

ASSEMBLY BILL NO. 23—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE STATE CONTRACTORS' BOARD)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the resolution of certain administrative citations issued by the State Contractors' Board. (BDR 54-266)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to contractors; authorizing a person who is issued a written administrative citation by the State Contractors' Board to request an informal citation conference before the Executive Officer of the Board; establishing requirements and procedures for such an informal citation conference; revising procedures by which a person is authorized to contest a citation; providing that the failure of a person to comply with the terms of a citation which has been affirmed or modified within a certain period of time constitutes cause for disciplinary action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Contractors' Board to issue or authorize the issuance of a written administrative citation to a person if the Board has reason to believe the person: (1) acted as a contractor without an active license of the proper classification; or (2) has violated provisions of existing law governing contractors or regulations of the Board. (NRS 624.341) Existing law authorizes a person who is issued such a citation to contest the citation within 15 business days after the date on which the citation was served and requires the Board to conduct a hearing on the matter. (NRS 624.345, 624.351) If a person does not contest a citation within that period and the Board does not extend that period, the citation is deemed a final order of the Board and not subject to review by any court or agency. (NRS 624.345) **Section 4** of this bill revises the requirement for the Board to hold a hearing concerning a contested citation to require: (1) a person who wishes to



* A B 2 3 R 2 *

contest a citation to submit to the Board written notice of his or her intent to contest the citation; and (2) the Board to hold the hearing on the matter within 90 calendar days after receipt of the written notice.

Section 1 of this bill creates an additional, informal process for the resolution of an administrative citation issued by the Board. **Section 1** authorizes a person who is issued such a citation to submit to the Executive Officer of the Board, within 15 business days after the date on which the citation is served on the person, a written request for an informal citation conference. Under **section 1**, the Executive Officer is required to conduct an informal citation conference within 60 business days after receiving such a request. At the conclusion of the conference, **section 1** requires the Executive Officer to affirm, modify or dismiss the citation and, if the citation is affirmed or modified, serve the affirmed or modified citation on the person or his or her attorney. **Sections 1 and 3** of this bill authorize a person who wishes to contest a citation which has been affirmed or modified following an informal citation conference to contest the citation within 15 business days after the date on which the affirmed or modified citation is served on the person. If the person submits to the Board written notice of his or her intent to contest the affirmed or modified citation within that period, or if that period is extended by the Board, **section 4** requires the Board to hold a hearing on the matter. If the person fails to contest the affirmed or modified citation within that period and that period is not extended by the Board, **section 3** of this bill deems the affirmed or modified citation a final order of the Board and not subject to review by any court or agency.

Existing law provides that the failure of a person to comply with a citation issued by the Board within the period permitted for compliance set forth in the citation or, if a hearing is held, within 15 business days after the hearing, constitutes cause for disciplinary action by the Board. (NRS 624.302) **Section 2** of this bill provides that the failure of a person to comply with a citation that has been affirmed or modified following an informal citation conference within the time permitted for compliance or, if a hearing is held on the affirmed or modified citation, within 15 business days after the hearing, also constitutes cause for disciplinary action by the Board.

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

Section 1. Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who is issued a written citation pursuant to NRS 624.341 may, within 15 business days after the date on which the citation is served on the person, submit to the Executive Officer or his or her designee a written request for an informal citation conference.

2. The Executive Officer or his or her designee shall, within 60 business days after the date on which a written request for an informal citation conference is received, conduct an informal citation conference with the person who submitted the request. The person may be represented by legal counsel at the conference.

3. Subject to the provisions of subsections 4 and 5, the Executive Officer or his or her designee may enter reasonable



orders governing how an informal citation conference is conducted. An informal citation conference may be conducted in an informal manner and is not required to be conducted in accordance with the requirements for the conduct of a hearing set forth in NRS 233B.121 to 233B.150, inclusive.

4. At an informal citation conference, the Executive Officer or his or her designee and the person who submitted the request for the informal citation conference shall present all evidence that is known to them at the time of the conference that substantiates their respective positions.

5. An informal citation conference must not be recorded. Any offer of settlement or other statement made during an informal citation conference must not be used as an admission in any subsequent hearing, and the Executive Officer or his or her designee shall so inform the person who submitted the request for the informal citation conference at the beginning of the conference.

6. At the conclusion of an informal citation conference, the Executive Officer or his or her designee shall affirm, modify or dismiss the citation.

7. If the Executive Officer or his or her designee affirms or modifies a citation pursuant to subsection 6:

(a) The original citation issued pursuant to NRS 624.341 shall be considered withdrawn and replaced by the affirmed or modified citation; and

(b) The Executive Officer or his or her designee shall, within 15 business days after the date on which the informal citation conference is concluded, serve on the person and his or her counsel, if applicable, the affirmed or modified citation and a written statement of the reasons for the decision to affirm or modify the citation.

8. A person whose citation was affirmed or modified pursuant to this section:

(a) May contest the affirmed or modified citation in accordance with the procedures set forth in NRS 624.345.

(b) May not submit a request to the Executive Officer or his or her designee for an informal citation conference concerning the affirmed or modified citation.

9. For the purposes of this section, a citation shall be deemed to have been served on a person on:

(a) The date on which the citation is personally delivered to the person; or

(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the person.



Sec. 2. NRS 624.302 is hereby amended to read as follows:

624.302 The following acts or omissions, among others, constitute cause for disciplinary action pursuant to NRS 624.300:

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

- (a) Has been suspended or revoked pursuant to NRS 624.300; or
- (b) Is inactive.

2. Failure to comply with a written citation issued pursuant to NRS 624.341 ~~{within}~~ :

(a) *Within* the time permitted for compliance set forth in the citation ~~{ }~~ *or, if the citation is affirmed or modified following an informal citation conference pursuant to section 1 of this act, within the time permitted for compliance set forth in the affirmed or modified citation;* or ~~{,if}~~

(b) *If* a hearing is held pursuant to NRS 624.291, within 15 business days after the hearing.

3. Except as otherwise provided in subsection 2, failure to pay an administrative fine imposed pursuant to this chapter within 30 days after:

- (a) Receiving notice of the imposition of the fine; or
 - (b) The final administrative or judicial decision affirming the imposition of the fine,
- ↳ whichever occurs later.

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

5. Failure or refusal to respond to a written request from the Board or its designee to cooperate in the investigation of a complaint.

6. Failure or refusal to comply with a written request by the Board or its designee for information or records, or obstructing or delaying the providing of such information or records.

7. Failure or refusal to comply with an order of the Board.

Sec. 3. NRS 624.345 is hereby amended to read as follows:

624.345 1. A person who is issued a written citation pursuant to NRS 624.341 or an order to cease and desist pursuant to NRS 624.212 may contest the citation or order ~~{within}~~ :

(a) *Within* 15 business days after the date on which the citation or order is served on the person ~~{ }~~ ; *or*

(b) *For a citation that has been affirmed or modified following an informal citation conference pursuant to section 1 of this act,*



within 15 business days after the date on which the affirmed or modified citation is served on the person.

2. A person may contest, without limitation:

(a) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;

(b) The time allowed to take any corrective action ordered;

(c) The amount of any administrative fine ordered;

(d) The amount of any order to reimburse the Board for the expenses incurred to investigate the person; and

(e) Whether any corrective action described in the citation or order is reasonable.

3. ~~If a person does not contest a~~ A citation issued pursuant to NRS 624.341 or an order to cease and desist issued pursuant to NRS 624.212 ~~[within]~~ *shall be deemed a final order of the Board and not subject to review by any court or agency if the person to whom the citation or order is issued does not contest the citation or order:*

(a) *Within* 15 business days after the date on which the citation or order is served on the person ~~[.]~~ ;

(b) *For a citation that has been affirmed or modified following an informal citation conference conducted pursuant to section 1 of this act, within 15 business days after the date on which the affirmed or modified citation is served on the person;* or ~~[on]~~

(c) *On* or before such later date as specified by the Board pursuant to subsection 4. ~~[, the citation or order shall be deemed a final order of the Board and not subject to review by any court or agency.]~~

4. The Board may, for good cause shown, extend the time to contest a citation issued pursuant to NRS 624.341 or an order to cease and desist issued pursuant to NRS 624.212.

5. For the purposes of this section:

(a) An order to cease and desist must be served in accordance with NRS 624.212.

(b) A citation shall be deemed to have been served on a person on:

(1) The date on which the citation is personally delivered to the person; or

(2) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the person.

Sec. 4. NRS 624.351 is hereby amended to read as follows:

624.351 ~~[[1]]~~ *1. The Board shall hold a hearing pursuant to NRS 624.291 if a person [contests] submits to the Board written notice of his or her intent to contest* a citation issued pursuant to



1 NRS 624.341 or order to correct a violation of the provisions of this
2 chapter ~~[within]~~ :

3 (a) *Within* 15 business days after ~~[receiving]~~ *the date on which*
4 *the citation or order [.] is served on the person;*

5 (b) *For a citation that has been affirmed or modified following*
6 *an informal citation conference conducted pursuant to section 1*
7 *of this act, within 15 business days after the date on which the*
8 *affirmed or modified citation is served on the person; or [on]*

9 (c) *On* or before such later date as specified by the Board
10 pursuant to subsection 4 of NRS 624.345. ~~[, the Board shall hold a~~
11 ~~hearing pursuant to NRS 624.291.]~~

12 2. *If a person submits to the Board written notice of his or*
13 *her intent to contest a citation or order within the time required by*
14 *paragraph (a) or (b) of subsection 1, the Board shall hold the*
15 *hearing required by subsection 1 not later than 90 calendar days*
16 *after the date on which the Board receives the written notice.*

17 Sec. 5. The amendatory provisions of this act apply only to a
18 written citation issued pursuant to NRS 624.341 on or after
19 October 1, 2023.

20 Sec. 6. (Deleted by amendment.)

