

## **Title 16. BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is proposing to take the action described in the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than 5 p.m. on January 13, 2014. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as the contact person and will be mailed to those person who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on January 27, 2014.

Authority and Reference: Pursuant to the authority vested in sections 7818 and 7851 of the Business and Professions Code, and to implement, interpret or make specific sections 7846 and 7887 of said code, the Board is considering changes to Division 29 of Title 16 of the California Code of Regulations (CCR) as follows:

### **INFORMATION DIGEST**

California Business and Professions Code section 7818 authorizes the Board to adopt, amend and repeal regulations as may be reasonably necessary to enable the Board to implement laws relating to the practice of geology and geophysics.

The Board's intent is to ensure that all regulations are clear, relevant, unambiguous, and functional in accordance with the Board's 2011-2014 Strategic Plan.

Senate Bill 822 (Chapter 319, Committee on Business, Professions and Economic Development, Statutes of 2013) which will become effective on January 1, 2014, adds Business and Professions Code section 7851 and amends section 7887 of the Geologist and Geophysicists Act. Section 7851 establishes a retired license status for Professional Geologists and Geophysicists. Section 7887(i) establishes the authority to set a retired license status fee. Business and Professions Code section 7851 indicates that the Board shall issue a retired license to a geologist or geophysicist upon application and payment of a fee if the individual has been licensed by the Board for at least 5 years within California and at least 20 years within the United States (or its territories), and the license has not been disciplined or is not pending disciplinary action. After an individual obtains a retired license, they cannot engage in any activity that

requires an active geologist or geophysicist license; and they may use the following titles: “retired professional geologist” or “professional geologist, retired,” or “retired professional geophysicist” or “professional geophysicist, retired.” The individual will not have to renew the retired license, and in order for the individual to restore their license back to an active status, they will have to pass the examination(s) required for initial licensure. Business and Professions Code section 7887(i) has been amended to read: “The fee for a retired license shall be fixed at not more than 50 percent of the fee for filing an application for licensure as a geologist or a geophysicist in effect on the date of application for a retired license.”

An amendment to Title 16, California Code of Regulations Section 3005 is necessary to implement the retired license status for Professional Geologists and Geophysicists. As a result it is proposed that subsection (h) be added to Title 16, California Code of Regulations Section 3005 to establish a retired license status fee of \$62.50 and explain that no other fee, including a renewal fee, shall be charged for the retired license. In addition the proposed language indicates that the fee applies to the license types (Professional Geologist and Professional Geophysicist) as well as the certifications (Certified Engineering Geologist and Certified Hydrogeologist).

In addition, Title 16, California Code of Regulations Section 3005(b)(3) needs to be repealed due to the passage of Senate Bill 152 (Chapter 178, Roth, Statutes of 2013), which repeals Business and Professions Code sections 7848 and 7848.1 (Temporary Authorization for geology and geophysics) and deletes what is currently Business and Professions Code section 7887(d) (Temporary Authorization registration fee) from the Geologist and Geophysicist Act, effective January, 1, 2014.

#### POLICY STATEMENT OVERVIEW/ANTICIPATED BENEFITS OF PROPOSAL

The proposed regulation changes will allow the Board to carry out its statutory authority to issue a retired license and charge a fee for the service in accordance with Business and Professions Code sections 7851 and 7887(i), which become effective on January 1, 2014.

#### Consistency and Compatibility with Existing State Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has evaluated this regulatory proposal, and it is neither inconsistent nor incompatible with existing state regulations.

#### FISCAL IMPACT ESTIMATES

##### Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Board anticipates a minor, absorbable revenue impact to the Board. The Board does not anticipate a cost impact to any other state agency or any impact to federal funding to the state.

In accordance with Business and Professions Code section 7887(i), the Board must establish a retired status fee that is no more than 50 percent of the fee for filing an application for licensure as a geologist or a geophysicist. The current application filing fee as established by Title 16, California Code of Regulations Section 3005 (b)(1) and (b)(2) is \$250.00. Based on the statute, the Board could set a regulation fee up to \$125 for the retired license; however, the proposed fee for the retired license for Professional Geologists and Geophysicists is a one-time fee of \$62.50. The fee applies to each license and specialty certification that the individual has. For example, if the individual is a Professional Geologist and he or she is also a Certified Engineering Geologist or Certified Hydrogeologist (a Professional Geologist license is required before an individual is eligible for a specialty certification), the individual would need to pay \$62.50 for each license and certification to be retired.

The retired license status fee supports the cost that the Board incurs to process the retired status license application. In order for the Board to process a Professional Geologist or Geophysicist retired license request, the Board must use staff time and materials to do the following: (1) verify that the individual is eligible for the retired license status in accordance with Business and Professions Code section 7851; (2) key the data into the appropriate databases, which in return changes the licensee's status on the Board's website; and (3) create and mail out a retired license wall certification.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this proposed regulatory action will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The proposed regulation will only affect individuals that choose to place their license into a retired license status; the regulation will not affect businesses.

The retired status license is a voluntary option that will be available to licensees. After the proposed fee regulation is adopted, if a Professional Geologist or Geophysicist retires from his or her profession and will no longer be working in a capacity that requires a license, they will have the option to either: (1) stop paying their renewal fees which will cause their license to go to a “delinquent” status after the license expiration date, and eventually to a “cancelled” status, (five years after the license expiration date); (2) continue to pay their biennial renewal fee of \$270 (plus \$67.50 if they also have a specialty certification) to keep an “active” status even though they are no longer working in a capacity that requires a license; or (3) the individual can submit an application and fee to be placed in a retired license status upon payment of the proposed fee of \$62.50. Individuals that have multiple licenses and/or specialty certifications will pay \$62.50 to retire each license and specialty certification. The retired status option is beneficial to licensees because they can still be in a public license status that is perceived of as positive, but they only have to pay a one-time fee to maintain it, instead of paying the biennial renewal fee. It is important to licensees because their status is public and is displayed on the Board’s website.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses; the Board licenses individuals.

#### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

##### Impact of Jobs/Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

##### Benefits of the Regulations:

The Board has determined that this regulatory proposal is required in order to carry out the statutory provisions outlined in Business and Professions Code sections 7851 and 7887(i). Business and Professions Code section 7887(i) requires the following: “The fee for a retired license shall be fixed at not more than 50 percent of the fee for filing an application for licensure as a geologist or a geophysicist in effect on the date of application for a retired license.”

Please also see the additional benefits described under the “Cost Impact on Representative Private Person or Business” section.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative is considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed, would be as

effective and less burdensome to affected private persons than the proposed action described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all of the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, CA 95833.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

#### CONTACT PERSON

Inquires or comments concerning the proposed rulemaking action may be addressed to:

Name: Erin LaPerle  
Address: 2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
Telephone No.: (916) 263-1848  
Fax No.: (916) 263-2246  
E-Mail Address: [Erin.LaPerle@dca.ca.gov](mailto:Erin.LaPerle@dca.ca.gov)

The backup contact person is:

Name: Larry Kereszt  
Address: 2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
Telephone No: (916) 263-2240  
Fax No.: (916) 263-2246  
E-mail Address: [Larry.Kereszt@dca.ca.gov](mailto:Larry.Kereszt@dca.ca.gov)

#### WEBSITE ACCESS

The Board's website is: <http://www.bpelsq.ca.gov/>. Materials regarding this proposal can be found at: [http://www.bpelsq.ca.gov/about\\_us/rulemaking.shtml](http://www.bpelsq.ca.gov/about_us/rulemaking.shtml)