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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/09

SPONSOR B. Lujan LAST UPDATED \_\_\_\_\_ HB 254

SHORT TITLE Construction Application Restrictions SB \_\_\_\_\_

ANALYST C. Sanchez

### APPROPRIATION (dollars in thousands)

| Appropriation |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|---------------|------|-------------------------|------------------|
| FY09          | FY10 |                         |                  |
|               | NFI  |                         |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Regulation and Licensing Department (RLD)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

Bill 254 amends the Construction Industries Licensing Act to change the eligibility requirements for licensure for applicants who have his license or certificate revoked. The Bill prohibits an applicant who has had their license or certificate revoked from applying for a new license for a minimum of three (3) years to a maximum of five (5) years after the date of the original order of revocation. The old requirement allowed application after one (1) year. The Bill gives the Commission discretion to determine which penalty to apply subject to the guideline of rules to be promulgated by the Division.

### FISCAL IMPLICATIONS

According to the Construction Industries Division (CID), savings in operating expenses is expected as a result of an anticipated reduction in recidivism among revoked licensees.

## **SIGNIFICANT ISSUES**

This bill changes the time period in which an applicant who has previously had his or her license or certificate revoked by the Construction Industries Commission. The current statutory framework allows a former licensee to apply for a new license after one year has passed from the date of the original order of revocation. The Bill sets a new minimum at 3 years and a maximum of 5 years. The Commission is given the discretion to determine which penalty to apply “based upon the number and seriousness of the violations on which the revocation was based.” The Bill also calls on the division to “promulgate rules establishing guidelines for determining the appropriate time period.” This would seem a prudent measure in order to avoid any claims of arbitrary or capricious decisions given the discretion afforded the commission in determining the time period.

The Bill also cleans up the language of Section B. One substantive change is that the Bill subjects all licensees to the new rules by deleting “contractor’s” and “qualifying party’s” from Section B. The original Section B allows the director of the Construction Industries Division to refuse an application for licensure if the applicant engaged in activity during the revocation period that was a violation of any provision of the Construction Industries Licensing Act. House Bill 254, also adds “or rule promulgated pursuant to” to this provision, thus encompassing more prohibited conduct than as previously written.

## **ADMINISTRATIVE IMPLICATIONS**

According to CID, the bill is expected to reduce recidivism and allow the division to focus on rehabilitation of these individuals, rather than spending resources on the revolving door of investigation and prosecution of repeat offenders.

## **OTHER SUBSTANTIVE ISSUES**

Currently, application for a new license after revocation can be made after only one year following revocation and requires no assurance that the applicant is more likely to perform lawfully under a new license. Extending the waiting period to a minimum of three years will require those who have had a license or certificate revoked to re-take the technical exam applicable to the license or certificate, and will require the applicant to acquire additional and recent work experience under the supervision of a licensee before being able to apply for a new license.

According to the Public Education Department (PED), by enacting this bill, a construction industries person with a revoked license would be kept out of work for a period of at least three years, which could potentially raise the unemployment rate in the state.

The enactment of this bill would shrink the pool of available contractors for public works projects for school districts. In smaller and more rural towns, there may only be one contractor for the job. This would cause the district to go elsewhere for a contractor, which could increase the amount of the project.

However, it would also ensure that districts hire more meticulous contractors for their projects.

**ALTERNATIVES**

According to PED, an alternative would be to introduce a bill that would keep the penalty of one year for first time violators and raise the number of years for every violation after that, not to exceed a certain number of violations.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Violators would be allowed to reapply for a new license one year after revocation regardless of the severity of the violation.

CS/mc