from the
19 construction education account;
- 20 (b) Procedures for reviewing an application for a grant from the
21 construction education account; and
- 22 (c) Qualifications for receiving a grant from the construction
23 education account.
- 24 **Sec. 3.** 1. There is hereby created a construction education
25 account as a separate account within the state general fund.
- 26 2. Money deposited in the fund must be used:
- 27 (a) Solely for the purposes of construction education and to pay the
28 costs of the commission on construction education as described in
29 accordance with subsection 3; and
- 30 (b) In addition to any other money provided for construction
31 education from any other source.
- 32 3. The commission on construction education shall administer the
33 construction education account and shall disburse the money in the
34 account as follows:
- 35 (a) At least 95 percent of the money deposited in the account must be
36 used to fund programs of education which relate to building construction
37 and which the commission on construction education determines qualify
38 for grants; and
- 39 (b) Not more than five percent of the money deposited in the account
40 may be reserved for operating expenses incurred by the commission on
41 construction education pursuant to this section.
- 42 4. Interest earned on money in the construction education account
43 must be credited to the construction education account.
- 44 5. The unexpended and unencumbered balance, if any, remaining in
45 the construction education account at the end of each fiscal year, must
46 remain in the account.
- 47 **Sec. 4.** 1. If the board denies an application for issuance or
48 renewal of a license pursuant to this chapter, the board shall send by
49 certified mail, return receipt requested, written notice of the denial to the



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1 *most current address of the applicant set forth in the records of the*
2 *board.*

3 2. *A notice of denial must include, without limitation, a statement*
4 *which explains that the applicant has a right to a hearing before the*
5 *board if the applicant submits a written request for such a hearing to the*
6 *board within 60 days after the notice of denial is delivered to the address*
7 *of the applicant pursuant to this section.*

8 3. *If an applicant who receives a notice of denial pursuant to this*
9 *section desires to have the denial reviewed at a hearing before the board,*
10 *he must submit a written request for a hearing before the board*
11 *concerning the denial within 60 days after the notice of denial is*
12 *delivered to his address. If an applicant does not submit notice in*
13 *accordance with this subsection, the applicant's right to a hearing shall*
14 *be deemed to be waived.*

15 4. *Except as otherwise provided in this subsection, if the board*
16 *receives notice from an applicant pursuant to subsection 3, the board*
17 *shall hold a hearing on the decision to deny the application of the*
18 *applicant within 90 days after the date the board receives notice pursuant*
19 *to subsection 3. If an applicant requests a continuance and the board*
20 *grants the continuance, the hearing required pursuant to this subsection*
21 *may be held more than 90 days after the date the board receives notice*
22 *pursuant to subsection 3.*

23 **Sec. 5.** NRS 624.140 is hereby amended to read as follows:

24 624.140 1. Except as otherwise provided in subsection 3, if money
25 becomes available from the operations of this chapter and payments made
26 for licenses, the board may pay from that money:

27 (a) The expenses of the operations of this chapter, including the
28 maintenance of offices.

29 (b) The salary of the executive officer who must be named by the board.

30 (c) A salary to each member of the board of not more than \$80 per day,
31 as fixed by the board, while engaged in the business of the board.

32 (d) A per diem allowance and travel expenses for each member and
33 employee of the board at a rate fixed by the board, while engaged in the
34 business of the board. The rate must not exceed the rate provided for state
35 officers and employees generally.

36 2. The board may delegate to a hearing officer or panel its authority to
37 take any disciplinary action pursuant to this chapter, impose and collect
38 fines therefor and deposit the money therefrom in banks, credit unions or
39 savings and loan associations in this state.

40 3. ~~HH~~ *Except as otherwise provided in NRS 624.520, if* a hearing
41 *officer or panel is not authorized to take disciplinary action pursuant to*
42 *subsection 2 , ~~and~~ the board ~~deposits the~~ shall deposit any* money
43 *collected from the imposition of fines with the state treasurer for credit to*
44 *the ~~state general fund, it may present a claim to the state board of~~*
45 *~~examiners for recommendation to the interim finance committee if money~~*
46 *~~is needed to pay attorney's fees or the costs of an investigation, or both.~~*
47 *construction education account created pursuant to section 3 of this act.*



- 1 **Sec. 6.** NRS 624.250 is hereby amended to read as follows:
2 624.250 1. To obtain or renew a license, an applicant must submit to
3 the board an application in writing containing:
4 (a) The statement that the applicant desires the issuance of a license
5 under the terms of this chapter.
6 (b) The street address or other physical location of the applicant's place
7 of business.
8 (c) The name of a person physically located in this state for service of
9 process on the applicant.
10 (d) The street address or other physical location in this state and, if
11 different, the mailing address, for service of process on the applicant.
12 (e) The names and physical and mailing addresses of any owners,
13 partners, officers, directors, members and managerial personnel of the
14 applicant.
15 (f) Any information requested by the board to ascertain the background,
16 financial responsibility, experience, knowledge and qualifications of the
17 applicant.
18 2. The application must be:
19 (a) Made on a form prescribed by the board in accordance with the rules
20 and regulations adopted by the board.
21 (b) Accompanied by the fee fixed by this chapter.
22 3. *The board shall include on an application form for the issuance or*
23 *renewal of a license, a method for allowing an applicant to make a*
24 *monetary contribution to the construction education account created*
25 *pursuant to section 3 of this act. The application form must state in a*
26 *clear and conspicuous manner that a contribution to the construction*
27 *education account is voluntary and is in addition to any fees required for*
28 *licensure. If the board receives a contribution from an applicant, the*
29 *board shall deposit the contribution with the state treasurer for credit to*
30 *the construction education account.*
31 4. If the applicant is a natural person, the application must include the
32 social security number of the applicant.
33 **Sec. 7.** NRS 624.263 is hereby amended to read as follows:
34 624.263 1. The financial responsibility of a licensee or an applicant
35 for a contractor's license must be established independently of and without
36 reliance on any assets or guarantees of any owners or managing officers of
37 the licensee or applicant, but the financial responsibility of any owners or
38 managing officers of the licensee or applicant may be inquired into and
39 considered as a criterion in determining the financial responsibility of the
40 licensee or applicant.
41 2. The financial responsibility of an applicant for a contractor's license
42 or of a licensed contractor must be determined by using the following
43 standards and criteria in connection with each applicant or contractor and
44 each associate or partner thereof:
45 (a) Net worth.
46 (b) Amount of liquid assets.
47 (c) Prior payment and credit records.
48 (d) Previous business experience.
49 (e) Prior and pending lawsuits.



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1 (f) Prior and pending liens.
2 (g) Adverse judgments.
3 (h) Conviction of a felony or crime involving moral turpitude.
4 (i) Prior suspension or revocation of a contractor's license in Nevada or
5 elsewhere.
6 (j) An adjudication of bankruptcy or any other proceeding under the
7 federal bankruptcy laws, including:
8 (1) A composition, arrangement or reorganization proceeding;
9 (2) The appointment of a receiver of the property of the applicant or
10 contractor or any officer, director, associate or partner thereof under the
11 laws of this state or the United States; or
12 (3) The making of an assignment for the benefit of creditors.
13 (k) Form of business organization, ~~it~~ corporate or otherwise. ~~it~~
14 (l) Information obtained from confidential financial references and
15 credit reports.
16 (m) Reputation for honesty and integrity of the applicant or contractor
17 or any officer, director, associate or partner thereof.
18 3. A licensed contractor shall, as soon as it is reasonably practicable,
19 notify the board in writing upon the filing of a petition or application
20 relating to the contractor that initiates any proceeding, appointment or
21 assignment set forth in paragraph (j) of subsection 2. The written notice
22 must be accompanied by:
23 (a) A copy of the petition or application filed with the court; and
24 (b) A copy of any order of the court which is relevant to the financial
25 responsibility of the contractor, including any order appointing a trustee,
26 receiver or assignee.
27 4. Before issuing a license to an applicant who will engage in
28 residential construction or renewing the license of a contractor who
29 engages in residential construction, the board ~~shall~~ *may* require the
30 applicant or licensee to establish his financial responsibility by submitting
31 to the board:
32 (a) A financial statement prepared by a certified public accountant ;
33 ~~{who is licensed pursuant to the provisions of chapter 628 of NRS-}~~ and
34 (b) A statement setting forth the number of building permits issued to
35 and construction projects completed by the licensee during the immediately
36 preceding year and any other information required by the board. The
37 statement submitted pursuant to this paragraph must be provided on a form
38 approved by the board.
39 5. In addition to the requirements set forth in subsection 4, the board
40 may require a licensee to establish his financial responsibility at any time.
41 6. An applicant for an initial contractor's license or a licensee applying
42 for the renewal of a contractor's license has the burden of demonstrating
43 his financial responsibility to the board ~~it~~ *, if the board requests him to do*
44 *so.*
45 **Sec. 8.** NRS 624.270 is hereby amended to read as follows:
46 624.270 1. Before issuing a contractor's license to any applicant, the
47 board shall require that the applicant:



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

4 (b) In lieu of such a bond, establish with the board a cash deposit as
5 provided in this section.

6 2. Before granting renewal of a contractor's license to any applicant,
7 the board shall require that the applicant file with the board satisfactory
8 evidence that his surety bond or cash deposit is in full force, unless the
9 applicant has been relieved of the requirement as provided in this section.

10 3. Failure of an applicant or licensee to file or maintain in full force the
11 required bond or to establish the required cash deposit constitutes cause for
12 the board to deny, revoke, suspend or refuse to renew a license.

13 4. Except as otherwise provided in subsection 6, the amount of each
14 bond or cash deposit required by this section must be fixed by the board
15 with reference to the contractor's financial and professional responsibility
16 and the magnitude of his operations, but must be not less than \$1,000 or
17 more than \$100,000. The bond must be continuous in form and must be
18 conditioned that the total aggregate liability of the surety for all claims is
19 limited to the face amount of the bond irrespective of the number of years
20 the bond is in force. The board may increase or reduce the amount of any
21 bond or cash deposit if evidence supporting such a change in the amount is
22 presented to the board at the time application is made for renewal of a
23 license or at any hearing conducted pursuant to NRS 624.291 ~~H~~ **or section**
24 **4 of this act.** Unless released earlier pursuant to subsection 5, any cash
25 deposit may be withdrawn 2 years after termination of the license in
26 connection with which it was established, or 2 years after completion of all
27 work authorized by the board after termination of the license, whichever
28 occurs later, if there is no outstanding claim against it.

29 5. After a licensee has acted in the capacity of a licensed contractor in
30 the State of Nevada for not less than 5 consecutive years, the board may
31 relieve the licensee of the requirement of filing a bond or establishing a
32 cash deposit if evidence supporting such relief is presented to the board.
33 The board may at any time thereafter require the licensee to file a new
34 bond or establish a new cash deposit as provided in subsection 4 if
35 evidence is presented to the board supporting this requirement or, pursuant
36 to subsection 6, after notification of a final written decision by the labor
37 commissioner. If a licensee is relieved of the requirement of establishing a
38 cash deposit, the deposit may be withdrawn 2 years after such relief is
39 granted, if there is no outstanding claim against it.

40 6. If the board is notified by the labor commissioner pursuant to NRS
41 607.165 that three substantiated claims for wages have been filed against a
42 contractor within a 2-year period, the board shall require the contractor to
43 file a bond or establish a cash deposit in an amount fixed by the board. The
44 contractor shall maintain the bond or cash deposit for the period required
45 by the board.

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



1 **Sec. 9.** NRS 624.291 is hereby amended to read as follows:

2 624.291 1. Except as otherwise provided in subsection 4, if the board
3 ~~refuses to issue or renew a license,~~ suspends or revokes a license, has
4 probable cause to believe that a person has violated NRS 624.720 or
5 imposes an administrative fine pursuant to NRS 624.710, the board shall
6 hold a hearing. The time and place for the hearing must be fixed by the
7 board, and notice of the time and place of the hearing must be personally
8 served on the applicant or accused or mailed to the last known address of
9 the applicant or accused at least ~~30~~ 21 days before the date fixed for the
10 hearing.

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

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

14 4. The board may suspend the license of a contractor without a hearing
15 if the board finds, based upon evidence in its possession, that the public
16 health, safety or welfare imperatively requires summary suspension of the
17 license of the contractor and incorporates that finding in its order. If the
18 board summarily suspends the license of the contractor, the board must
19 notify the contractor by certified mail. A hearing must be held within ~~30~~
20 60 days after the suspension if the contractor submits a written request for
21 a hearing to the board within 20 days after the board summarily suspends
22 his license.

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

24 624.300 1. Except as otherwise provided in subsection 3, the board
25 may:

- 26 (a) Suspend or revoke licenses already issued;
- 27 (b) Refuse renewals of licenses;
- 28 (c) Impose limits on the field, scope and monetary limit of the license;
- 29 (d) Impose an administrative fine of not more than \$10,000;
- 30 (e) Order a licensee to repay to the account established pursuant to NRS
31 624.470, any amount paid out of the account pursuant to NRS 624.510 as a
32 result of an act or omission of that licensee;
- 33 (f) Order the licensee to take action to correct a condition resulting from
34 an act which constitutes a cause for disciplinary action, at the licensee's
35 cost, that may consist of requiring the licensee to:
 - 36 (1) Perform the corrective work himself;
 - 37 (2) Hire and pay another licensee to perform the corrective work; or
 - 38 (3) Pay to the owner of the construction project a specified sum to
39 correct the condition; or
- 40 (g) Reprimand or take other less severe disciplinary action, including,
41 without limitation, increasing the amount of the surety bond or cash deposit
42 of the licensee,
43 if the licensee commits any act which constitutes a cause for disciplinary
44 action.

45 2. If the board suspends or revokes the license of a contractor for
46 failure to establish financial responsibility, the board may, in addition to
47 any other conditions for reinstating or renewing the license, require that
48 each contract undertaken by the licensee for a period to be designated by
49 the board, not to exceed 12 months, be separately covered by a bond or



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1 bonds approved by the board and conditioned upon the performance of and
2 the payment of labor and materials required by the contract.

3 3. If a licensee violates the provisions of NRS 624.3014 or subsection
4 3 of NRS 624.3015, the board may impose an administrative fine of not
5 more than \$20,000.

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

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

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

19 7. If discipline is imposed pursuant to this section, including any
20 discipline imposed pursuant to a stipulated settlement, the costs of the
21 proceeding, including investigative costs and attorney's fees, may be
22 recovered by the board.

23 *8. All fines collected pursuant to this section must be deposited with*
24 *the state treasurer for credit to the construction education account*
25 *created pursuant to section 3 of this act.*

26 **Sec. 11.** NRS 624.710 is hereby amended to read as follows:

27 624.710 1. If any person violates the provisions of subsection 1 of
28 NRS 624.700, the board may impose an administrative fine of not less than
29 \$1,000 nor more than \$10,000 for each violation.

30 2. An administrative fine imposed pursuant to this section is in
31 addition to any other penalty imposed pursuant to this chapter.

32 3. If the administrative fine is not paid when due, the fine must be
33 recovered in a civil action brought by the attorney general on behalf of the
34 board.

35 *4. All administrative fines collected pursuant to this section must be*
36 *deposited with the state treasurer for credit to the construction education*
37 *account created pursuant to section 3 of this act.*

38 **Sec. 12.** This act becomes effective on July 1, 2001.

