

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 630 (Dodd)
Version: February 16, 2023
Hearing Date: April 25, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Contractors State License Board: regulation of contractors

DIGEST

This bill requires an applicant for a contractor's license or a license holder seeking renewal to provide the Contractor's State License Board (CSLB) with a valid email address, if available, and provides that the email address is not considered a public record under the California Public Records Act (CPRA). The bill also provides that if specified probationary conditions are imposed on a licensee, the CSLB may revoke a license if those specified terms and conditions are not met.

EXECUTIVE SUMMARY

The CPRA makes all records of a public agency open to public inspection upon request unless the records are otherwise exempt or prohibited from public disclosure, and grants the public the right to obtain a copy of any public record. This bill requires an applicant for a contractor's license or a licensee renewing their license to provide CSLB with a valid email address, if available, but makes that email address nondisclosable to the public. The bill also clarifies that the CSLB may revoke a license when probationary conditions are imposed on a licensee and the licensee does not comply with those conditions.

The bill is sponsored by the Contractor's State License Board and supported by the American Subcontractors Association of California. There is no known opposition. The bill passed the Senate Business, Professions and Economic Development Committee on a vote of 12 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 2) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)
 - a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
- 3) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)
 - a) Some records are prohibited from being disclosed and other records are permissively exempted from being disclosed. (See e.g. Gov. Code §§ 7923.600 et. seq.)
 - b) Requires a public agency withholding any public record to demonstrate that the record in question is exempt under express provisions of the CPRA or that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Gov. Code § 7922.000.)
- 4) Establishes the CSLB to enforce and administer the Contractors State License Law, including licensure and discipline of contractors in the state. (Bus. & Prof. Code § 7000 et. seq.)

This bill:

- 1) Requires an applicant for licensure or registration with the CSLB who has a valid email address to report that email address to the board, as provided.

- 2) Prohibits those email addresses from being considered a public record under or disclosed pursuant to the CPRA, unless required by an order of a court of competent jurisdiction.
 - a) Specifies that this limitation on disclosure is to protect the privacy of applicants, registrants, and licensees.
- 3) Authorizes a stay of execution of a disciplinary decision pending a licensee meeting certain terms and conditions of probation.
- 4) States that a failure to fully comply with the terms and conditions of a probation may result in automatic termination of the stay of execution without further notice, and, if a stay of execution is terminated, the decision will be considered a disciplinary action.
- 5) Specifies terms and condition that may be imposed upon a licensee including, but are not limited, to the following:
 - a) payment of restitution to persons injured as a result of the violation;
 - b) payment of the costs of the investigation and enforcement, as specified;
 - c) enrollment in, and completion of, specified administrative or trade-specific coursework;
 - d) successful completion of the CSLB's law and business examination or trade examination, as appropriate; and
 - e) any further terms and conditions set forth for specified violations in the CSLB's disciplinary guidelines.

COMMENTS

1. Stated need for the bill

The author writes:

Ensuring contractors work in a safe, competent and professional manner is at the heart of our commitment to California consumers. We achieve that through better communication and education, as well as clear pathways for improvement when things go wrong. My proposal advances these principles among the licensed trades to strengthen an industry that is essential as we continue to build out our state.

2. This bill makes noncontroversial changes to the Contractors State License Law

The Senate Business, Professions and Economic Development Committee has considered this bill's changes to the Contractors State License Law that provides if specified probationary conditions are imposed on a licensee, the CSLB may revoke their license if those specified terms and conditions are not met. The analysis is incorporated here by reference. There is no opposition to the bill. These changes appear to be

reasonable, will allow CSLB to conduct its business in a more efficient manner, and provide enhanced consumer protection.

3. Limiting access to emails provided to CSLB appears consistent with the state's right to privacy and limits on disclosure of public records

California generally recognizes that public access to information concerning the conduct of the people's business is a fundamental and necessary right. At the same time, the state recognizes that this right must be balanced against the right to privacy. By exempting email addresses provided to CSLB from disclosure under the CPRA and providing they are not public records, this bill brings the provisions of the Contractors State License Law in line with other licensing acts administered by other entities within the DCA. Current law provides that, in the interest of protecting an applicants' and licensees' privacy, CPA applicants' and licensees' email addresses provided to the California Board of Accountancy are not public records and are not to be disclosed. (Bus. & Prof. Code § 5009.5.) Additionally, email addresses provided to the Board for Professional Engineers, Land Surveyors, and Geologists are not public records and are not to be disclosed in the interest of privacy. (Bus. & Prof. Code §§ 6767, 7856, & 8753.) The bill provides that this limitation on access to public records is needed to protect the privacy of applicants, registrants, and licensees of CSLB. As there is no apparent public policy reason why email addresses of licensees should be subject to disclosure as public records, the bill's finding on the need for protecting their privacy seems warranted.

4. Statements in support

The Contractors State License Board, sponsor of the bill, writes in support:

SB 630 will enable CSLB to communicate with its licensee population of more than 280,000 in a manner that is low-cost, timely, effective, and environmentally responsible. In addition, authorizing CSI-B to reimpose revocation for failing to meet terms of probation could strengthen consumer protection by incentivizing compliance with probationary conditions while simultaneously reducing costs associated with disciplinary proceedings.

SUPPORT

Contractors State License Board (sponsor)
American Subcontractors Association of California

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 1120 (Jones, Ch. 302, Stats. 2022), among other things, specified that emails provided to the Board for Professional Engineers, Land Surveyors, and Geologists by licensees are not public records under the CPRA and are exempt from disclosure.

AB 298 (Irwin, Ch. 300, 2021), made various changes related to the California Board of Accountancy, including provisions exempting licensee and applicant email addresses from disclosure under the CPRA.

PRIOR VOTES:

Senate Business, Professions and Economic Development Committee (Ayes 12, Noes 0)
