

This bill:

- 1) Authorizes the Registrar to refuse to issue, reinstate, reactivate, or renew a license or to suspend a license for the failure of a licensee to resolve all outstanding final liabilities that may be assessed by the CDTFA.
- 2) Requires the application for a contractor's license to include an authorization by the applicant for the CDTFA to disclose applicant tax information to the Registrar.
- 3) Provides that action against a contractor's license does not apply in the case of a licensee who has entered into an installment payment agreement with CDTFA and is in compliance with the terms of that agreement.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** This bill is Author sponsored. The Author states, "SB 1165 strengthens tax enforcement and promotes fairness for law-abiding contractors by improving coordination between state agencies. The Contractors' State Licensing Board (CSLB) can already act to suspend a contractor's license due to outstanding unpaid taxes. However, the California Department of Tax and Fee Administration (CDTFA) lacks the statutory authority to share necessary taxpayer information with CSLB to facilitate collection and enforcement of unpaid sales & use taxes. As a result, CDTFA is unable to fully utilize CSLB licensing as a compliance and collection tool to collect taxes that are owed. The State currently has a combined outstanding sales & use tax liability among construction contractors of approximately \$42.5 million. This lack of coordination among state agencies creates serious consequences for state and local revenues. SB 1165 authorizes limited information sharing between CDTFA and CSLB to allow appropriate licensing action, while preserving due process and flexibility for law-abiding taxpaying contractors. This bill improves accountability and helps ensure the state collects lawfully owed revenues."

2. **Background.**

Contractors and the CSLB. CSLB is responsible for implementing and enforcing the License Law and regulations related to the licensure, practice and discipline of the construction industry in California. The CSLB licenses and regulates approximately 285,000 licensees in 44 licensing classifications.

California Department of Tax and Fee Administration (CDTFA). CDTFA administers tax programs that are concentrated in two general areas: 1) sales and use and 2) special taxes and fees. According to its *2023-24 Annual Report*, CDTFA-administered programs generated more than \$96.3 billion in FY 2023-24, which supported local essential services such as transportation, public safety and health, libraries, schools, social services, and natural resource management programs through the distribution of tax dollars going directly to local communities.

CSLB's role in enforcing tax liability. CSLB frequently partners with other state agencies to enforce compliance with laws outside CSLB's regulatory authority, such as payroll tax, workplace safety, and other labor laws. To help enforce these laws, the License Law leverages the contractor's license to obtain compliance. BPC § 7145.5 authorizes the Registrar to refuse to issue, reinstate, reactivate, or renew a license or to suspend a license when the licensee fails to meet their obligations, including taxes, penalties, interest, and any fees that may be assessed by various state entities, including the BOE, but does not include CDTFA.

In 2017, AB 102 (Committee on Budget, Chapter 16, Statutes of 2017) transferred various duties, powers, and responsibilities of the BOE relating to the administration of various taxes and fees to the CDTFA. However, not all duties, powers, and responsibilities of the BOE were transferred. BPC § 7145.5 was not updated to reflect the responsibilities of the new agency. This bill would make conforming changes to the Licensing Law, while also ensuring CDTFA has authority to share information necessary for the Registrar to carry out the responsibilities authorized by BPC § 7145.5 as intended.

3. **Related Legislation.** AB 102 (Committee on Budget, Chapter 16, Statutes of 2017) restructured the BOE by splitting key functions between two agencies – the existing BOE, which would remain responsible for overseeing property taxes, and the CDTFA, which would administer sales and use taxes – effective July 1, 2017.

AB 1307 (Skinner, Chapter 734, Statutes of 2011) authorizes the Registrar to suspend or refuse to issue, reinstate, or renew a license if the taxpayer fails to resolve all outstanding final liabilities, including taxes, penalties, interest, and fees, assessed by BOE. Specifies the authorization does not apply if the licensee entered into an installment payment agreement with BOE and complies with its terms.

4. **Arguments in Support.** The California State Council of Laborers writes, "SB 1165 addresses a significant gap in state coordination by authorizing the California Department of Tax and Fee Administration (CDTFA) to share limited information with the Contractors State License Board (CSLB)...Because CDTFA lacks the authority to share this data, the CSLB is unable to fully utilize its existing power to suspend or deny licenses for tax debt. By aligning the enforcement authority of the CDTFA and CSLB, SB 1165 ensures that a contractor's license remains a privilege reserved for those who contribute to the state's success."

The California Tax Reform Association, a coalition of 14 member organizations, writes that SB 1165, "SB 1165 (Caballero) would further the California Tax Reform Association's goal of advocating for fair taxes, ensuring that the state and local governments can collect critical unpaid revenues."

The Flasher Barricade Association writes, "to offer [its] strong support of SB 1165 (Caballero), which strengthens tax enforcement by authorizing the California Department of Tax and Fee Administration (CDTFA) to coordinate with the Contractors State License Board (CSLB) to ensure contractors settle unpaid taxes."

5. Policy Issues and Suggested Amendments.

Internal processing steps are not necessary in statute. This bill includes processes that the CDTFA would take to carry out requesting that the Registrar suspend a license or refuse to issue, reinstate, or renew a license of a licensee with an outstanding final liability. These steps are not necessary to outline in statute. CDTFA's authority should be addressed in the same manner as that of the Department of Industrial Relations, Employment Development Department, Franchise Tax Board, and Board of Equalization, which are also granted by BPC § 7145.5.

In order to reflect this, the bill should be amended to strike BPC § 7145.5, subdivisions (e)(2)-(f) as follows:

7145.5. (a) The registrar may refuse to issue, reinstate, reactivate, or renew a license or may suspend a license for the failure of a licensee to resolve all outstanding final liabilities, which include taxes, additions to tax, penalties, interest, and any fees that may be assessed by the board, the Department of Industrial Relations, the Employment Development Department, the Franchise Tax Board, or the State Board of Equalization, or the California Department of Tax and Fee Administration.

- 1) Until the debts covered by this section are satisfied, the qualifying person and any other personnel of record named on a license that has been suspended under this section shall be prohibited from serving in any capacity that is subject to licensure under this chapter, but shall be permitted to act in the capacity of a nonsupervising bona fide employee.
 - 2) The license of any other renewable licensed entity with any of the same personnel of record that have been assessed an outstanding liability covered by this section shall be suspended until the debt has been satisfied or until the same personnel of record disassociate themselves from the renewable licensed entity.
- b) The refusal to issue a license or the suspension of a license as provided by this section shall be applicable only if the registrar has mailed a notice preliminary to the refusal or suspension that indicates that the license will be refused or suspended by a date certain. This preliminary notice shall be mailed to the licensee at least 60 days before the date certain.
 - c) In the case of outstanding final liabilities assessed by the Franchise Tax Board, this section shall be operative within 60 days after the board has provided the Franchise Tax Board with the information required under Section 30, relating to licensing information that includes the federal employer identification number, individual taxpayer identification number, or social security number.
 - d) All versions of the application for a contractor's license shall include, as part of the application, an authorization by the applicant, in the form and manner mutually agreeable to the Franchise Tax Board, the California Department of Tax and Fee Administration, and the board, for the Franchise Tax Board and the California Department of Tax and Fee Administration to disclose the tax information that is required for the registrar to administer this section. The Franchise Tax Board and the California Department of Tax and Fee Administration may from time to time audit these authorizations.

- (e) ~~(1)~~ In the case of outstanding final liabilities assessed by the State Board of Equalization or the California Department of Tax and Fee Administration, this section shall not apply to any outstanding final liability if the licensee has entered into a written installment payment agreement for that liability with the State Board of Equalization or the California Department of Tax and Fee Administration, as applicable, and is in compliance with the terms of that agreement.
- ~~(2) The California Department of Tax and Fee Administration may request that the registrar suspend a license or refuse to issue, reinstate, reactivate, or renew a license of a licensee with an outstanding final liability assessed by the California Department Tax and Fee Administration unless the licensee has entered into a written installment payment agreement and is in compliance with the terms of that agreement pursuant to paragraph (1).~~
- ~~(3) A request made pursuant to paragraph (2) shall be in writing and identify the licensee and the licensee's outstanding final liability.~~
- ~~(4) The California Department Tax and Fee Administration shall give written notice to a licensee of its intent to request that the registrar suspend the licensee's license, or to refuse to issue, reinstate, reactivate, or renew the license of a licensee pursuant to paragraph (2).~~
- ~~(A) The notice required by this paragraph may be served personally, by mail, to the licensee's last known mailing address on file with the California Department of Tax and Fee Administration, or by secure electronic transmission, to an address for electronic mail previously provided by the licensee.~~
- ~~(B) If served by mail, the notice required by this paragraph shall be placed in a sealed envelope, with postage paid, addressed to the person at the address as it appears in the records of the California Department Tax and Fee Administration. The mailing of the notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason.~~
- ~~(f) The California Department of Tax and Fee Administration may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this section.~~

SUPPORT AND OPPOSITION:Support:

California State Council of Laborers
California Tax Reform Association
Flasher Barricade Association

Opposition:

None received