

CONCURRENCE IN SENATE AMENDMENTS  
AB 881 (Emmerson)  
As Amended April 20, 2006  
Majority vote

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ASSEMBLY: 78-0 (May 26, 2005) SENATE: 30-0 (May 4, 2006)  
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Original Committee Reference: INS.

SUMMARY : Requires all roofers to have workers' compensation insurance, authorizes the Contractors State License Board's Registrar of Contractors to remove the roofing classification from a contractor license for failure to maintain workers' compensation insurance, requires insurers to conduct annual audits of their roofing customers' payroll, and directs the Workers' Compensation Insurance Rating Bureau (WCIRB) to compile an annual report.

The Senate amendments modify the Assembly version of this bill to:

- 1) Extend the time for the Insurance Commissioner's (IC) rating organization, designated as his or her statistical agent, to compile pertinent statistical data on those holding C-39 roofing licenses from March 1, 2007 to March 1, 2008, and changes the data compilation period from the 2006 calendar year to the 2005 calendar year.
- 2) Clarify that the data received by the IC's rating organization shall track the total annual payroll and loss data reported on those holding C-39 licenses in accordance with the standard workers' compensation insurance classifications applicable to roofing operations.

EXISTING LAW :

- 1) Allows all types of contractors to claim exemption from the requirement to have workers' compensation insurance if the contractor certifies it does not have any employees or is otherwise exempt from having workers' compensation insurance.
- 2) Revokes a contractor's license if the contractor fails to have workers' compensation insurance or fails to certify that it

does not have any employees.

AS PASSED BY THE ASSEMBLY , this bill had a shorter data compilation-to-report time frame with which the IC's rating organization was required to comply. The amendments reflect a more realistic turn around time and are necessary to ensure that the report is submitted to the IC when due.

FISCAL EFFECT : According to the Assembly Appropriations Committee:

- 1) Annual costs in the range of \$30,000 to the CSLB to comply with the license changes created by this bill.
- 2) Unknown costs offset by authorized fees, to insurers to conduct audits of roofers' payroll.
- 3) Unknown costs to WCIRB, a non-profit representing 400 insurance companies, to compile annual reports on the roofing industry.

COMMENTS : According to the author, this bill is necessary because "the roofing industry in California pays among the highest workers' compensation rates of all industries in the state." The nature of the work requires considerable investment in order to ensure the protection and safety of industry workers and contractors. However, a high incidence of payroll reporting fraud has also helped lead to these exorbitant costs, as many roofing contractors under-report their payroll in order to secure lower workers' [compensation] premiums." The incidence of payroll reporting fraud is so high, according to supporters, that 3,000 out of the 5,900 licensed C-39 roofers in California claim to not have any employees. The sponsor, The Roofing Contractors Association of California, and supporters state that the annual audits make it more difficult for a roofer to under-report its payroll and commit insurance fraud.

Supporters point out that while it is possible for one person to do a roof, it would take such a long time that it would not be profitable. This bill effectively requires a roofer to have an employee in order to get workers' compensation insurance, which, in turn, is necessary to get the C-39 classification. No longer will a roofer that obeys the law be underbid by a roofer that commits payroll fraud in order to pay lower premiums, supporters argue.

The opposition argues that prohibiting coverage will not combat fraud or serve to benefit injured roofing employees whose employers under-report their payroll. Instead, opponents claim, the effect will be to shift the burden to taxpayers who fund the Uninsured Employers Fund. However, the opposition does believe that annual payroll audits and the WCIRB's annual reports are positive steps in combating insurance fraud.

This bill would only be effective for five years, allowing the Legislature to determine whether the program. This bill puts into place is an effective means of combating workers' compensation fraud in the roofing industry.

This bill, as amended in the Senate is consistent with Assembly actions.

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