

SENATE THIRD READING

SB 456 (Ashby)

As Amended April 2, 2025

Majority vote

SUMMARY

This bill exempts an artist who creates, restores, or preserves a mural from licensure under the Contractors State License Law.

Major Provisions

- 1) Exempts from the Contractors State License Law an artist who draws, paints, applies, executes, restores, or conserves a mural, as defined, pursuant to an agreement with a person who could legally authorize the work.
- 2) Defines "mural" as a "unique work of fine art that is protected by copyright, trademark, label, or patent and that is drawn or painted by hand directly onto interior or exterior walls or ceilings, fixtures, or other appurtenances of a building or structure." Specifies "mural" does not include painted wall signs.

COMMENTS

Due to licensure requirements, cities across California have been instructing their public arts administrators to cease or stall the implementation of mural projects. This creates significant roadblocks for initiatives, like the State's Clean CA Program, which seeks to beautify public spaces like highways, local roads, parks, and pathways.

Requiring muralists to obtain a contractor's license imposes significant challenges. To qualify for these commercial licenses, muralists must accumulate four years of specialized experience under a licensed contractor, pass the Law and Business examination, and pay annual licensing fees. These requirements not only create unnecessary barriers to work on public art projects, but also expose city employees and artists to fines if such requirements are not met. Murals are considered works of art, protected under federal copyright laws and are fundamentally different from construction projects.

Standard practice of existing law previously identified the distinction between muralists and commercial painters. This bill clarifies standard practice of current law and adds "muralist", narrowly defined, to the list of activities in the Business and Professions Code that are not subject to licensure.

According to the Author

"Murals are powerful tools for transforming neighborhoods. They are placemaking and defining in many cities, like Sacramento. Public art and murals are proven drivers of enhanced community and economic health, attracting tourists, supporting jobs, generating revenue, and improving public health outcomes. However, current law has led to confusion regarding licensing requirements for muralists. [This bill] clarifies that muralists are not subject to licensure and allows them the flexibility to continue sharing their artistic expression throughout our communities."

Arguments in Support

According to the California Arts Advocates, co-sponsor of the bill, in support, "Requiring a contractor's license creates unreasonable barriers for muralists. Obtaining these commercial licenses necessitates working as an apprentice under a licensed contractor and paying annual fees. These requirements not only restrict participation in mural creation but also hinder artistic expression, adding to the challenges artists may already face in the traditional art community.

"Furthermore, artistic works are protected under Article 1, Section 8, Clause 8 of the US Constitution and the 1976 Copyright Act. Additionally, the California Arts Preservation Act (CAPA) and the Visual Artists Rights Act (VARA) protect an artist's moral rights, distinguishing their work from commercial painting. Given the fundamental difference between the services provided by muralists and painting contractors, a narrow exception to the state's licensing requirements for muralists is warranted. Painting a mural constitutes expressive first amendment protected speech and should not be subject to licensure."

Arguments in Opposition

According to the organization Fight Back in Sac in opposition, "Why not just exempt all painters from the law? That would solve all of the issues without creating any inequities. What part of the existing law pertaining to painters is served that doesn't serve a purported muralists? The licensing requirement as it is today was obviously enacted to serve the public in some manner, so why does it not also serve the same for "muralists"?

"'Muralists' would certainly obtain the same benefits as painters and decorators that the law provides, ie learning about contract laws, liens, payment and liability. The term "Muralist" is so ambiguous in [this bill], that it excludes very little. They apply coatings such as paint, stucco, texturing and other substances, which painters and decorators already do. They prepare the surfaces using sandblasting, pressure washing, priming even special substrates where existing surfaces are not "mural ready". Existing law requires anyone doing pressure washing, stucco or texturing for works over \$1,000 to be licensed. Calling oneself a muralist would then evade this requirement."

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, the Contractors State License Board (CSLB) anticipates no costs resulting from this bill. They note an exempted classification of work will not require action from CSLB for licensing or enforcement.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Hurtado, Reyes

ASM ARTS, ENTERTAINMENT, SPORTS, AND TOURISM: 9-0-0

YES: Ward, Lackey, Elhawary, Jeff Gonzalez, McKinnor, Ortega, Quirk-Silva, Valencia, Zbur

ASM BUSINESS AND PROFESSIONS: 17-0-1

YES: Berman, Flora, Ahrens, Alanis, Bains, Caloza, Chen, Elhawary, Hadwick, Haney, Irwin, Jackson, Krell, Lowenthal, Macedo, Nguyen, Pellerin

ABS, ABST OR NV: Bauer-Kahan

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Jeff Gonzalez, Solache, Ta, Tangipa

UPDATED

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