

Amendment No. 218

Assembly Amendment to Assembly Bill No. 25	(BDR 54-234)
Proposed by: Assembly Committee on Commerce and Labor	
Amendment Box: Replaces Amendment No. 33.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JRS/WLK



Date: 4/8/2019

A.B. No. 25—Makes various changes to provisions governing contractors.
(BDR 54-234)



ASSEMBLY BILL NO. 25—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE STATE CONTRACTORS' BOARD)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing contractors.
(BDR 54-234)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; authorizing the State Contractors' Board to delegate to a hearing officer or panel its authority to hold certain hearings; ~~repealing~~ **expanding** the period during which an applicant for licensure as a contractor must have received certain experience before applying for licensure; repealing provisions which require an applicant for renewal of a contractor's license who will engage in residential construction to submit certain financial information to the Board; ~~repealing provisions which limit~~ **expanding** the period ~~of validity of~~ **during which** a license ~~which is~~ **may be** placed on inactive status; authorizing a licensee who was on active duty in the Armed Forces of the United States, a reserve component thereof or the ~~Nevada~~ National Guard to apply to have his or her contractor's license reinstated under certain circumstances; repealing provisions which prohibit a telephone number to a provider of paging services used in certain unlawful advertising from being disconnected; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if the State Contractors' Board denies an application for issuance or renewal of a contractor's license, the applicant for the license may submit a written request to the Board for a hearing concerning the denial of the application. If the applicant submits a written request, the Board is required to hold a hearing. (NRS 624.2545) **Section 1** of this bill **: (1)** authorizes the Board to delegate to a hearing officer or panel its authority to hold a hearing concerning the denial of the license. **H ; and (2) requires the Board to adopt regulations setting forth the qualifications for a hearing officer.**

Under existing law, an applicant for a contractor's license or a licensee must show such experience, financial responsibility and general knowledge of the building, safety, health and lien laws of the State of Nevada as are required by the Board. In addition, each applicant for licensure as a contractor is required to have acquired at least 4 years of experience as a

journeyman, foreman, supervising employee or contractor within the 10 years immediately preceding the date of filing of the application. (NRS 624.260) **Section 2** of this bill ~~repeals~~ increases the 10-year requirement ~~and repeals a certain exception to that requirement.~~ to 15 years.

Under existing law, if an applicant for a contractor's license will engage in residential construction and the applicant has not held a contractor's license within the 2 years immediately preceding the date the application is submitted to the Board, the applicant is required to establish his or her financial responsibility by submitting a financial statement and other information to the Board. If the Board issues a contractor's license to the applicant, the applicant is required, for the first 2 years after the issuance of the license, to submit with each application for the renewal of his or her license a financial statement and other information to the Board. (NRS 624.264) **Section 3** of this bill repeals the requirement for the submission of a financial statement and other information with each application for the renewal of the license.

Under existing law, if a contractor's license is placed on inactive status, the license may remain on inactive status for 5 years. (NRS 624.282) **Section 4** of this bill ~~repeals~~ increases the 5-year limitation on the inactive status of the license ~~to~~ to 8 years.

Under existing law, each contractor's license expires 2 years after the date on which it was issued or on another date established by regulations of the Board. A license which is not renewed before the date for the renewal of the license is automatically suspended. (NRS 624.283) **Section 5** of this bill: (1) authorizes a licensee whose license is automatically suspended while he or she was on active duty in the Armed Forces of the United States, a reserve component thereof or the ~~Nevada~~ National Guard to submit an application to the Board requesting the reinstatement of his or her license without the imposition of a penalty or disciplinary action; (2) sets forth the requirements for the Board to reinstate the license; and (3) authorizes the Board to waive the fee for renewal of the license.

Under existing law, it is unlawful for a person to advertise as a contractor unless the person has a contractor's license in the appropriate classification for the license. If the Board determines that a person violated the prohibition against unlawful advertising, the Board may, in addition to taking certain other actions, cause any telephone number included in the advertising to be disconnected, other than a telephone number to a provider of paging services. **Section 6** of this bill repeals the provisions which prohibit the Board from causing the telephone number of a provider of paging services to be disconnected.

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

Section 1. NRS 624.2545 is hereby amended to read as follows:

624.2545 1. If the Board denies an application for issuance or renewal of a license pursuant to this chapter, the Board shall send by certified mail, return receipt requested, written notice of the denial to the most current address of the applicant set forth in the records of the Board.

2. A notice of denial must include, without limitation, a statement which explains that the applicant has a right to a hearing before the Board if the applicant submits a written request for such a hearing to the Board within 60 days after the notice of denial is sent to the address of the applicant pursuant to this section.

3. If an applicant who receives a notice of denial pursuant to this section desires to have the denial reviewed at a hearing before the Board, the applicant must submit a written request for a hearing before the Board concerning the denial within 60 days after the notice of denial is sent to the applicant's address. If an applicant does not submit notice in accordance with this subsection, the applicant's right to a hearing shall be deemed to be waived.

4. Except as otherwise provided in this subsection, if the Board receives notice from an applicant pursuant to subsection 3, the Board shall hold a hearing on the decision to deny the application of the applicant within 90 days after the date

the Board receives notice pursuant to subsection 3. If an applicant requests a continuance and the Board grants the continuance, the hearing required pursuant to this subsection may be held more than 90 days after the date the Board receives notice pursuant to subsection 3. *The Board may delegate to a hearing officer or panel its authority to hold a hearing concerning the denial of an application pursuant to this section. The Board shall adopt regulations setting forth the qualifications for a hearing officer.*

Sec. 2. NRS 624.260 is hereby amended to read as follows:

624.260 1. The Board shall require an applicant or licensee to show such a degree of experience, financial responsibility and such general knowledge of the building, safety, health and lien laws of the State of Nevada and the administrative principles of the contracting business as the Board deems necessary for the safety and protection of the public.

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

(a) If a natural person, the applicant or licensee may qualify by personal appearance or by the appearance of his or her responsible managing employee.

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

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

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

(a) To make technical and administrative decisions;

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

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

4. If, pursuant to subsection 2, an applicant or licensee intends to qualify by the appearance of another person, the Board may inquire into and consider any previous business experience of, and any prior and pending lawsuits, liens and judgments against, the other person.

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

(a) One person owns at least 25 percent of each licensee for which the person qualifies;

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

(c) One licensee is a corporation for public benefit as defined in NRS 82.021.

6. *Except as otherwise provided in subsection 7, in ~~the~~ addition to the other requirements set forth in this section, each applicant for licensure as a contractor must have had ~~within the 10~~ 15 years immediately preceding the filing of the application for licensure,* at least 4 years of experience as a journeyman, foreman, supervising employee or contractor in the specific classification in which the applicant is applying for licensure. Training received in a program offered at an

accredited college or university or an equivalent program accepted by the Board may be used to satisfy not more than 3 years of experience required pursuant to this subsection.

7. If the applicant who is applying for licensure has previously qualified for a contractor's license in the same classification in which the applicant is applying for licensure, the experience required pursuant to subsection 6 need not be accrued within the ~~four~~ 15 years immediately preceding the application.

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

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

(b) Has successfully completed:

(1) A program of apprenticeship for the classification in which the person is applying for licensure that has been approved by the State Apprenticeship Council; or

(2) An equivalent program accepted by the Board.

Sec. 3. NRS 624.264 is hereby amended to read as follows:

624.264 1. In addition to any other requirements set forth in this chapter, if an applicant will engage in residential construction and the applicant or the natural person qualifying on behalf of the applicant pursuant to NRS 624.260 has not held a contractor's license issued pursuant to this chapter within the 2 years immediately preceding the date that the application is submitted to the Board, the Board shall require the applicant to establish financial responsibility by submitting to the Board:

(a) A financial statement that is:

(1) Prepared by an independent certified public accountant; or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) Any other information required by the Board.

2. Before the Board may issue a contractor's license to the applicant, the Board must determine whether, based on the financial information concerning the applicant, it would be in the public interest to do any or all of the following:

(a) Require the applicant to obtain the services of a construction control with respect to any money that the applicant requires a purchaser of a new residence to pay in advance to make upgrades to the new residence. If the Board imposes such a requirement, the applicant may not:

(1) Be related to the construction control or to an employee or agent of the construction control; or

(2) Hold, directly or indirectly, a financial interest in the business of the construction control.

(b) Establish an aggregate monetary limit on the contractor's license, which must be the maximum combined monetary limit on all contracts that the applicant may undertake or perform as a licensed contractor at any one time, regardless of the number of contracts, construction sites, subdivision sites or clients. If the Board establishes such a limit, the Board:

(1) Shall determine the period that the limit is in effect; and

(2) During that period, may increase or decrease the limit as the Board deems appropriate.

~~{3. If the Board issues a contractor's license to an applicant described in subsection 1, for the first 2 years after the issuance of the license, the licensee must submit to the Board, with each application for renewal of the license:~~

~~—(a) A financial statement that is:~~

~~—(1) Prepared by an independent certified public accountant; or~~

~~(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and~~

~~(b) A statement setting forth the number of building permits issued to and construction projects completed by the licensee during the immediately preceding year and any other information required by the Board. The statement submitted pursuant to this paragraph must be provided on a form approved by the Board.~~

~~4. Before the Board may renew the contractor's license of the licensee, the Board must determine whether, based on the financial information concerning the licensee, it would be in the public interest to do any or all of the following:~~

~~(a) Require the licensee to obtain the services of a construction control with respect to any money that the licensee requires a purchaser of a new residence to pay in advance to make upgrades to the new residence. If the Board imposes such a requirement, the licensee may not:~~

~~(1) Be related to the construction control or to an employee or agent of the construction control; or~~

~~(2) Hold, directly or indirectly, a financial interest in the business of the construction control.~~

~~(b) Establish an aggregate monetary limit on the contractor's license, which must be the maximum combined monetary limit on all contracts that the licensee may undertake or perform as a licensed contractor at any one time, regardless of the number of contracts, construction sites, subdivision sites or clients. If the Board establishes such a limit, the Board:~~

~~(1) Shall determine the period that the limit is in effect; and~~

~~(2) During that period, may increase or decrease the limit as the Board deems appropriate.]~~

Sec. 4. NRS 624.282 is hereby amended to read as follows:

624.282 1. A contractor may apply to the Board to have his or her license placed on inactive status. The Board may grant the application if the license is in good standing and the licensee has met all requirements for the issuance or renewal of a contractor's license as of the date of the application.

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

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

(a) The requirement to execute and maintain a bond pursuant to NRS 624.270; and

(b) The requirement to qualify in regard to his or her experience and knowledge pursuant to NRS 624.260.

4. The inactive status of a license is valid for ~~15~~ 8 years after the date that the inactive status is granted.

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

~~6. 15.7~~ The Board shall adopt regulations prescribing the:

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

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

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

Sec. 5. NRS 624.283 is hereby amended to read as follows:

624.283 1. Each license issued under the provisions of this chapter expires 2 years after the date on which it is issued, except that the Board may by regulation prescribe shorter or longer periods and prorated fees to establish a system of

1 staggered biennial renewals. Any license which is not renewed on or before the date
2 for renewal is automatically suspended.

3 2. ~~1A~~ *Except as otherwise provided in subsection 5, a* license may be
4 renewed by submitting to the Board:

5 (a) An application for renewal;

6 (b) The fee for renewal fixed by the Board;

7 (c) Any assessment required pursuant to NRS 624.470 if the holder of the
8 license is a residential contractor as defined in NRS 624.450; and

9 (d) All information required to complete the renewal.

10 3. The Board may require a licensee to demonstrate financial responsibility at
11 any time through the submission of:

12 (a) A financial statement that is:

13 (1) Prepared by an independent certified public accountant; or

14 (2) Submitted on a form or in a format prescribed by the Board together
15 with an affidavit which verifies the accuracy of the financial statement; and

16 (b) If the licensee performs residential construction, such additional
17 documentation as the Board deems appropriate.

18 4. ~~4A~~ *Except as otherwise provided in subsection 5, if* a license is
19 automatically suspended pursuant to subsection 1, the licensee may have the license
20 reinstated upon filing an application for renewal within 6 months after the date of
21 suspension and paying, in addition to the fee for renewal, a fee for reinstatement
22 fixed by the Board, if the licensee is otherwise in good standing and there are no
23 complaints pending against the licensee. If the licensee is otherwise not in good
24 standing or there is a complaint pending, the Board shall require the licensee to
25 provide a current financial statement prepared by an independent certified public
26 accountant or establish other conditions for reinstatement. An application for
27 renewal must be accompanied by all information required to complete the renewal.
28 A license which is not reinstated within 6 months after it is automatically
29 suspended may be cancelled by the Board, and a new license may be issued only
30 upon application for an original contractor's license.

31 5. *If a license is automatically suspended pursuant to subsection 1 while the*
32 *licensee was on active duty as a member of the Armed Forces of the United*
33 *States, a reserve component thereof or the ~~Nevada~~ National Guard, the licensee*
34 *may submit an application to the Board requesting the reinstatement of his or her*
35 *license without the imposition of any penalty, punishment or disciplinary action*
36 *authorized by the provisions of this chapter. The Board may reinstate the license*
37 *if:*

38 (a) *The license was valid at the time the licensee became a member of the*
39 *Armed Forces of the United States, a reserve component thereof or the ~~Nevada~~*
40 *National Guard;*

41 (b) *The application for reinstatement is submitted while the licensee is*
42 *serving in the Armed Forces of the United States, a reserve component thereof or*
43 *the ~~Nevada~~ National Guard; and*

44 (c) *Except as otherwise provided in subsection 6, the application for*
45 *reinstatement is accompanied by an affidavit setting forth the dates of service of*
46 *the licensee and the fee for renewal fixed by the Board pursuant to subsection 2.*

47 6. *The Board may waive the fee for renewal of a license for a licensee*
48 *specified in subsection 5 if:*

49 (a) *The license was valid at the time the licensee was called to active duty in*
50 *the Armed Forces of the United States, a reserve component thereof or the*
51 *~~Nevada~~ National Guard; and*

(b) The licensee provides written documentation satisfactory to the Board substantiating his or her claim of service on active duty in the Armed Forces of the United States, a reserve component thereof or the ~~(Nevada)~~ National Guard.

Sec. 6. NRS 624.720 is hereby amended to read as follows:

624.720 1. It is unlawful for any person, including a person exempt under the provisions of NRS 624.031, to advertise as a contractor unless the person has a license in the appropriate classification established by the provisions of NRS 624.215 and 624.220.

2. Notwithstanding any other provision of this chapter, any person not licensed pursuant to the provisions of this chapter who advertises to perform or complete construction work or a work of improvement must state in the advertisement that he or she is not licensed pursuant to this chapter.

3. It is unlawful for a licensed contractor to disseminate, as part of any advertising by the contractor, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the contractor or to enter into any contract with the contractor or any obligation relating to such a contract.

4. All advertising by a licensed contractor must include the name of the contractor's company and the number of the contractor's license.

5. It is unlawful for any person, whether or not licensed pursuant to this chapter, to advertise to perform or complete construction work or a work of improvement using a license number that does not correspond to a valid license issued to that person under this chapter.

6. If, after giving notice and holding a hearing pursuant to NRS 624.291, the Board determines that a person has engaged in advertising in a manner that violates the provisions of this section, the Board may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, issue an order to the person to cease and desist the unlawful advertising and to ~~[-~~

~~—(a) Cause~~ *cause* any telephone number included in the advertising ~~[-, other than a telephone number to a provider of paging services,]~~ to be disconnected.

~~[(b) Request the provider of paging services to change the number of any beeper which is included in the advertising or disconnect the paging services to such a beeper, and to inform the provider of paging services that the request is made pursuant to this section.]~~

7. If a person fails to comply with ~~[paragraph (a) of]~~ subsection 6 within 5 days after receiving an order pursuant to subsection 6, the Board may request the Public Utilities Commission of Nevada to order the appropriate provider of telephone service to disconnect any telephone number included in the advertisement. ~~[-, except for a telephone number to a provider of paging services. If a person fails to comply with paragraph (b) of subsection 6 within 5 days after receiving an order pursuant to subsection 6, the Board may request the provider of paging services to switch the beeper number or disconnect the paging services provided to the person, whichever the provider deems appropriate.~~

~~—8. If the provider of paging services receives a request from a person pursuant to subsection 6 or a request from the Board pursuant to subsection 7, it shall:~~

~~—(a) Disconnect the paging service to the person; or~~

~~—(b) Switch the beeper number of the paging service provided to the person.~~

~~➔ If the provider of paging services elects to switch the number pursuant to paragraph (b), it shall not forward or offer to forward the paging calls from the previous number, or provide or offer to provide a recorded message that includes the new beeper number.~~

~~—9.]~~ 8. As used in this section:

(a) "Advertising" includes, but is not limited to, the issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "contractor" with or without any limiting qualifications.

(b) ~~["Beeper" means a portable electronic device which is used to page the person carrying it by emitting an audible or a vibrating signal when the device receives a special radio signal.~~

~~—(c) "Provider of paging services" means an entity, other than a public utility, that provides paging service to a beeper.~~

~~—(d)} "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.~~

Sec. 7. Notwithstanding the amendatory provisions of section 4 of this act, if the State Contractors' Board, before October 1, 2019, places the license of a contractor on inactive status pursuant to NRS 624.282, as amended by section 4 of this act, the license shall be deemed to be inactive for 8 years after the date the inactive status of the license is granted, unless otherwise provided by the Board.

Sec. 8. This act becomes effective:

1. Upon passage and approval for the purposes of adopting regulations and any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2019, for all other purposes.