

BILL NUMBER: SB 1362 CHAPTERED
BILL TEXT

CHAPTER 716
FILED WITH SECRETARY OF STATE SEPTEMBER 30, 2008
APPROVED BY GOVERNOR SEPTEMBER 30, 2008
PASSED THE SENATE AUGUST 28, 2008
PASSED THE ASSEMBLY AUGUST 25, 2008
AMENDED IN ASSEMBLY AUGUST 22, 2008
AMENDED IN ASSEMBLY AUGUST 18, 2008
AMENDED IN ASSEMBLY AUGUST 8, 2008
AMENDED IN SENATE MAY 13, 2008
AMENDED IN SENATE APRIL 1, 2008
AMENDED IN SENATE MARCH 24, 2008

INTRODUCED BY Senator Margett

FEBRUARY 21, 2008

An act to amend Section 7137 of the Business and Professions Code, and to amend Section 3099.2 of the Labor Code, relating to employment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1362, Margett. Electrician certification.

Under the existing Contractors' State License Law, the Contractors' State License Board is authorized to establish fees for, among other things, an application for an original license, rescheduling an examination, and the renewal of an active or an inactive license.

This bill would authorize the board, in addition to any other fees charged to C-10 and C-7 contractors, to charge a fee not to exceed \$20, to be used by the board to enforce provisions of the Labor Code related to electrician certification. Because these fees would be deposited into the Contractors' License Fund, which is continuously appropriated, the bill would make an appropriation.

Existing law requires that persons performing work as electricians for specified contractors be certified pursuant to certification standards established by the Division of Apprenticeship Standards within the Department of Industrial Relations.

This bill would require the Chief of the Division of Apprenticeship Standards to develop a process for referring cases to the Contractors' State License Board upon determining that a violation of certification requirements has likely occurred and to execute a memorandum of understanding with the Registrar of Contractors to further this end by July 1, 2009. The bill would authorize the Registrar of Contractors to open an investigation and initiate disciplinary action against a licensed contractor pursuant to these provisions upon his or her own investigation or upon a finding of the Chief of the Division of Apprenticeship Standards alleging a violation of these provisions.

This bill would incorporate additional changes in Section 3099.2 of the Labor Code, proposed by AB 3048, to be operative only if AB 3048 and this bill are both chaptered and become effective on or before January 1, 2009, and this bill is chaptered last.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7137 of the Business and Professions Code is amended to read:

7137. The board shall set fees by regulation. These fees shall not exceed the following schedule:

(a) The application fee for an original license in a single classification shall not be more than three hundred dollars (\$300).

The application fee for each additional classification applied for in connection with an original license shall not be more than seventy-five dollars (\$75).

The application fee for each additional classification pursuant to Section 7059 shall not be more than seventy-five dollars (\$75).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall not be more than seventy-five dollars (\$75).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than sixty dollars (\$60).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than sixty dollars (\$60).

(d) The initial license fee for an active or inactive license shall not be more than one hundred eighty dollars (\$180).

(e) The renewal fee for an active license shall not be more than three hundred sixty dollars (\$360).

The renewal fee for an inactive license shall not be more than one hundred eighty dollars (\$180).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall not be more than seventy-five dollars (\$75).

(h) The renewal fee for a home improvement salesperson registration shall not be more than seventy-five dollars (\$75).

(i) The application fee for an asbestos certification examination shall not be more than seventy-five dollars (\$75).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall not be more than seventy-five dollars (\$75).

(k) In addition to any other fees charged to C-10 and C-7 contractors, the board may charge a fee not to exceed twenty dollars (\$20), which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

SEC. 2. Section 3099.2 of the Labor Code is amended to read:

3099.2. (a) (1) Persons who perform work as electricians shall become certified pursuant to Section 3099 by the deadline specified in this subdivision. After the applicable deadline, uncertified persons may not perform electrical work for which certification is required.

(2) The deadline for certification as a general electrician or fire/life safety technician is January 1, 2006, except that persons who applied for certification prior to January 1, 2006, have until

January 1, 2007, to pass the certification examination. The deadline for certification as a residential electrician is January 1, 2007, and the deadline for certification as a voice data video technician or a nonresidential lighting technician is January 1, 2008. The California Apprenticeship Council may extend the certification date for any of these three categories of electricians up to January 1, 2009, if the council concludes that the existing deadline will not provide persons sufficient time to obtain certification, enroll in an apprenticeship or training program, or register pursuant to Section 3099.4.

(3) For purposes of any continuing education or recertification requirement, individuals who become certified prior to the deadline for certification shall be treated as having become certified on the first anniversary of their certification date that falls after the certification deadline.

(b) Certification is required only for those persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations. Certification is not required for persons performing work for contractors licensed as class C-7 low voltage systems or class C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a class C-10 contractor.

(c) The division shall establish separate certifications for general electrician, fire/life safety technician, residential electrician, voice data video technician, and nonresidential lighting technician.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under this chapter, a federal Office of Apprenticeship program, or a state apprenticeship program authorized by the federal Office of Apprenticeship. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 3099.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 3099.

(g) Notwithstanding subdivision (a), the qualifying person for a class C-10 electrical contractor license issued by the Contractors' State License Board need not also be certified pursuant to Section 3099 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 3099.4.

(h) Commencing July 1, 2009, the following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license of a class C-10 electrical contractor pursuant to Article 7 (commencing with Section 7090) of Chapter 9 of Division 3 of the Business and Professions Code:

(1) The contractor willfully employs one or more uncertified persons to perform work as electricians in violation of this section.

(2) The contractor willfully fails to provide the adequate supervision of uncertified workers required by paragraph (3) of subdivision (a) of Section 3099.4.

(3) The contractor willfully fails to provide adequate supervision of apprentices performing work pursuant to subdivision (d).

(i) The Chief of the Division of Apprenticeship Standards shall develop a process for referring cases to the Contractors' State License Board when it has been determined that a violation of this section has likely occurred. On or before July 1, 2009, the chief shall prepare and execute a memorandum of understanding with the Registrar of Contractors in furtherance of this section.

(j) Upon receipt of a referral by the Chief of the Division of Apprenticeship Standards alleging a violation under this section, the Registrar of Contractors shall open an investigation. Any disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The Registrar of Contractors may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Chief of the Division of Apprenticeship Standards alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or trainee status shall create a rebuttable presumption of violation of this provision.

(k) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 3099.

SEC. 2.5. Section 3099.2 of the Labor Code is amended to read:

3099.2. (a) (1) Persons who perform work as electricians shall become certified pursuant to Section 3099 by the deadline specified in this subdivision. After the applicable deadline, uncertified persons shall not perform electrical work for which certification is required.

(2) The deadline for certification as a general electrician or fire/life safety technician is January 1, 2006, except that persons who applied for certification prior to January 1, 2006, have until January 1, 2007, to pass the certification examination. The deadline for certification as a residential electrician is January 1, 2007, and the deadline for certification as a voice data video technician or a nonresidential lighting technician is January 1, 2008. The California Apprenticeship Council may extend the certification date for any of these three categories of electricians up to January 1, 2009, if the council concludes that the existing deadline will not provide persons sufficient time to obtain certification, enroll in an apprenticeship or training program, or register pursuant to Section 3099.4.

(3) For purposes of any continuing education or recertification requirement, individuals who become certified prior to the deadline for certification shall be treated as having become certified on the first anniversary of their certification date that falls after the certification deadline.

(b) (1) Certification is required only for those persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations.

(2) Certification is not required for persons performing work for

contractors licensed as class C-7 low voltage systems or class C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a class C-10 contractor.

(3) Certification is not required for work performed by a worker on a high-voltage electrical transmission or distribution system owned by a local publicly owned electric utility, as defined in Section 224.3 of the Public Utilities Code; an electrical corporation, as defined in Section 218 of the Public Utilities Code; a person, as defined in Section 205 of the Public Utilities Code; or a corporation, as defined in Section 204 of the Public Utilities Code; when the worker is employed by the utility or a licensed contractor principally engaged in installing or maintaining transmission or distribution systems.

(c) The division shall establish separate certifications for general electrician, fire/life safety technician, residential electrician, voice data video technician, and nonresidential lighting technician.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under this chapter, a federal Office of Apprenticeship program, or a state apprenticeship program authorized by the federal Office of Apprenticeship. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 3099.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 3099.

(g) Notwithstanding subdivision (a), the qualifying person for a class C-10 electrical contractor license issued by the Contractors' State License Board need not also be certified pursuant to Section 3099 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 3099.4.

(h) Commencing July 1, 2009, the following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license of a class C-10 electrical contractor pursuant to Article 7 (commencing with Section 7090) of Chapter 9 of Division 3 of the Business and Professions Code:

(1) The contractor willfully employs one or more uncertified persons to perform work as electricians in violation of this section.

(2) The contractor willfully fails to provide the adequate supervision of uncertified workers required by paragraph (3) of subdivision (a) of Section 3099.4.

(3) The contractor willfully fails to provide adequate supervision of apprentices performing work pursuant to subdivision (d).

(i) The Chief of the Division of Apprenticeship Standards shall

develop a process for referring cases to the Contractors' State License Board when it has been determined that a violation of this section has likely occurred. On or before July 1, 2009, the chief shall prepare and execute a memorandum of understanding with the Registrar of Contractors in furtherance of this section.

(j) Upon receipt of a referral by the Chief of the Division of Apprenticeship Standards alleging a violation under this section, the Registrar of Contractors shall open an investigation. Any disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The Registrar of Contractors may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Chief of the Division of Apprenticeship Standards alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or trainee status shall create a rebuttable presumption of violation of this provision.

(k) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 3099.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 3099.2 of the Labor Code proposed by both this bill and AB 3048. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 3099.2 of the Labor Code, and (3) this bill is enacted after AB 3048, in which case Section 2 of this bill shall not become operative.