

**SENATE BILL REPORT**

**SB 5758**

**AS OF FEBRUARY 25, 1993**

**Brief Description:** Creating the contractor's registration board.

**SPONSORS:** Senators Prentice and Bauer

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Staff:** David Cheal (786-7576)

**Hearing Dates:** February 26, 1993

**BACKGROUND:**

The state registers construction contractors through the Department of Labor and Industries. The requirements for registration are the posting of a bond, obtaining specified liability insurance, opening an account at the Department of Revenue, Employment Security, and for workers' compensation.

Complaints against contractors for breach of contract or failure to perform, or for substandard work may take the form of an ordinary civil lawsuit, or a claim against the statutory bond. In order to claim against the bond, a lawsuit must be filed. In some cases other remedies may exist according to the contract between the parties.

Contractors are not required to obtain any formal training either in their craft or with regard to the legal requirements of running a contracting business.

**SUMMARY:**

The Contractor's Licensing Board is created with appropriate representation from various industry interest groups. The board has overall duties with regard to registration of contractors and reviewing of complaints concerning the performance of contractors.

The material supplied by an applicant for a registration is somewhat expanded from current requirements. It includes a list of unsatisfied judgments. It must include the name and address of all principals in the organization. A duty is established to notify the board promptly of any changes which occur during the registration period, and for one year following expiration of a registration certificate. Anyone who has a claim against a contractor may file a civil suit on the bond as is done currently, or they may file a complaint with the board.

The board is given broad enforcement and remedial powers. It may revoke, suspend or refuse to issue a certificate of registration and assess penalties, if (a) the registrant has furnished false information; (b) the registrant has failed to pay in full final judgments on claims adjudged either by the board or a court; (c) statutorily required insurance has lapsed; (d) the surety bond required by statute is not in effect or has been exhausted; (e) the registrant has engaged in dishonest or fraudulent conduct; (f) the registrant has violated a rule or order of the board; (g) a lien was filed because the registrant wrongfully failed to perform a contractual duty; (h) the registrant has worked without a construction permit where required and the work resulted in a claim filed with the board.

A hearing must be held prior to suspension or revocation of a contractor's certificate. The board can accept claims for damages resulting in various forms of contractor malpractice and may order awards against the bond. The board may also entertain claims against a contractor by another contractor. A surety must either pay orders of the board against the bond or seek relief in court. A surety is not liable to the principal if they choose not to resist payment. If the bond becomes exhausted as a result of claims, the board may suspend the contractor's certificate of registration until the bond is reinstated at the required amount.

The board may only entertain claims for damages against contractors who are registered. Unpaid amounts ordered by the board become liens against the property of the contractor who has been ordered to pay after the expiration of appeals or appeal periods.

A priority for the payment of claims is established, which places owners first in line, followed by labor, including employee benefits, claims for breach of contract, and finally any court costs, interest or attorney's fees due to the parties up to a ceiling of \$2,000.

After July 1, 1995, registration requirements include successful completion of education requirements, which are eight hours annually. The education must deal with subjects relating to business practices and legal requirements that affect contractors. A special certification account is created in the Office of the State Treasurer. The program is designed to be self supporting. Civil penalties for violations of the chapter can be imposed of up to \$1,000 for each offense.

Contractors are prohibited from hiring other contractors who are not registered and are required to have written contracts for projects over \$1,000 in value. If either of these provisions are violated, a contractor loses the right to claim liens.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested