

SENATE BILL REPORT

SB 5045

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 27, 2007

Title: An act relating to contractor licensing.

Brief Description: Providing for the licensing of contractors.

Sponsors: Senators Weinstein, Fairley, Oemig, Franklin, Regala, Fraser, Kauffman, Pridemore, Haugen, Keiser, Spanel, Jacobsen and Kohl-Welles.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 1/18/07, 2/27/07 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5045 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Murray and Prentice.

Minority Report: Do not pass.

Signed by Senators Clements, Ranking Minority Member, Hewitt and Holmquist.

Staff: Jennifer Strus (786-7316)

Background: Contractors must be registered with the Department of Labor and Industries (L&I) To become registered, an applicant must submit an application under oath and provide specific information to L&I. Every applicant for registration must file with L&I a surety bond in the amount of \$12,000 if the applicant is a general contractor or \$6,000 if the applicant is a specialty contractor. The applicant must also file with L&I proof of insurance.

A contractor's registration is good for two years and must be renewed on or before the expiration date.

Summary of Bill: The bill as referred to committee not considered.

Summary of Proposed Substitute As Heard In Committee (Labor, Commerce, Research & Development): After July 1, 2008, all contractors must be licensed by L&I.

Advisory Board: The State Construction Contractors' Advisory Board (Board) is created and is comprised of nine members appointed by the Governor. The nine members shall consist of

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the following: two contractors who work primarily on residential structures; one contractor who works primarily on residential remodeling; two members of the public; two elected representatives of local government, one of which must represent a county; and two general contractors who work primarily on commercial structures. The members serve four-year terms and the initial appointment terms are staggered. A member can be reappointed.

The contract members must be licensed by L&I and maintain their license in good standing while serving on the Board. The Board is to meet at least quarterly. L&I is to provide staff support to the Board.

License Application: An additional requirement is added to the license application. At the time of application, the applicant must provide evidence that he or she is "fiscally sound." The term "fiscally sound" means the applicant has the ability to satisfy claims for damages under all legally recognized actions for building defects.

Written Exam: To become licensed, an applicant for a contractor's license must pass a written exam. The Board is to assist L&I in developing this exam. The exam is to be designed to determine whether an applicant has the varied general knowledge of the technical information and practical procedures that are identified with the contractor's trade and is familiar with the state and local building codes and L&I's rules pertaining to construction contractors. L&I may charge a fee for the examination.

L&I must certify the results of the exam and provide written notification to applicants of the results. An applicant who has failed the exam may retake the exam upon the terms and after a period of time that the director sets by rule.

Training Requirements: L&I is to impose training requirements for persons and businesses seeking to be licensed. This training must relate to business practices and laws affecting construction contractors. The Board is to adopt standards for programs that provide construction contractor training.

License Renewal: To renew a license, a contractor must provide evidence that he or she has completed 12 hours of continuing education annually in subjects addressing the varied knowledge of the technical information and practical procedures identified with the construction contractor's trade.

Surety Bond: The surety bond filed with L&I must meet the following schedule: if the gross revenue of the applicant during the four quarters preceding the application is more than \$7.5 million, the bond is \$75,000; if the gross revenue of the applicant during the preceding four quarters is more than \$2 million but less than or equal to \$7.5 million, the bond is \$50,000; if the gross revenue of the applicant during the preceding four quarters is less than \$2 million, the bond is \$25,000.

Beginning July 1, 2007, L&I is to adjust the bond amounts on an annual basis using the consumer price index.

Infractions: The failure to follow an applicable building code is added as an infraction for which a contractor can be penalized.

Account: The construction contractor's license account is created in the state treasury. All receipts from license applications, renewals, training or other sources related to contractors must be deposited in the account. The account is appropriated and expenditures from it can only be used for the purposes of this chapter.

State Building Code Council: By January 1, 2008, the State Building Code Council (Council) must prepare a written training course and exam. The course and exam are to be administered, at no cost to local government, by the Council to all local government building inspectors that inspect residential buildings. After June 30, 2008, no local government building inspector can inspect a residential building unless certified by the Council as having passed the exam.

Grandfather Clause: Any contractor registered before July 1, 2008, must apply to be licensed by L&I on or before July 1, 2008. Any contractor who was engaged in a bona fide contractor's business or trade and who was properly registered before July 1, 2008, need not sit for the licensing exam. As long as he or she files the appropriate licensing application and pays the fee, L&I must issue him or her a license.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Labor, Commerce, Research & Development): The licensing provisions apply only to residential contractors, which is defined in the bill. The written exam and continuing education requirements apply only to residential contractors. The changes in the bond amount are removed. "Fiscal soundness" requirement to apply for licensure is removed. The requirements for building code council training and exams are removed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: July 1, 2008.

Staff Summary of Public Testimony: PRO: Homeowners have very little protection against shoddy work done by contractors. Just because a contractor is registered does not mean they are competent. A person who cuts your hair is required to have more training than someone who builds your house. This bill would require contractors to demonstrate that they have some competency before being allowed to build. The current law requiring that contractors be registered gives consumers a false sense of security that a registered contractor is competent. A number of contractors go out of business leaving homeowners no recourse and this is the reason the requirement for contractors to show evidence of fiscal soundness was put in the bill. Testing would create a level playing field for contractors and most good contractors will be able to pass. People have to take a test to get a drivers' license but do not have to register to build houses. California requires that contractors pass a test and the building business in California is very healthy. The "administrator" approach should be used to accomplish the goals of the bill—the current state electrical contracting law uses this approach and it works very well.

CON: This bill does more than just go after the bad actors. This bill will have the effect of eliminating small contractors in this state. If the bond is raised too high, contractors will be driven out of business or they will go underground and work without being registered and

bonded. It is hard to develop one test that will cover all the different types of contractors that exist. The competency testing portion of the bill is vague—it is not clear on what competencies it would test. Furthermore, general contractors supervise the project and do not do the actual work—would they also have to pass the competency test? This bill raises the bar too high on new people coming into the system. There are currently not enough contractors to meet the demand and this bill will result in fewer contractors in the system. This bill is so overly broad as to be ineffective. There are no specialty contractors on the advisory board created in the bill and there should be.

OTHER: The State Building Code Council cannot administer a competency exam to local building inspectors because they do not have the staff to accomplish it. This section requires only that residential building inspectors be tested—most local building inspectors inspect all sorts of buildings, not just residences.

Persons Testifying: PRO: Senator Weinstein, prime sponsor; M. Jayne Freitag-Koontz, citizen; Todd England, citizen; Gary Smith, Independent Business Association; George Madsen, Madsen Roofing; Sandy Levy, private attorney; Susan Hayes, citizen.

CON: Brian Minnich, BIAW; John Bratton, JW Bratton Construction; Rick Slunaker, AGC.

OTHER: John Neff, State Building Code Council; David Saunders, Washington Association of Building Officials; Larry Stevens, Mechanical Contractors Association & National Electrical Contractors.