

AMENDED IN SENATE APRIL 8, 2013

AMENDED IN SENATE MARCH 19, 2013

**SENATE BILL**

**No. 152**

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**Introduced by Senator Roth**

January 31, 2013

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An act to amend Sections 6775, 6799, ~~and~~ 7860, *and* 7887 of, to add Section 7839.2 to, and to repeal Sections 6760, 7848, and 7848.1 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 152, as amended, Roth. Licensed professionals: engineers: geologists: geophysicists.

Existing law, the Professional Engineers Act, generally regulates the practice of persons engaged in the practice of engineering. The act provides for a temporary authorization to practice engineering, as specified.

This bill would delete the provisions allowing for a temporary authorization to practice as an engineer and would make additional conforming changes.

Existing law, the Geologist and Geophysicist Act, generally regulates the practice of persons engaged in the practice of geology and persons engaged in the practice of geophysics. Violations of the act are a misdemeanor. The act provides for a temporary authorization to practice as a geologist or geophysicist, as specified.

This bill would, subject to exceptions, require geologists and geophysicists to use a written contract when contracting to provide geological or geophysical services to a client, as specified. The bill would specify certain information to be included in the contract. The bill would delete the provisions allowing for temporary authorizations

to practice as a geologist or geophysicist and would make additional conforming changes.

By imposing requirements on geologists and geophysicists, the violation of which is a crime, this 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 6760 of the Business and Professions  
2 Code is repealed.
- 3 SEC. 2. Section 6775 of the Business and Professions Code is  
4 amended to read:
- 5 6775. The board may, upon its own initiative or upon the  
6 receipt of a complaint, investigate the actions of any professional  
7 engineer licensed under this chapter and make findings thereon.
- 8 By a majority vote, the board may publicly reprove, suspend for  
9 a period not to exceed two years, or revoke the certificate of any  
10 professional engineer licensed under this chapter on any of the  
11 following grounds:
- 12 (a) Any conviction of a crime substantially related to the  
13 qualifications, functions, and duties of a licensed professional  
14 engineer, in which case the certified record of conviction shall be  
15 conclusive evidence thereof.
- 16 (b) Any deceit, misrepresentation, or fraud in his or her practice.
- 17 (c) Any negligence or incompetence in his or her practice.
- 18 (d) A breach or violation of a contract to provide professional  
19 engineering services.
- 20 (e) Any fraud, deceit, or misrepresentation in obtaining his or  
21 her certificate as a professional engineer ~~or in obtaining a~~  
22 ~~temporary authorization pursuant to Section 6760.~~
- 23 (f) Aiding or abetting any person in the violation of any  
24 provision of this chapter or any regulation adopted by the board  
25 pursuant to this chapter.

1 (g) A violation in the course of the practice of professional  
2 engineering of a rule or regulation of unprofessional conduct  
3 adopted by the board.

4 (h) A violation of any provision of this chapter or any other law  
5 relating to or involving the practice of professional engineering.

6 SEC. 3. Section 6799 of the Business and Professions Code is  
7 amended to read:

8 6799. (a) The amount of the fees prescribed by this chapter  
9 shall be fixed by the board in accordance with the following  
10 schedule:

11 (1) The fee for filing each application for licensure as a  
12 professional engineer and each application for authority level  
13 designation at not more than four hundred dollars (\$400) and for  
14 each application for certification as an engineer-in-training at not  
15 more than one hundred dollars (\$100).

16 (2) The fee to take an examination administered by a public or  
17 private organization pursuant to Section 6754 shall be no greater  
18 than the actual cost of the development and administration of the  
19 examination and may be paid directly to the organization by the  
20 applicant.

21 (3) The renewal fee for each branch of professional engineering  
22 in which licensure is held, and the renewal fee for each authority  
23 level designation held, at no more than the professional engineer  
24 application fee currently in effect.

25 (4) The fee for a retired license at not more than 50 percent of  
26 the professional engineer application fee in effect on the date of  
27 application.

28 (5) The delinquency fee at not more than 50 percent of the  
29 renewal fee in effect on the date of reinstatement.

30 (6) The board shall establish by regulation an appeal fee for  
31 examination. The regulation shall include provisions for an  
32 applicant to be reimbursed the appeal fee if the appeal results in  
33 passage of examination. The fee charged shall be no more than  
34 the costs incurred by the board.

35 (7) All other document fees are to be set by the board by rule.

36 (b) Applicants wishing to be examined in more than one branch  
37 of engineering shall be required to pay the additional fee for each  
38 examination after the first.

39 SEC. 4. Section 7839.2 is added to the Business and Professions  
40 Code, to read:

1 7839.2. (a) A geologist or geophysicist shall use a written  
2 contract when contracting to provide geological or geophysical  
3 services to a client pursuant to this chapter. The written contract  
4 shall be executed by the geologist or geophysicist and the client  
5 or the client's representative prior to the geologist or geophysicist  
6 commencing work, unless the client states in writing that work  
7 may be commenced before the contract is executed. The written  
8 contract shall include, but is not limited to, all of the following:

9 (1) A description of the services to be provided to the client by  
10 the geologist or geophysicist.

11 (2) A description of any basis of compensation applicable to  
12 the contract, and the method of payment agreed upon by the parties.

13 (3) The name, address, and license or certificate number of the  
14 geologist or geophysicist, and the name and address of the client.

15 (4) A description of the procedure that the geologist or  
16 geophysicist and the client will use to accommodate additional  
17 services.

18 (5) A description of the procedure to be used by any party to  
19 terminate the contract.

20 (b) Subdivision (a) shall not apply to any of the following:

21 (1) Geologic or geophysical services rendered by a geologist  
22 or geophysicist for which the client will not pay compensation.

23 (2) A geologist or geophysicist who has a current or prior  
24 contractual relationship with the client to provide geologic or  
25 geophysical services, and who has already been paid the fees that  
26 are due under the contract by the client.

27 (3) If the client executes a waiver in writing after full disclosure  
28 of this section that a contract that complies with the requirements  
29 of this section is not required.

30 (4) Geological or geophysical services rendered by a geologist  
31 or geophysicist to any of the following:

32 (A) A geologist or geophysicist licensed under this chapter.

33 (B) An engineer licensed under Chapter 7 (commencing with  
34 Section 6700).

35 (C) A land surveyor licensed under Chapter 15 (commencing  
36 with Section 8700).

37 (D) An architect licensed under Chapter 3 (commencing with  
38 Section 5500).

39 (E) A contractor licensed under Chapter 9 (commencing with  
40 Section 7000).

1 (F) A public agency.

2 (c) As used in this section, “written contract” includes a contract  
3 in electronic form.

4 SEC. 5. Section 7848 of the Business and Professions Code is  
5 repealed.

6 SEC. 6. Section 7848.1 of the Business and Professions Code  
7 is repealed.

8 SEC. 7. Section 7860 of the Business and Professions Code is  
9 amended to read:

10 7860. (a) The board may, upon its own initiative or upon the  
11 receipt of a complaint, investigate the actions of any professional  
12 geologist, geophysicist, and make findings thereon.

13 (b) By a majority vote, the board may publicly reprove, suspend  
14 for a period not to exceed two years, or revoke the certificate of  
15 any geologist or geophysicist registered hereunder, on any of the  
16 following grounds:

17 (1) Conviction of a crime substantially related to the  
18 qualifications, functions, or duties of a geologist or geophysicist.

19 (2) Misrepresentation, fraud, or deceit by a geologist or  
20 geophysicist in his or her practice.

21 (3) Negligence or incompetence by a geologist or geophysicist  
22 in his or her practice.

23 (4) Violation of any contract undertaken in the capacity of a  
24 geologist or geophysicist.

25 (5) Fraud or deceit in obtaining a certificate to practice as a  
26 geologist or geophysicist, ~~or in obtaining a temporary authorization~~  
27 ~~to practice pursuant to Section 7848 or 7848.1~~ *geophysicist*.

28 (c) By a majority vote, the board may publicly reprove, suspend  
29 for a period not to exceed two years, or may revoke the certificate  
30 of any geologist or geophysicist registered under this chapter, for  
31 unprofessional conduct. Unprofessional conduct includes, but is  
32 not limited to, any of the following:

33 (1) Aiding or abetting any person in a violation of this chapter  
34 or any regulation adopted by the board pursuant to this chapter.

35 (2) Violating this chapter or any regulation adopted by the board  
36 pursuant to this chapter.

37 (3) Conduct in the course of practice as a geologist or  
38 geophysicist that violates professional standards adopted by the  
39 board.

1     *SEC. 8. Section 7887 of the Business and Professions Code is*  
2     *amended to read:*

3     7887. The amount of the fees prescribed by this chapter shall  
4     be fixed by the board in accordance with the following schedule:

5     (a) The fee for filing each application for registration as a  
6     geologist or a geophysicist or certification as a specialty geologist  
7     or a specialty geophysicist and for administration of the  
8     examination at not more than two hundred and fifty dollars (\$250).

9     (b) The registration fee for a geologist or for a geophysicist and  
10    the fee for the certification in a specialty shall be fixed at an amount  
11    equal to the renewal fee in effect on the last regular renewal date  
12    before the date on which the certificate is issued, except that, with  
13    respect to certificates that will expire less than one year after  
14    issuance, the fee shall be fixed at an amount equal to 50 percent  
15    of the renewal fee in effect on the last regular renewal date before  
16    the date on which the certificate is issued. The board may, by  
17    appropriate regulation, provide for the waiver or refund of the  
18    initial certificate fee where the certificate is issued less than 45  
19    days before the date on which it will expire.

20    (c) The duplicate certificate fee at not more than six dollars  
21    (\$6).

22    ~~(d) The temporary registration fee for a geologist or for a~~  
23    ~~geophysicist at not more than eighty dollars (\$80).~~

24    ~~(e)~~

25    (d) The renewal fee for a geologist or for a geophysicist shall  
26    be fixed by the board at not more than four hundred dollars (\$400).

27    ~~(f)~~

28    (e) The renewal fee for a specialty geologist or for a specialty  
29    geophysicist at not more than one hundred dollars (\$100).

30    ~~(g)~~

31    (f) Notwithstanding Section 163.5, the delinquency fee for a  
32    certificate is an amount equal to 50 percent of the renewal fee in  
33    effect on the last regular renewal date.

34    ~~(h)~~

35    (g) Each applicant for registration as a geologist shall pay an  
36    examination fee fixed by the board at an amount equal to the actual  
37    cost to the board to administer the examination described in  
38    subdivision (d) of Section 7841.

39    (i)

1 (h) Each applicant for registration as a geophysicist or  
2 certification as an engineering geologist or certification as a  
3 hydrogeologist shall pay an examination fee fixed by the board at  
4 an amount equal to the actual cost to the board for the development  
5 and maintenance of the written examination, and shall not exceed  
6 one hundred dollars (\$100).

7 ~~SEC. 8.~~

8 *SEC. 9.* No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.