

AMENDED IN ASSEMBLY AUGUST 31, 2015

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE APRIL 21, 2015

**SENATE BILL**

**No. 467**

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**Introduced by Senator Hill**

February 25, 2015

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An act to amend Sections ~~201~~, 5000, 5015.6, 7000.5, 7011, and 7071.6 of, to add Sections 312.2, 328, and 5100.5 to, and to repeal Section 7067.5 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. Professions and vocations.

~~Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.~~

~~This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.~~

~~Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing~~

*law* requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusation matters relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement the Consumer Protection Enforcement Initiative of 2010, require the Director of Consumer Affairs, through the Division of Investigation, to implement “Complaint Prioritization Guidelines” for boards to utilize in prioritizing their complaint and investigative workloads and to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the department is responsible for the licensure and regulation of accountants and is required to designate an ~~execute~~ *executive* officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a ~~licensee~~ *license* for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of penalty or reinstatement of the privilege, as

specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Under existing law, the Contractors' State License Law, the Contractors' State License Board is responsible for the licensure and regulation of contractors and is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2016.

This bill would extend these repeal dates to January 1, 2020.

Existing law requires every applicant for an original license, the reactivation of an inactive license, or the reissuance or reinstatement of a revoked license to evidence financial solvency, as specified, and requires the registrar to deny the application of any applicant who fails to comply with that requirement. Existing law, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, requires the applicant or licensee to file or have on file a contractor's bond in the sum of \$12,500.

This bill would repeal that evidence of financial solvency requirement and would instead require that bond to be in the sum of \$15,000.

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

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

1     ~~SECTION 1. Section 201 of the Business and Professions Code~~  
2     ~~is amended to read:~~  
3     ~~201. (a) (1) A charge for the estimated administrative expenses~~  
4     ~~of the department, not to exceed the available balance in any~~  
5     ~~appropriation for any one fiscal year, may be levied in advance on~~  
6     ~~a pro rata share basis against any of the boards, bureaus,~~  
7     ~~commissions, divisions, and agencies, with the approval of the~~  
8     ~~Legislature.~~  
9     ~~(2) The department shall submit a report of the accounting of~~  
10    ~~the pro rata calculation of administrative expenses to the~~  
11    ~~appropriate policy committees of the Legislature on or before July~~  
12    ~~1, 2015, and on or before July 1 of each subsequent year.~~  
13    ~~(b) The department shall conduct a one-time study of its current~~  
14    ~~system for prorating administrative expenses to determine if that~~  
15    ~~system is the most productive, efficient, and cost-effective manner~~  
16    ~~for the department and the agencies comprising the department.~~

~~The study shall include consideration of whether some of the administrative services offered by the department should be outsourced or charged on an as-needed basis and whether the agencies should be permitted to elect not to receive and be charged for certain administrative services. The department shall include the findings in its report pursuant to paragraph (2) of subdivision (a) that it is required to submit on or before July 1, 2015.~~

~~SEC. 2.~~

*SECTION 1.* Section 312.2 is added to the Business and Professions Code, to read:

312.2. (a) The Attorney General shall submit a report to the department, the Governor, and the appropriate policy committees of the Legislature on or before January 1, 2018, and on or before January 1 of each subsequent year that includes, at a minimum, all of the following for the previous fiscal year for each constituent entity within the department represented by the Licensing Section and Health Quality Enforcement Section of the Office of the Attorney General:

(1) The number of accusation matters referred to the Attorney General.

(2) The number of accusation matters rejected for filing by the Attorney General.

(3) The number of accusation matters for which further investigation was requested by the Attorney General.

(4) The number of accusation matters for which further investigation was received by the Attorney General.

(5) The number of accusations filed by each constituent entity.

(6) The number of accusations a constituent entity withdraws.

(7) The number of accusation matters adjudicated by the Attorney General.

(b) The Attorney General shall also report all of the following for accusation matters adjudicated within the previous fiscal year for each constituent entity of the department represented by the Licensing Section and Health Quality Enforcement Section:

(1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.

(2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further

1 investigation is received by the Attorney General from a constituent  
2 entity or the Division of Investigation.

3 (3) The average number of days from an agency filing an  
4 accusation to the Attorney General transmitting a stipulated  
5 settlement to the constituent entity.

6 (4) The average number of days from an agency filing an  
7 accusation to the Attorney General transmitting a default decision  
8 to the constituent entity.

9 (5) The average number of days from an agency filing an  
10 accusation to the Attorney General requesting a hearing date from  
11 the Office of Administrative Hearings.

12 (6) The average number of days from the Attorney General's  
13 receipt of a hearing date from the Office of Administrative  
14 Hearings to the commencement of a hearing.

15 (c) A report to be submitted pursuant to subdivision (a) shall  
16 be submitted in compliance with Section 9795 of the Government  
17 Code.

18 ~~SEC. 3.~~

19 *SEC. 2.* Section 328 is added to the Business and Professions  
20 Code, to read:

21 328. In order to implement the Consumer Protection  
22 Enforcement Initiative of 2010, the director, through the Division  
23 of Investigation, shall implement "Complaint Prioritization  
24 Guidelines" for boards to utilize in prioritizing their respective  
25 complaint and investigative workloads. The guidelines shall be  
26 used to determine the referral of complaints to the division and  
27 those that are retained by the health care boards for investigation.

28 ~~SEC. 4.~~

29 *SEC. 3.* Section 5000 of the Business and Professions Code is  
30 amended to read:

31 5000. (a) There is in the Department of Consumer Affairs the  
32 California Board of Accountancy, which consists of 15 members,  
33 7 of whom shall be licensees, and 8 of whom shall be public  
34 members who shall not be licentiates of the board or registered by  
35 the board. The board has the powers and duties conferred by this  
36 chapter.

37 (b) The Governor shall appoint four of the public members, and  
38 the seven licensee members as provided in this section. The Senate  
39 Committee on Rules and the Speaker of the Assembly shall each  
40 appoint two public members. In appointing the seven licensee

1 members, the Governor shall appoint individuals representing a  
2 cross section of the accounting profession.

3 (c) This section shall remain in effect only until January 1, 2020,  
4 and as of that date is repealed, unless a later enacted statute, that  
5 is enacted before January 1, 2020, deletes or extends that date.

6 (d) Notwithstanding any other provision of law, the repeal of  
7 this section renders the board subject to review by the appropriate  
8 policy committees of the Legislature. However, the review of the  
9 board shall be limited to reports or studies specified in this chapter  
10 and those issues identified by the appropriate policy committees  
11 of the Legislature and the board regarding the implementation of  
12 new licensing requirements.

13 ~~SEC. 5.~~

14 *SEC. 4.* Section 5015.6 of the Business and Professions Code  
15 is amended to read:

16 5015.6. The board may appoint a person exempt from civil  
17 service who shall be designated as an executive officer and who  
18 shall exercise the powers and perform the duties delegated by the  
19 board and vested in him or her by this chapter.

20 This section shall remain in effect only until January 1, 2020,  
21 and as of that date is repealed, unless a later enacted statute, that  
22 is enacted before January 1, 2020, deletes or extends that date.

23 ~~SEC. 6.~~

24 *SEC. 5.* Section 5100.5 is added to the Business and Professions  
25 Code, to read:

26 5100.5. (a) After notice and hearing the board may, for  
27 unprofessional conduct, permanently restrict or limit the practice  
28 of a licensee or impose a probationary term or condition on a  
29 license, which prohibits the licensee from performing or engaging  
30 in any of the acts or services described in Section 5051.

31 (b) A licensee may petition the board pursuant to Section 5115  
32 for reduction of penalty or reinstatement of the privilege to engage  
33 in the service or act restricted or limited by the board.

34 (c) The authority or sanctions provided by this section are in  
35 addition to any other civil, criminal, or administrative penalties or  
36 sanctions provided by law, and do not supplant, but are cumulative  
37 to, other disciplinary authority, penalties, or sanctions.

38 (d) Failure to comply with any restriction or limitation imposed  
39 by the board pursuant to this section is grounds for revocation of  
40 the license.

1 (e) For purposes of this section, both of the following shall  
2 apply:

3 (1) “Unprofessional conduct” includes, but is not limited to,  
4 those grounds for discipline or denial listed in Section 5100.

5 (2) “Permanently restrict or limit the practice of” includes, but  
6 is not limited to, the prohibition on engaging in or performing any  
7 attestation engagement, audits, or compilations.

8 ~~SEC. 7.~~

9 *SEC. 6.* Section 7000.5 of the Business and Professions Code  
10 is amended to read:

11 7000.5. (a) There is in the Department of Consumer Affairs  
12 a Contractors’ State License Board, which consists of 15 members.

13 (b) Notwithstanding any other provision of law, the repeal of  
14 this section renders the board subject to review by the appropriate  
15 policy committees of the Legislature.

16 (c) This section shall remain in effect only until January 1, 2020,  
17 and as of that date is repealed, unless a later enacted statute, that  
18 is enacted before January 1, 2020, deletes or extends that date.

19 ~~SEC. 8.~~

20 *SEC. 7.* Section 7011 of the Business and Professions Code is  
21 amended to read:

22 7011. (a) The board, by and with the approval of the director,  
23 shall appoint a registrar of contractors and fix his or her  
24 compensation.

25 (b) The registrar shall be the executive officer and secretary of  
26 the board and shall carry out all of the administrative duties as  
27 provided in this chapter and as delegated to him or her by the  
28 board.

29 (c) For the purpose of administration of this chapter, there may  
30 be appointed a deputy registrar, a chief reviewing and hearing  
31 officer, and, subject to Section 159.5, other assistants and  
32 subordinates as may be necessary.

33 (d) Appointments shall be made in accordance with the  
34 provisions of civil service laws.

35 (e) This section shall remain in effect only until January 1, 2020,  
36 and as of that date is repealed, unless a later enacted statute, that  
37 is enacted before January 1, 2020, deletes or extends that date.

38 ~~SEC. 9.~~

39 *SEC. 8.* Section 7067.5 of the Business and Professions Code  
40 is repealed.

1     ~~SEC. 10.~~

2     *SEC. 9.* Section 7071.6 of the Business and Professions Code  
3 is amended to read:

4     7071.6. (a) The board shall require as a condition precedent  
5 to the issuance, reinstatement, reactivation, renewal, or continued  
6 maintenance of a license, that the applicant or licensee file or have  
7 on file a contractor's bond in the sum of fifteen thousand dollars  
8 (\$15,000).

9     (b) Excluding the claims brought by the beneficiaries specified  
10 in subdivision (a) of Section 7071.5, the aggregate liability of a  
11 surety on claims brought against a bond required by this section  
12 shall not exceed the sum of seven thousand five hundred dollars  
13 (\$7,500). The bond proceeds in excess of seven thousand five  
14 hundred dollars (\$7,500) shall be reserved exclusively for the  
15 claims of the beneficiaries specified in subdivision (a) of Section  
16 7071.5. However, nothing in this section shall be construed so as  
17 to prevent any beneficiary specified in subdivision (a) of Section  
18 7071.5 from claiming or recovering the full measure of the bond  
19 required by this section.

20     (c) No bond shall be required of a holder of a license that has  
21 been inactivated on the official records of the board during the  
22 period the license is inactive.

23     (d) Notwithstanding any other law, as a condition precedent to  
24 licensure, the board may require an applicant to post a contractor's  
25 bond in twice the amount required pursuant to subdivision (a) until  
26 the time that the license is renewed, under the following conditions:

27     (1) The applicant has either been convicted of a violation of  
28 Section 7028 or has been cited pursuant to Section 7028.7.

29     (2) If the applicant has been cited pursuant to Section 7028.7,  
30 the citation has been reduced to a final order of the registrar.

31     (3) The violation of Section 7028, or the basis for the citation  
32 issued pursuant to Section 7028.7, constituted a substantial injury  
33 to the public.