

**ASSEMBLY BILL**

**No. 2897**

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**Introduced by Assembly Member Daucher**

February 24, 2006

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An act to add Sections 7121.6, 7121.7, and 7121.8 to the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2897, as introduced, Daucher. Contractors: revoked licenses.

Under existing law, the Contractors' State License Law, the Contractors' State License Board licenses and regulates contractors, and authorizes the board to revoke a license for specified reasons.

This bill would prohibit an individual who was a member, officer, director, owner, or partner of a license that was revoked and who meets specified criteria from performing acts regulated by the law on behalf of a licensee, except as a bona fide nonsupervising employee, as defined. The bill would also prohibit a licensee from knowingly hiring those individuals, except as bona fide nonsupervising employees. Because a violation of this bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7121.6 is added to the Business and  
2 Professions Code, to read:

3 7121.6. (a) An individual who meets all of the following  
4 criteria shall not perform any act regulated under this chapter for  
5 or on behalf of a licensee, other than as a bona fide  
6 nonsupervising employee:

7 (1) The individual was a member, officer, director, owner, or  
8 partner of a license that was revoked.

9 (2) The individual had knowledge of or participated in any act  
10 or omission for which the license was revoked.

11 (3) The individual is not eligible for reinstatement for  
12 licensure under Section 7102.

13 (b) An individual who meets all of the following criteria shall  
14 not perform any act regulated under this chapter for or on behalf  
15 of a licensee, other than as a bona fide nonsupervising employee:

16 (1) The individual furnished the qualifications for licensure, as  
17 set forth under Section 7068, and that license was revoked.

18 (2) The individual served in the capacity of the qualifying  
19 individual during the commission or omission of any of the acts  
20 that resulted in the revocation of the license, whether or not he or  
21 she had knowledge of or participated in those acts.

22 (3) The individual is not eligible for reinstatement for  
23 licensure under Section 7102.

24 (c) A violation of this section is a misdemeanor punishable by  
25 a fine of not less than four thousand five hundred dollars  
26 (\$4,500), by imprisonment in a county jail for not less than 90  
27 days nor more than one year, or by both the fine and  
28 imprisonment. The penalty provided by this subdivision is  
29 cumulative to the penalties available under other laws of this  
30 state.

31 (d) Notwithstanding any other provision of law to the contrary,  
32 an indictment for any violation of this section shall be found or  
33 an information or complaint filed within four years from the  
34 performance of any act that is prohibited under this section.

35 SEC. 2. Section 7121.7 is added to the Business and  
36 Professions Code, to read:

37 7121.7. (a) A qualifying individual, officer, partner, or other  
38 person named on a license shall not knowingly employ an

1 individual who is described in subdivision (a) or (b) of Section  
2 7121.6, except as a bona fide nonsupervising employee.

3 (b) A violation of this section is a misdemeanor punishable by  
4 a fine of not less than four thousand five hundred dollars  
5 (\$4,500), by imprisonment in a county jail for not less than 30  
6 days nor more than one year, or by both the fine and  
7 imprisonment.

8 (c) Notwithstanding any other provision of law to the contrary,  
9 an indictment for any violation of this section shall be found or  
10 an information or complaint filed within four years from the  
11 performance of any act that is prohibited under this section.

12 SEC. 3. Section 7121.8 is added to the Business and  
13 Professions Code, to read:

14 7121.8. For purposes of this article, “bona fide  
15 nonsupervising employee” means a person who is exempt from  
16 the provisions of this chapter under Section 7053, and who does  
17 not otherwise meet the test of an independent contractor, as set  
18 forth under Section 2750.5 of the Labor Code.

19 SEC. 4. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the  
24 penalty for a crime or infraction, within the meaning of Section  
25 17556 of the Government Code, or changes the definition of a  
26 crime within the meaning of Section 6 of Article XIII B of the  
27 California Constitution.