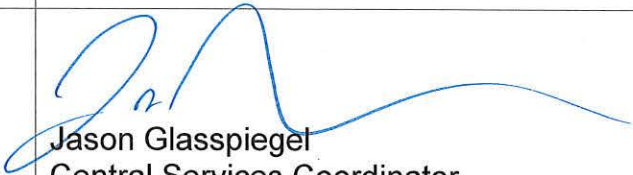


MEMORANDUM

DATE	May 6, 2016
TO	Board of Psychology
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #22 (a)(8) – Legislative Update – AB 2859 (Low) Professions and Vocations; Retired Category; Licenses

Background:

This Bill authorizes any of the boards, bureaus, commissions, or programs under the Department of Consumer Affairs to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation.

Location: Senate

Status: In Assembly. Read third time. Passed Assembly. To Senate. (79-0)

Action Requested:

As the Board of Psychology has submitted a legislative proposal for a retired license category that meets all of our specific needs, the staff will continue to watch AB 2859 (Low).

Attachment A is the analysis of AB 2859 (Low)

Attachment B is the language of AB 2859 (Low)

Attachment C is the Assembly Appropriations Analysis for AB 2859 (Low)

CALIFORNIA STATE BOARD OF PSYCHOLOGY

BILL ANALYSIS

BILL NUMBER: AB 2859

VERSION: INTRODUCED: 02/19/2016

AUTHOR: LOW (D)

SPONSOR: AUTHOR

BOARD POSITION: NONE

SUBJECT: PROFESSIONS AND VOCATIONS: RETIRED CATEGORY: LICENSES

Overview:

This bill would allow all Boards Bureaus, Commissions, and programs under the Department of Consumer Affairs (DCA) to establish a retired license category in regulations.

Existing Law:

Allows for the licensure and regulation of various boards, bureaus, commissions, and programs housed under DCA. Currently, the general Business and Professions Code allows those under DCA to establish an "inactive" license category for licensees not active in their profession. Under existing law, "inactive" can be elected or force-placed for many different reasons (some negative), and does not properly reflect the true status of a license. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. To date, only 13 entities under DCA have a retired license category.

This Bill:

Would allow all Boards, Bureaus, Commissions, and programs under DCA to establish by regulation a system for a retired license category which must contain the following:

- Mandate the holder of the retired license not engage in any activity for which a license is required (unless specified in regulation by the Board)
- Specify that the holder of the retired license not be required to renew the license
- Specify that in order for a licensee who holds a retired license to restore his or her license to active status, the following must be met:
 - Pay a fee
 - Certify that no crime has been committed that would constitute grounds for denial of the license
 - Comply with fingerprint submission requirements
 - Comply with any continuing education requirements
 - Complete any other requirements as specified by the Board in regulation.

Comments:

Author's Intent.

The author is intending to provide holders of a license a retired category rather than combining those that have retired from their respective field, with those that may have potentially been force-placed into "inactive" and are therefore forced to either renew every two years, or allow the license to cancel.

1) Impacts to the Board

The language as written fails to specify a few areas that may be of concern to the Board. The language does not allow a fee to be imposed for licensees wishing to enter into the retired license category. The language also does not give each respective entity under DCA the ability to qualify someone for a retired license. For example, as written, the Board could not deny a retired license application if a licensee had an enforcement case opened against them.

2) Support

California Association of Psychiatric Technicians
Contractors State License Board

3) Opposition

None

4) History

03/14/16 Referred to Com. on B. & P.

02/22/16 Read first time.

02/21/16 From printer. May be heard in committee March 22.

02/19/16 Introduced. To print.



AB-2859 Professions and vocations: retired category: licenses. (2015-2016)

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL

No. 2859

Introduced by Assembly Member Low

February 19, 2016

An act to add Section 463 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2859, as introduced, Low. Professions and vocations: retired category: licenses.

Existing law provides for numerous boards, bureaus, commissions, or programs within the Department of Consumer Affairs that administer the licensing and regulation of various businesses and professions. Existing law authorizes any of the boards, bureaus, commissions, or programs within the department, except as specified, to establish by regulation a system for an inactive category of license for persons who are not actively engaged in the practice of their profession or vocation. Under existing law, the holder of an inactive license is prohibited from engaging in any activity for which a license is required. Existing law defines "board" for these purposes to include, unless expressly provided otherwise, a bureau, commission, committee, department, division, examining committee, program, and agency.

This bill would additionally authorize any of the boards, bureaus, commissions, or programs within the department to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation, and would prohibit the holder of a retired license from engaging in any activity for which a license is required, unless regulation specifies the criteria for a retired licensee to practice his or her profession. The bill would authorize a board upon its own determination, and would require a board upon receipt of a complaint from any person, to investigate the actions of any licensee, including, among others, a person with a license that is retired or inactive.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 463 is added to the Business and Professions Code, to read:

463. (a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following:

(1) The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.

(2) The holder of a retired license shall not be required to renew that license.

(3) In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:

(A) Pay a fee established by statute or regulation.

(B) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.

(C) Comply with the fingerprint submission requirements established by regulation.

(D) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(E) Complete any other requirements as specified by the board by regulation.

(c) A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.

Date of Hearing: April 27, 2016

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 2859 (Low) – As Introduced February 19, 2016

Policy Committee: Business and Professions Vote: 16 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill authorizes any of the boards, bureaus, commissions, or programs (boards) within the Department of Consumer Affairs (DCA) to establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

FISCAL EFFECT:

- 1) Minor and absorbable costs to the Department of Consumer Affairs (DCA) to update regulations, add license status designations, and update applications.
- 2) Minor and absorbable costs to DCA for one-time workload increases associated with IT/BreEZe modifications.

COMMENTS:

- 1) **Purpose.** According to the author, "An occupational license can be sent to 'inactive' for various reasons, including violations and non-renewal. The same is done for those individuals who decided to retire - a troublesome label, as an 'inactive' status holds negative connotations and does not appropriately illustrate the decades of service from the license holder. Some licensees disfavor the inactive license designation and would prefer a retired license designation." Because existing law only provides for a system of inactive licenses, many boards have sought legislation that would permit them to also create a retired license category. By allowing any of the boards, bureaus, commissions, or programs within DCA to establish a system for a retired category of licensure, this bill seeks to provide uniformity to licensing designation at the DCA.
- 2) **Background.** Existing law permits the boards under the DCA to adopt regulations for issuing inactive licenses. The law requires that the regulations cover fees, renewal, restoration to active status, and practice restrictions. In addition, there are 13 boards with the authority to issue retired licenses. This bill would provide the remaining boards with the authority to establish a system for retired category of licensure.
- 3) **BreEZe.** In 2009, DCA proposed the BreEZe information technology system and the California Department of Technology (CalTech) approved the proposal. BreEZe was envisioned to replace DCA's out of date Legacy technology system and would provide needed applicant tracking of licensing, renewal, enforcement monitoring and cashiering support for 37 of the 40 boards, bureaus, committees and one commission housed within

DCA. The project began in 2011, and BreEZe was launched for ten of the regulatory entities (Release 1) in 2013. Release 2 of BreEZe was launched for eight additional entities on January 19, 2016. At this time there are no formal plans to expand BreEZe to the 19 boards in Release 3. Instead, DCA intends to conduct a cost-benefit analysis for Release 3 boards after Release 2 is completed this year.

DCA indicates there is a maintenance backlog of almost 600 items for boards in Release 1 and no current timeline for completion of these system fixes. Maintenance demands are expected to double following Release 2.

DCA further indicates that the poor adaptability of BreEZe to respond to new system demands has resulted in the implementation delay of 11 new substantive policy changes passed by the Legislature as far back as 2013. These changes have not been incorporated into the current BreEZe system and are currently awaiting workarounds or new builds into the system. Some of this new legislation involves boards in Release 1 which have been waiting for Release 2 to go live before changes can be made to the system to address new requirements.

4) **Prior Legislation.**

- a) AB 750 (Low, 2015) was substantially similar to this bill. It was held on this Committee's Suspense file.
- b) AB 1253 (Steinorth) Chapter, 125, Statutes of 2015, established educational and training requirements for an optometrist seeking a license with retired volunteer service designation (volunteer license) who has not held an active license in more than three years.
- c) AB 2024 (Bonilla), Chapter 336, Statutes of 2014, authorized the Professional Fiduciaries Bureau to establish, by regulation, a system for a retired category of licensure.
- d) AB 404 (Eggman), Chapter 339, Statutes of 2013, clarified who qualifies for a retired license by specifying that a license must be either active or inactive, and reduces the timeline to restore a retired license from retired to active status from five to three years.
- e) SB 1215 (Emmerson), Chapter 359, Statutes of 2012, established a retired license status and a retired license with a volunteer service designation for optometrists.
- f) AB 431 (Ma), Chapter 395, Statutes of 2011, authorized the California Board of Accountancy to establish, by regulation, a system for a retired category of licensure.
- g) SB 2191 (Emmerson), Chapter 548, Statutes of 2010, authorized the Board of Behavioral Sciences to issue a retired license as a marriage and family therapist, educational psychologist, clinical social worker or professional clinical counselor to an applicant who holds a current license or a license eligible for renewal, and established a \$40 fee for a retired license.