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## MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

BOARD MEETING LOCATION

AUGUST 30, 2012, 9:00 A.M.

Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Dr., Third Floor Conference Room  
Sacramento, CA 95833

### BOARD MEMBERS

Paul Wilburn, President; Erik Zinn, Vice President; Kathy Jones Irish; Carl Josephson; Mike Modugno; Philip Quartararo; Hong Beom Rhee; Ray Satorre; Jerry Silva; Robert Stockton; Patrick Tami; and Michael Trujillo

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I. **ROLL CALL TO ESTABLISH A QUORUM**

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II. **PUBLIC COMMENT**

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**NOTE:** The Board cannot take action on items not on the agenda. The Board will allow for Public Comment on both days, as well as during the discussion of each item on the agenda.

III. **CLOSED SESSION**

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Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

IV. **OPEN SESSION TO ANNOUNCE THE RESULTS OF CLOSED SESSION**

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V. CERTIFICATES OF AUTHORIZATION FOR ENGINEERING, LAND SURVEYING,  
GEOLOGICAL, AND GEOPHYSICAL BUSINESSES

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VI. **TEMPORARY AUTHORIZATION APPLICATIONS**

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VII. EXECUTIVE OFFICER'S REPORT

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- A. Legislation
  - 1. Discussion of Legislation for 2011-2012
    - a. Pending Legislation: AB 1588, AB 1750, AB 1904, AB 2570, SB 975, SB 1061, SB 1576 (Possible Action)
- B. Strategic Plan Update
- C. Personnel
- D. Administrative Task Force

# Board for Professional Engineers and Land Surveyors

## 2012 Legislative Session

- AB 1588** Atkins. Professions and vocations: reservist licensees: fees and continuing education. This bill would require the boards within Consumer Affairs to waive the renewal fees and continuing education requirements, if applicable, of any licensee who is a reservist called to active duty as a member of the United States Military Reserve or the California National Guard if certain requirements are met.  
STATUS: Amended 6/25/12. Passed ASM and SEN Committees - to be heard on Senate Floor.  
BOARD POSITION: Support
- AB 1750** Solorio. Rainwater Capture Act of 2012. This bill would authorize residential, commercial, and governmental land owners to install, maintain, and operate rain barrel systems and rainwater capture systems, as defined provided that the systems comply with specified requirements.  
STATUS: Amended 8/7/12. Passed ASM and SEN Committees – to be heard on Senate Floor.  
BOARD POSITION: Watch
- AB 1904** Block. Professions and vocations: military spouses: expedited licensure. This bill would require a board within DCA to expedite the license process for an applicant who, holds a license in another jurisdiction, and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States assigned to duty in California.  
STATUS: Amended 6/12/12. Passed ASM and SEN Committees – to be heard on Senate Floor.  
BOARD POSITION: Watch
- AB 2570** Hill. Licensees: settlement agreements. This bill would prohibit a licensee who is regulated by DCA, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program, except as specified.  
STATUS: Introduced 2/24/12. Passed ASM and SEN Committees - to be heard on Senate Floor.  
BOARD POSITION: Support

# Board for Professional Engineers and Land Surveyors

- SB 975** Wright. Professions and vocations: regulatory authority. This bill would provide that the California Architects Board and the Board for Professional Engineers, Land Surveyors, and Geologists have sole and exclusive authority to license and regulate the practice of the professions they regulate. No licensing requirements, as specified, shall be imposed upon a person licensed to practice one of those professions by code or by regulation promulgated except by the applicable board.  
STATUS: Amended 6/27/12. Passed SEN and ASM Committees – to be heard on Assembly Floor.  
BOARD POSITION: Watch
- SB 1061** Walters. Professional Engineers. This bill (which is identical to last year's SB 692) would change the disciplines currently licensed as "title act" engineers to "practice act" engineers. This bill also would authorize any licensed engineer to practice engineering work in any of those fields in which he or she is competent and proficient – but not necessarily licensed.  
STATUS: Introduced 2/13/12. Set for 1<sup>st</sup> hearing 4/23/12 in SEN Committee on B,P&ED. Hearing canceled at request of author. This bill is dead.  
BOARD POSITION: Oppose
- SB 1576** Committee on Business, Professions and Economic Development. Professions and vocations. This is one of the Committee's omnibus bills. (Amends sections 8741, 8762 and 8773 of the LS Act.) This bill, among other things, revises the exemption from the taking of the LSIT to civil engineers licensed prior to January 1, 1982. It also expands the definition of "establish" when filing a record of survey to include "location, relocation, reestablishment or retracement."  
STATUS: Amended 7/2/12. Passed SEN and ASM Committees – to be heard on Assembly Floor.  
BOARD POSITION: Support

**Board for Professional Engineers and Land Surveyors**  
**Bill Analysis**  
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**BILL:** AB 1588

**AUTHOR:** Atkins

**TOPIC:** Professions and vocations: reservist licensees

**DATE OF INTRODUCTION:** 2/6/12

**MOST RECENT VERSION:** 6/25/12

**ANALYSIS DATE:** 8/14/12

**BILL'S LEGISLATIVE HISTORY:** Passed Assembly and Senate Committees. To be heard on Senate Floor.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Support

**SUMMARY:**

This bill would require the boards within the Department of Consumer Affairs to waive the renewal fees and continuing education requirements, if either is applicable, of any licensee who is a reservist called to active duty as a member of the United States Military Reserve or the California National Guard if certain requirements are met.

**COMMENT:**

This bill would only affect renewal fees for this Board since continuing education is not required for any of our licensees. This bill should not have a significant impact on the Board even though the number of licensees that would benefit from this bill is unknown. (The Board does not track military status of our licensees.)

**Board for Professional Engineers and Land Surveyors**  
**Bill Analysis**  
**2012 Legislative Session**

**BILL: AB 1750**

**AUTHOR: Solorio**

**TOPIC:** Rainwater Capture Act of 2012

**DATE OF INTRODUCTION:** 2/17/12

**MOST RECENT VERSION:** 8/7/12

**ANALYSIS DATE:** 8/13/12

**BILL'S LEGISLATIVE HISTORY:** Passed Assembly and Senate Committees. To be heard on Senate Floor.

**RECOMMENDED POSITION:** Watch

**BOARD POSITION:** Watch

**SUMMARY:**

This bill would enact the Rainwater Capture Act of 2012, which would authorize residential, commercial, and governmental landowners to install, maintain, and operate rain barrel systems, as defined, and rainwater capture systems, as defined, as specified, if certain requirements are met. This bill would authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is used for landscape irrigation or as a water supply for a fountain, pond, or similar decorative water feature in a landscaping project.

The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

**COMMENT:**

This bill states that the Rainwater Capture Act shall not authorize a landscape contractor to engage in or perform activities that require a license pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700)). Since this language is included in this bill I do not think that the Board needs to be involved in or take a position on this issue.

**HISTORY:** This bill is very similar to last year's AB 275 (Solorio, 2011) which was vetoed by the Governor. The Board supported AB 275 once the bill was amended to include language stating that the bill did not authorize a landscape contractor to perform activities that require a professional engineer's license. The Governor's veto message stated that, "This measure seeks to adopt an interim standard for rainwater capture outside the established Building Standards Commission process. Without some urgency or a more compelling reason, I think it is better to stick with the process and follow existing California law."

**Board for Professional Engineers and Land Surveyors  
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**BILL: AB 1904**

**AUTHOR: Block**

**TOPIC:** Professions and vocations: military spouses: expedited licensure

**DATE OF INTRODUCTION:** 2/22/12

**MOST RECENT VERSION:** 6/12/12

**ANALYSIS DATE:** 8/13/12

**BILL'S LEGISLATIVE HISTORY:** Passed Assembly and Senate Committees. To be heard on Senate Floor.

**RECOMMENDED POSITION:** Watch

**BOARD POSITION:** Watch

**SUMMARY:**

This bill would require a board within the Department of Consumer Affairs to expedite the license process for an applicant who holds a license in the same profession or vocation in another jurisdiction, and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States assigned to duty in California under official active military orders.

**COMMENT:**

A board within the Department shall expedite the licensure process for an applicant who meets both of the following requirements:

- 1.) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.
- 2.) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a license from the board.

This bill is an effort to support and improve the lives of military families, more specifically, help military spouses, who frequently move across state lines. One of the requirements of this bill is that the person to be issued a license must hold a current license in another state.

The Board can only do so much to expedite our license process. The people to be licensed through comity no longer have to go to the Board for approval so they can be approved in an expeditious manner. Those people in the disciplines of civil, structural and geotechnical would have to wait to sit for the next regularly scheduled California exam. Since they would not be required to take a national exam the final filing could be extended.

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**BILL: AB 2570**

**AUTHOR: Hill**

**TOPIC:** Licensee Settlement Agreements

**DATE OF INTRODUCTION:** 2/24/12

**MOST RECENT VERSION:** 8/06/12

**ANALYSIS DATE:** 8/14/12

**BILL'S LEGISLATIVE HISTORY:** Passed out of the Assembly and Senate Committees. To be heard on Senate Floor.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Support

**SUMMARY:**

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs (DCA) from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the Department, board, bureau or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program. This bill also provides that any board, bureau, or program within DCA that takes disciplinary action against a licensee based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee to pay any additional sums to the benefit of any plaintiff in the civil action.

**COMMENT:**

According to the Author, (also the sponsor), the purpose of the bill is that regulatory gag clauses inhibit the ability of regulatory agencies to perform their oversight function. DCA boards cannot adequately protect consumers from unscrupulous and unqualified individuals if they are unable to communicate with individuals filing complaints or who have been victimized. And furthermore, pressuring aggrieved consumers and injured parties into agreeing to such clauses enables potentially dangerous licensees to continue operating.

Existing law prohibits a physician or surgeon from including, or permitting to be included, a provision within a civil settlement prohibiting another party to the dispute from contacting, cooperating, filing a complaint, or requiring the withdrawal of a complaint with the Medical Board.

There have been numerous bills in previous legislative sessions dealing with this issue. The bills have either not made it out of Committee or have been vetoed by the Governor. The veto message from 2005 stated: "I vetoed a similar bill last year because of the negative effect it would have had on the California economy. This bill further erodes the ability to do business in California by creating more uncertainty regarding litigation by prohibiting any licensee or professional overseen by the Department of Consumer Affairs from including in a civil settlement agreement a provision that prohibits the other party from contacting or filing a

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complaint with the regulatory agency. When parties who are in dispute agree to settle, there should be some assurances that the dispute has been resolved in a satisfactory and final manner for both parties.”

**Board for Professional Engineers and Land Surveyors**  
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**BILL: SB 975**

**AUTHOR: Wright**

**TOPIC:** Professions and vocations: regulatory authority

**DATE OF INTRODUCTION:** 1/19/12

**MOST RECENT VERSION:** 6/27/12

**ANALYSIS DATE:** 8/15/12

**BILL'S LEGISLATIVE HISTORY:** Passed out of the Senate and Assembly Committees. Scheduled to be heard on Assembly Floor.

**RECOMMENDED POSITION:** Watch

**BOARD POSITION:** Watch

**SUMMARY:**

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, and commissions within the Department of Consumer Affairs. This bill would provide that the California Architects Board and the Board for Professional Engineers, Land Surveyors, and Geologists have the sole and exclusive authority to license and regulate the practice of professions and vocations regulated by those boards pursuant to provisions of the code and that no licensing requirements, as specified, shall be imposed upon a person licensed to practice one of those professions or vocations other than under that code or by regulation promulgated by the applicable board through its authority granted under that code.

For purposes of this section, "licensing requirements" include, but are not limited to:

- Additional training or certification requirements to practice within the licensed scope of practice.
- Continuing education requirements for renewal or continuation of licensure.
- Any additional requirements beyond those provided in this code or pursuant to a board's regulations.

SB 975 originally included all boards, bureaus, and commissions of DCA but was amended to only affect California Architects Board and the Board for Professional Engineers, Land Surveyors, and Geologists.

**COMMENT:**

This bill is a follow-up to last year's AB 1210 (Garrick), which was vetoed by the Governor. AB 1210 stated that a licensed civil engineer shall not be required to satisfy any additional experience, training, or certification requirements in order to perform activities in the preparation of storm water pollution prevention plans (SWPPP).

This bill, as was AB 1210, is being sponsored by American Council of Engineering Companies (ACEC - CA).

The Governor's veto message for AB 1210 –

This bill would exempt license civil engineers from training requirements related to the preparation of Storm Water Pollution Prevention Plans.

Many of these storm plans are found to be deficient and those preparing them need a much better understanding of the necessary elements of a solid plan. It is not feasible to inspect

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every plan or every construction site but it is essential to have some process in place to ensure compliance in preparing complete and sound storm water plans.

The current process depends on a training education program for all professionals who prepare storm plans – engineers, geologists, hydrologists, and land scape architects. This bill, a piecemeal approach, exempts only one profession, the civil engineers. A more comprehensive solution would be better.

I am directing the State Water Board to review the entire program and evaluate compliance alternatives that are more efficient and workable for all professionals.

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**BILL:** SB 1576

**AUTHOR:** B,P&ED Committee

**TOPIC:** Professions and vocations

**DATE OF INTRODUCTION:** 3/12/12

**MOST RECENT VERSION:** 7/2/12

**ANALYSIS DATE:** 8/15/12

**BILL'S LEGISLATIVE HISTORY:** Passed out of Senate and Assembly Committees. To be heard on Assembly Floor.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Support

**SUMMARY:** This bill is the "omnibus bill" for the Senate Committee on Business, Professions and Economic Development. Among other things, this bill makes the following changes to the Land Surveyors' Act:

1. Revises the exemption from taking the first part of the land surveyor examination (the land surveyor-in-training examination – LSIT) to only those applicants who are registered by the Board as a California civil engineer (section 8741).
2. Corrects outdated references to correctly refer to the "Manual of Surveying Instructions (2009) published by the federal Bureau of Land Management (sections 8741 and 8762).
3. Clarifies the requirement for a land surveyor to file a record of survey by expanding the definition of "establish" to include "location, relocation, reestablishment or retracement" (section 8773).

**COMMENT:** The above amendments to this bill were submitted by the California Land Surveyors Association (CLSA). CLSA stated that in 1979, when the existing exemptions were placed in the LS Act (section 8741), the education curriculum requirements for engineers generally included courses that taught a fundamental knowledge of surveying, mathematics, and basic science. At that time, it was justified to exclude an engineer with a postsecondary degree from the first division (LSIT) of the land surveyor's examination because it was assumed that they were being adequately taught and tested in those areas. In recent years the courses required and taught to engineering students (other than civil engineering) generally do not include courses in surveying.

According to CLSA current law refers to an outdated document published by the Bureau of Land Management (BLM) and that the language in this bill corrects the reference.

CLSA also states that the word "establishment" creates confusion for land surveyors because of multiple interpretations of the word. This bill clarifies the section of law that includes the criteria for the requirement to file a record of survey by expanding the definition of "establishment" to include the terms "location, relocation, reestablishment or retracement."

## FY 2011-12 Strategic Action Plan Tasks Completed

In FY 2011-12 the Board completed numerous Strategic Action Plan tasks. These tasks are a part of the objectives that make up our Strategic Goals. The table below identifies those tasks that were completed last FY:

<p><b><u>Goal 1: Protect Consumers</u></b></p> <p><b>Objective 1.1 - Reduce enforcement case aging</b></p> <ul style="list-style-type: none"> <li>- Focus on Citation Process Improvement</li> <li>- Increase staff via BCP</li> <li>- Submit BCP for Geologist Registrar</li> </ul> <p><b>Objective 1.4 - Improve Board's Web site</b></p> <ul style="list-style-type: none"> <li>- Develop online address changes</li> </ul>	<p><b><u>Goal 3: Increase Licensure</u></b></p> <p><b>Objective 3.2 - Convert State exams to CBT</b></p> <ul style="list-style-type: none"> <li>- Exams scheduled October 2012</li> </ul> <p><b>Objective 3.5 - Protect the validity &amp; security of exams</b></p> <ul style="list-style-type: none"> <li>- Monitor exam sites &amp; begin CBT administration</li> <li>- Engage NCEES in admin. of national exams</li> </ul> <p><b>Objective 3.8 - Pursue NCEES &amp; ASBOG for exam administration</b></p> <ul style="list-style-type: none"> <li>- Begin NCEES administration 2012/13</li> </ul> <p><b>Objective 3.9 - Participate in NCEES &amp; ASBOG meetings</b></p> <ul style="list-style-type: none"> <li>- Pending OST Travel; attended annual meeting</li> </ul>
<p><b><u>Goal 2: Promote clear Laws and Regulations</u></b></p> <p><b>Objective 2.2 - Seek fingerprint authority</b></p> <ul style="list-style-type: none"> <li>- Received fingerprint authority via legislation</li> <li>- Submit BCP to hire fingerprint staff</li> </ul> <p><b>Objective 2.3 - Restructure exam &amp; application fees</b></p> <ul style="list-style-type: none"> <li>- Approved fees for PELS and GEO programs</li> <li>- Publicize fee structure once approved</li> </ul> <p><b>Objective 2.5 - Review penalties for unlicensed activity</b></p> <ul style="list-style-type: none"> <li>- Review completed, language effects max fine</li> </ul> <p><b>Objective 2.7 - Eliminate B&amp;P Section 6760</b></p> <ul style="list-style-type: none"> <li>- Temporary authorization to practice engineering</li> <li>- Staff seeking Legislation</li> </ul> <p><b>Objective 2.8 - Eliminate appeals of national exams</b></p> <ul style="list-style-type: none"> <li>- Effective June 18, 2012</li> </ul> <p><b>Objective 2.9 - Review Regs for GIT certification</b></p> <ul style="list-style-type: none"> <li>- Qualification requirements added to statutes</li> </ul>	<p><b><u>Goal 4: Pursue resources to meet Mission &amp; Vision</u></b></p> <p><b>Objective 4.1 - Retain Quality Executive Officer</b></p> <ul style="list-style-type: none"> <li>- Hired July 1, 2011</li> </ul> <p><b>Objective 4.2 - Pursue OST for NCEES &amp; ASBOG meetings</b></p> <ul style="list-style-type: none"> <li>- Justifications submitted</li> <li>- Submitted to Agency &amp; denied at Governor's Office</li> </ul> <p><b>Objective 4.4 - Pursue funding &amp; hiring freeze exemptions</b></p> <ul style="list-style-type: none"> <li>- Seek hiring freeze exemptions - freeze lifted</li> <li>- BCP to hire fingerprint staff approved</li> </ul>

## FY 2012-13 Strategic Action Plan Goals

In FY 2012-13 the Board is striving to complete several Strategic Action Plan objectives. The objectives are a part of the goals that make up our Strategic Plan. The table below identifies the objectives that will be completed this FY:

<b>Goal</b>	<b>Completed</b>	<b>In Progress</b>	<b>Remaining</b>
<b>Goal 1-Protect Consumers</b>	<b>29%</b>	<b>27%</b>	<b>44%</b>
1.1-Reduce enforcement aging	75%	13%	13%
1.2-Expand enforcement outreach	13%	40%	47%
1.3-Discourage unlicensed activity	0%	33%	67%
1.4-Improve Board web site	89%	11%	0%
1.5-Accessible Web information	10%	25%	65%
1.6-Reduce enforcement case backlogs	50%	25%	25%
1.7-Encourage DCA license lookup on Web	10%	25%	65%
1.8-Participate in Breeze conversion	10%	25%	65%
1.9-Publish enforcement action on Web	0%	50%	50%
<b>Goal 2-Promote practical Laws &amp; Regulations</b>	<b>63%</b>	<b>21%</b>	<b>16%</b>
2.1-Evaluate Laws & Regulations	50%	50%	0%
2.2-Seek fingerprinting authority	50%	13%	38%
2.3-Restructure Exam and Application fees	Completed FY 11/12		
2.4-Review delinquent reinstatement requirements	25%	50%	25%
2.5-Review penalties for unlicensed activity	Completed FY 11/12		
2.6-Require Certificates of Authority for Businesses	0%	50%	50%
2.7-Eliminate B&P code 6760	Completed FY 11/12		
2.8-Amend Appeals of Nat'l Exams	Completed FY 11/12		
2.9-Review GIT certification	Completed FY 11/12		
2.10-Review statutes & regulations for consistency	0%	50%	50%
<b>Goal 3-Increase Licensure</b>	<b>35%</b>	<b>33%</b>	<b>31%</b>
3.1-Participate in Nat'l exams	18%	44%	39%
3.2-Convert to CBT testing	Completed FY 11/12		
3.3-Expedite Application review	0%	38%	63%
3.4-Recruit and develop exams	25%	50%	25%
3.5-Sustain exam security	70%	25%	5%
3.6-Accept Credit Card payments	10%	25%	65%
3.7-Participate in ABET	20%	50%	30%
3.8-Pursue NCEES & ASBOG administration	50%	25%	25%
3.9-Attend NCEES & ASBOG meetings	Completed FY 11/12		
<b>Goal 4-Cultivate the Board's Mission &amp; Vision</b>	<b>39%</b>	<b>22%</b>	<b>39%</b>
4.1-Retain Executive Officer	Completed FY 11/12		
4.2-Pursue funding for travel	67%	17%	17%
4.3-Implement Career Succession Plan	0%	50%	50%
4.4-Fill staffing shortages	67%	17%	17%
4.5-Pursue limited-term positions	0%	0%	100%
4.6-Hire a Staff Geologist	0%	50%	50%
<b>Goal 5-Outreach</b>	<b>13%</b>	<b>20%</b>	<b>67%</b>
5.1-Expand enforcement outreach	10%	25%	65%
5.2-Obtain OST travel approval	10%	25%	65%
5.3-Expand licensure outreach	0%	20%	80%
5.4-Develop Board publications	17%	8%	75%
5.5-Attend Nat'l Meetings	33%	33%	34%
5.6-Develop Economic Newsletter	17%	8%	75%
5.7-Research emerging technologies	4%	23%	73%

VIII.

**ENFORCEMENT**

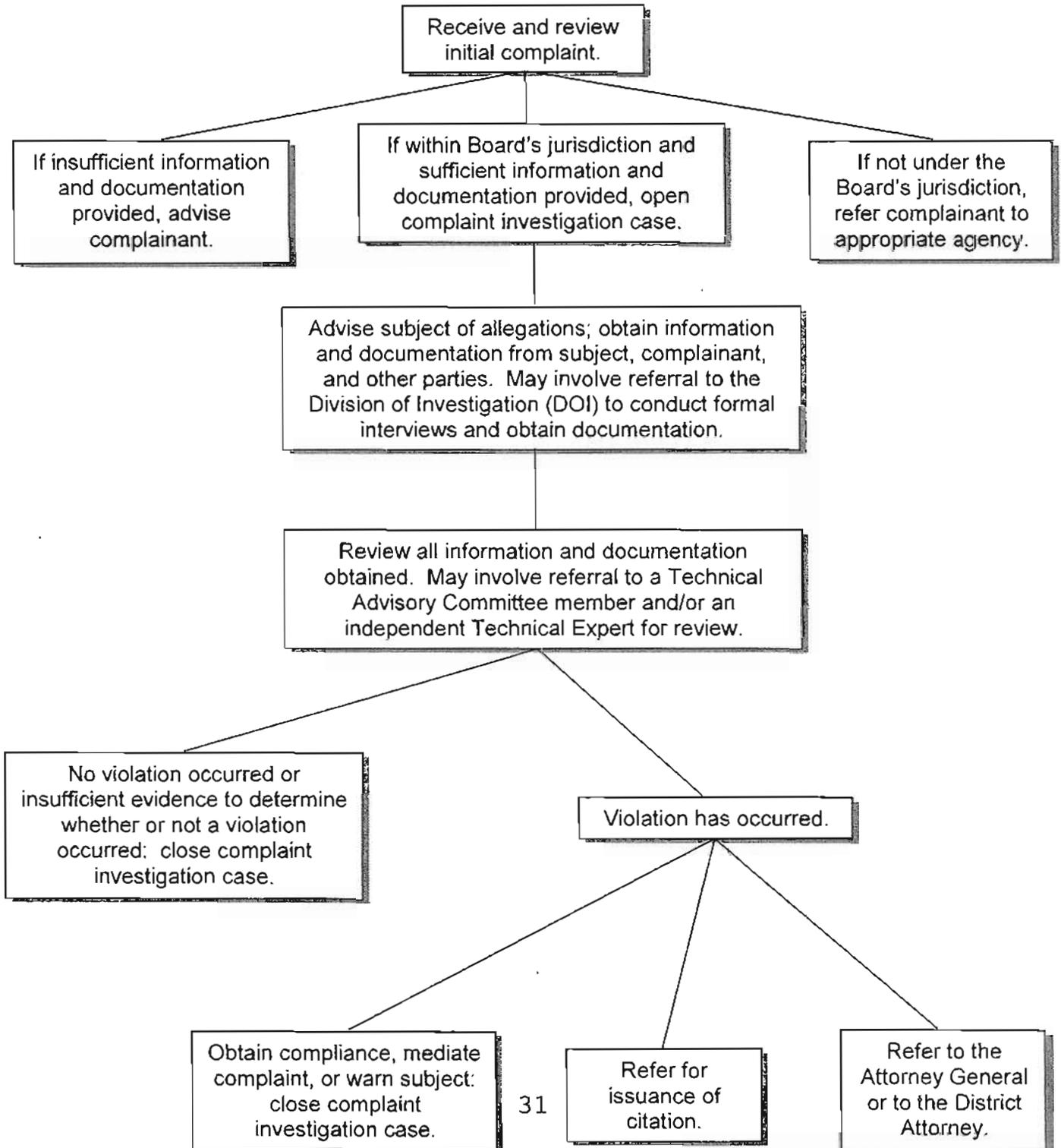
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- A. Enforcement Statistical Reports
- B. Presentation on the Complaint Investigation Process

# CALIFORNIA BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

## GENERAL OVERVIEW OF THE COMPLAINT INVESTIGATION PROCESS

This flow chart provides a general overview of the complaint investigation process. However, each complaint investigation case is handled on an individual basis and may not go through all of the steps or may not go through the steps in the order shown.



IX. **EXAMS/LICENSING**



A. October 2012 Examination Update

X. **OUTREACH**

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- A. Request for Articles for the Summer Bulletin
- B. Outreach efforts – Status on Social Media and College/University Programs

XI. APPROVAL OF DELINQUENT REINSTATEMENTS



## APPROVAL OF DELINQUENT REINSTATEMENTS

**Motion: Approve the following 3 and 5-year delinquent reinstatement applications.**

### CIVIL

**BEVAN, TIMOTHY A.**

Reinstate applicant's civil license once he/she takes and passes the California Seismic Principles and Engineering Surveying examinations.

**HARTOG, CURTIS L.**

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**TAYLOR, MARK F.**

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**ZUCCA, MATTHEW P.**

Reinstate applicant's civil license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

### ELECTRICAL

**SUMARSONO, ROY R.**

Reinstate applicant's electrical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

### MECHANICAL

**BARLOW, STEVEN J.**

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**CHISTI, ISHTIAQ A.**

Reinstate applicant's mechanical license once he/she takes and passes the NCEES Principles and Practices of Engineering Exam in Mechanical Engineering, once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**SOO HOO, KEN K.H.**

Reinstate applicant's mechanical license once he/she takes and passes the NCEES Principles and Practices of Engineering Exam in Mechanical Engineering, once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

XII.

**CONSIDERATION OF RULEMAKING PROPOSALS**

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- A. Request for Reconsideration of Denial of Request for Regulatory Action pursuant to Government Code section 11340.6 – Request to Amend Title 16, California Code of Regulations (CCR) section 424 (Experience Requirements – Professional Engineers)
- B. Geologists and Geophysicists TAC recommendation to amend 16 CCR 3003 (b) and (e) (definitions)

**Request for Reconsideration of Denial of  
Request for Regulatory Action Pursuant to  
Government Code Section 11340.6 – Request to Amend  
Title 16, California Code Of Regulations Section 424  
(Experience Requirements – Professional Engineers)**

At its June 28, 2012, meeting the Board considered a request, pursuant to Government Code section 11340.6, from William D. Johns that the Board pursue regulatory action to amend Title 16, California Code of Regulations section 424 (also referred to as Board Rule 424) relating to the education and experience requirements that an applicant for licensure as a professional engineer must meet. The Board voted to deny Mr. Johns' request. In response to the notification that his request was denied, Mr. Johns submitted a follow-up letter and email message requesting that the Board reconsider its denial of his original request.

Included for review and consideration by the Board are the following documents:

1. Letter, dated July 10, 2012, from William Johns, with Attachments A and B
2. Letter, dated August 10, 2012, to Mr. Johns from Nancy A. Eissler, the Board's Enforcement Program Manager
3. Email message, dated August 17, 2012, from William Johns
4. Documents from the June 28, 2012, Board meeting agenda packet relating to Mr. Johns' original request

Pursuant to Government Code section 11340.6, any member of the public may request that the Board pursue regulatory action to adopt, amend, or appeal a regulation. Upon receipt of such a request, the Board must decide whether it wishes to grant or deny the request. If the Board chooses to grant the request, then Board staff would proceed with the rulemaking process in the same manner as with any other rulemaking/regulatory proposal – the proposed language would be noticed for a public comment period; a public hearing would be held if requested; and any comments received would be considered before the Board adopted the final language and submitted the final proposal to the Department of Consumer Affairs and the Office of Administrative Law for approval.

**BOARD OPTIONS:**

1. GRANT the reconsideration request and the original request and direct Board staff to begin the rulemaking process to amend Board Rule 424 as requested.
2. DENY the request(s).

1135 Termino Avenue, #8, Long Beach, CA 90804

July 10, 2012

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Nancy A. Eissler, Enforcement Program Manager  
Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833-2944

Dear Ms. Eissler,

This is to confirm receipt of, and is in response to, your correspondence of July 3, 2012, regarding my request for regulatory action and advising me of the Board's decision to deny my request.

Permit me to direct your attention to Section 11340.7 of the California Government Code, which states in part (emphasis added):

(a) Upon receipt of a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346), a state agency shall notify the petitioner in writing of the receipt and shall within 30 days deny the petition *indicating why the agency has reached its decision on the merits of the petition in writing* or schedule the matter for public hearing in accordance with the notice and hearing requirements of that article.

Your letter (Attachment A) provides no reason(s) to explain the Board's decision regarding the merits of my request, only the result of the vote.

Referring again to the aforementioned statute:

(c) Any interested person may request a reconsideration of any part or all of a decision of any agency on any petition submitted. The request shall be submitted in accordance with Section 11340.6 and include the reason or reasons why an agency should reconsider its previous decision no later than 60 days after the date of the decision involved. The agency's reconsideration of any matter relating to a petition shall be subject to subdivision (a).

I hereby request a reconsideration of the Board's decision for the reasons to follow:

#### SUBSTANCE OR NATURE OF THE AMENDMENT REQUESTED

This request applies to 16 CCR §424(b). The portion of that paragraph to which this request specifically applies currently reads as follows:

“The additional actual work experience required to meet the six (6) years of experience requirement shall have been gained after graduation, except for cooperative work study experience and post-graduate education.”

I respectfully request that you reconsider amending this regulation to use the following statement or wording substantially similar thereto:

“The additional actual work experience required to meet the six (6) years of experience requirement shall ~~have been gained after graduation~~ not have been gained concurrently with credit claimed for education, except for cooperative work study experience and post-graduate education.”

#### REASONS FOR THE REQUEST FOR RECONSIDERATION

Let us consider the hypothetical case of an applicant who completes 5 years 11 months of work experience without the benefit of an engineering degree, then quits his or her job to go to school, completes an ABET-accredited undergraduate degree in engineering, and applies to take the PE exam based on the previously completed work experience and the 4-year credit for the degree guaranteed by §6753(a) of the Professional Engineers Act, for a total of 9 years 11 months experience. We'll assume the EIT requirement has been satisfied. The way Board Rule 424 is currently written requires the Engineering Registrars to disregard the nearly six years of prior work experience in their entirety because they did not occur after graduation and for no other reason, resulting in only the 4-year credit for the degree being considered.

The above scenario only makes sense if the Board wishes to take the position that absent an engineering degree, an applicant is not a qualified engineer, thus any work experience completed prior to being awarded an engineering degree does not qualify. This, however, is not the case. Referring to an email from Mr. Donelson, one of your Registrars (Attachment B), no educational credit is required to qualify to take the PE exam. In fact, neither the Professional Engineers Act, nor the Board Rules require any specific minimum educational achievement to qualify. Mr. Donelson confirmed that work experience alone would be sufficient. Therefore the Board is not taking the position that an engineering degree is required for work experience to qualify for credit.

In the above scenario, one additional month of work experience would qualify the applicant to take the PE exam, but the completion of the 4-year degree instead negates the same experience because of Board Rule 424, requiring the applicant to complete two additional years of work after graduation for a total of nearly eight years of work plus a four year degree by the time the Board approves him/her.

If an applicant completes and provides documentation of a certain period of work experience, whether the applicant then chooses to continue working, or chooses to pursue an engineering degree, why should that subsequent choice have any effect on the validity of the work experience previously completed? For the Board to consider the same period of work experience as qualifying in one case (no engineering degree), but not qualifying in another (an engineering degree completed after the fact), is the very definition of a double standard.

My request for regulatory action seeks to eliminate this double standard inherent in Board Rule 424. The request preserves the current prohibition against double counting work and educational experience gained simultaneously and only seeks to establish that it should not matter in what order an applicant completes the six years required by the Professional Engineers Act, only that six years are actually completed. In short, my request only seeks some consistency between Board Rule 424 and the commutative property of addition as it applies to months of experience gained and documented.

As stated in my previous letter, the regulation as currently phrased is unfair and compromises its intended purpose and I hereby request that the Board reconsider its position regarding my request for regulatory action and approve this change to eliminate the current double standard.

#### AUTHORITY TO TAKE REQUESTED ACTION

The necessary and sufficient authority to take the requested action is granted to the Board in Section 6716(a) of the Business and Professions Code, which states in pertinent part:

"The board may adopt rules and regulations consistent with law and necessary to govern its action."

Respectfully Submitted,



William D. Johns

Attachments:

A – Nancy A. Eissler, letter of July 3, 2012, "RE: Request for Regulatory Action"

B – Mike Donelson, email of April 24, 2012, "PE Exam Eligibility // laws and rules question"



## BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.pels.ca.gov &amp; www.geology.ca.gov



July 3, 2012

William D. Johns  
1135 Termino Avenue, #8  
Long Beach, CA 90804

RE: Request for Regulatory Action

Dear Mr. Johns:

The letter is regarding your request, pursuant to Section 11340.6 of the Government Code, that the Board for Professional Engineers, Land Surveyors, and Geologists amend Title 16, California Code of Regulations section 424.

Your request was considered by the Board at its meeting on June 28, 2012. The Board voted to deny your request. Therefore, it will not be pursuing amendments to 16 CCR §424.

Sincerely,

A handwritten signature in cursive script that reads "Nancy A. Eissler".

NANCY A. EISSLER  
Enforcement Program Manager



Bill Johns <wdjohns@wdjohns.com>

**PE Exam Eligibility // laws and rules question**

Donelson, Mike@DCA <Mike.Donelson@dca.ca.gov>  
To: Bill Johns <bill@wdjohns.com>

Tue, Apr 24, 2012 at 9:13 AM

Bill,

The board rules and laws for educational credit are very specific concerning graduation date. You can qualify with 6 years of actual work experience with no educational credit.

I have provided our flow charts from our website:

Do I Qualify to Apply for the Professional Engineering Examination?

[http://www.pels.ca.gov/applicants/flowchart\\_for\\_pe.pdf](http://www.pels.ca.gov/applicants/flowchart_for_pe.pdf)

-----  
Mike Donelson, P.E.  
Senior Registrar  
Board for Professional Engineers, Land Surveyors and Geologist  
2535 Capitol Oaks Drive Suite 300  
Sacramento, CA 95833  
(916) 572-PELS [7357]  
1-866-780-5370--Toll Free, press 0 and ask for Mike  
e-mail address: Mike\_Donelson@dca.ca.gov



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## BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

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August 10, 2012

William D. Johns  
1135 Termino Avenue, #8  
Long Beach, CA 90804

RE: Request for Regulatory Action

Dear Mr. Johns:

The letter is in response to your letter, dated July 10, 2012, regarding your request, pursuant to Section 11340.6 of the Government Code, that the Board for Professional Engineers, Land Surveyors, and Geologists amend Title 16, California Code of Regulations section 424. You request clarification as to why the Board voted to deny your request and also requested that the Board reconsideration its decision.

The Board denied your request because it believes that if an applicant uses education as part of his qualifying experience for licensure, then the education should be obtained prior to the work experience since it provides a progression of experience towards responsible charge level work.

Your request that the Board reconsidered its decision will be included on the agenda for the Board meeting scheduled to be held on August 30, 2012, in Sacramento, California. The agenda for this meeting will be posted on the Board's website at <http://www.bpelsg.ca.gov> at least 10 days prior to the meeting date.

Sincerely,

A handwritten signature in cursive script that reads "Nancy A. Eissler".

NANCY A. EISSLER  
Enforcement Program Manager

**Eissler, Nancy@DCA**

---

**From:** [REDACTED] on behalf of Bill Johns <[REDACTED]>  
**Sent:** Friday, August 17, 2012 9:42 AM  
**To:** Eissler, Nancy@DCA  
**Subject:** Response to your August 10 letter

Dear Ms. Eissler,

I am in receipt of your letter of August 10, 2012, responsive to my request of July 10, 2012, requesting the reason(s) for which my request for regulatory action was denied and requesting reconsideration thereof.

You informed me that "The Board denied [my] request because it believes that if an applicant uses education as part of his qualifying experience for licensure, then the education should be obtained prior to the work experience since it provides a progression of experience towards responsible charge level work." You further informed me that my request for reconsideration would be included on the agenda for the Board's August 30, 2012, meeting. As I will be unable to attend the meeting in person and as the meeting materials will no doubt be prepared shortly, I respectfully submit this response to your letter and request that it be forwarded to the Board members for their consideration at the August 30 meeting.

I am in complete agreement that an applicant's total experience and qualifications should evidence an ability to assume responsible charge level work. The State of California has defined for us exactly what that means in Section 6751(b) of the Professional Engineers Act: "The applicant for registration as a professional engineer shall comply with all of the following: (1) Not have committed acts or crimes constituting grounds for denial of registration under Section 480; (2) Furnish evidence of six years or more of qualifying experience in engineering work satisfactory to the board evidencing that the applicant is competent to practice the character of engineering in the branch for which he or she is applying for registration, and successfully pass the second division of the examination; (3) The applicant for the second division of the examination shall successfully pass the first division examination or shall be exempt therefrom."

At issue here is Board Rule 424(b), which states: "An applicant for licensure as a professional engineer shall be granted credit towards the experience requirement, as stated in subdivision (a), for the following education curriculum..." and later, "[t]he additional actual work experience required to meet the six (6) years of experience requirement shall have been gained after graduation, except for cooperative work study experience and post-graduate education." Also of interest to this discussion is subdivision (c) of the same Rule, which states: "[q]ualifying experience is that experience satisfactory to the Board which has been gained while performing engineering tasks under the responsible charge of a person legally qualified to practice in an applicant's branch of engineering."

Between the Professional Engineers Act and the Board's prevailing opinion, both the quantity and quality of an applicant's experience are plainly relevant. The Professional Engineers Act only specifically references the quantity of that experience and that such experience must be "satisfactory to the board." If we consider the Engagement Record and Reference Forms to be submitted with the application for the second division examination, we see that in addition to the simple question of whether or not the reference believes the

applicant to be "technically qualified to be licensed as a Professional Engineer," the form also specifically requires the reference to identify whether the applicant has the appropriate experience in the areas of technical competency, engineering judgment, professional integrity/ethics, project communications, independent decision making, coordination of project support staff, code/regulatory knowledge, and responsible charge capability. Thus, the Engagement Record and Reference Forms exist explicitly for the purpose of defining whether or not the applicant is prepared for responsible charge level work, as well as for verifying the quantity of experience claimed. If one or more licensed Professional Engineers verify all of an applicant's experience and qualifications with an affirmative recommendation, would the Board consider this to be satisfactory evidence? If so, then an applicant's experience both before and after that period of employment are irrelevant; if not, where and how are the references from licensed Professional Engineers deficient? At face value, and as confirmed by one of the Engineering Registrars, such work experience evaluated by itself would be accepted without question. The problem arises when education is included with the application.

Paraphrasing Section 6753 of the Professional Engineers Act and considering what constitutes an "approved" engineering curriculum, several options are available for educational credit. The board "shall give" four (4) years credit for an ABET-accredited undergraduate degree in engineering and "may at its discretion give" a maximum of two (2) years for a non-ABET-accredited undergraduate degree or for an ABET-accredited engineering technology degree; up to one-half (0.5) year for each year of undergraduate study without graduation with a degree; up to five (5) years for a graduate degree where the program (undergraduate or graduate) is ABET-accredited; and up to one (1) year for engineering teaching, in all cases with a maximum limit of five (5) years of credit awarded.

The typical engineer graduates from high school, goes to college, completes a degree, then gets an engineering job accumulating engineering work experience, and may or may not have worked while going to school, for example at an internship, part- or full-time job, etc. Where Board Rule 424(b) currently states "shall have been gained after graduation," giving exceptions for work study and post-graduate education, it seems self-evident that the intent of the original drafters of this Rule was to prevent the typical engineer from double counting any work experience gained simultaneously while going to school. I am petitioning for it to be changed to "shall not have been gained concurrently with credit claimed for education," preserving this intent and leaving the remainder of the Rule intact. I am seeking this regulatory action because I believe the Rule in question and the ensuing interpretation thereof to be deficient for several reasons. Please allow me to explain why:

Let us assume that an applicant who has no engineering degree manages to obtain an engineering job, experience at which would generally be considered satisfactory to the Board, and completes several years in this employment under the responsible charge of a licensed Professional Engineer. Suppose this applicant quits his/her job and then goes to school to obtain an engineering degree, but leaves school before a degree is completed. Section 6753 of the Professional Engineers Act entitles him/her to consideration for experience credit, but what about the previously completed, legitimate work experience verified by a licensed Professional Engineer? There was no graduation in this case to mark the point after which work experience must take place as is required by the Rule. Alternatively, the provision for partial credit for education without a degree does not specify that the education must occur prior to any work experience. In either case, the Board must either modify or selectively apply its own Rule in order to disqualify the previously completed work experience because there was no graduation.

In addition, consider the case where, in the same hypothetical, the applicant actually completes an ABET-accredited undergraduate degree in engineering. The work experience completed prior to beginning school in the first place, and which was verified by a licensed Professional Engineer, was valid while working, continued to be valid while going to school, and only became retroactively invalidated at the moment the degree was awarded, regardless of the quality or character of the work previously performed, based solely on how the Rule is written and interpreted and not on the applicant's actual qualifications, experience, or preparedness for responsible charge level work. This was not the intent of the original drafters of this Rule, thus this application of the Rule is not appropriate, as it is effectively punishing the applicant for furthering his/her education.

The Professional Engineers Act only really specifies the quantity of experience necessary to assume responsible charge of engineering work, that being a minimum of six years. The Professional Engineers Act does not address the specifics of an applicant's experience, in what order it was obtained, or whether it demonstrated a progression of increasing responsibility because the application process, specifically the Engagement Record and Reference Forms completed and signed by licensed Professional Engineers and bearing their license number, already satisfies that requirement. Furthermore, Board Rule 424(b) was originally intended for a very specific set of circumstances: an applicant who works while going to school and completes a degree for which educational credit is later claimed is not entitled to 'double dip' and count the same period of time twice, with certain exceptions. The Rule was not intended to be applied to any other circumstances.

Whether an applicant's experience was accomplished as four years of school followed by two years of work, or one year of work followed by school and another year of work, or any other permutation should not matter so long as the experience does not overlap and at least six years are completed as required by the Professional Engineers Act, and the experience is that of an appropriate quality. The Board's interest in a progression of experience is relevant, but this is already addressed by the Engagement Record and Reference Forms enclosed with the second division exam application. To continue the Rule in its current form requires either selectively determining when it applies, or modifying it to suit an opinion that is nowhere stated in either the Professional Engineers Act, or the Board Rules. Retroactively modifying the Rule in this way would be unfair to applicants who have relied on the original language in pursuing registration.

A certain period of engineering employment, evidencing progressive experience and verified by one or more licensed Professional Engineers, should qualify towards the six-year requirement independent of what experience is completed before or subsequent thereto. One of the Fundamental Canons of the ASME Code of Ethics of Engineers states: "Engineers shall continue their professional development throughout their careers and shall provide opportunities for the professional and ethical development of those engineers under their supervision." Continuing education and professional development are mandated by this Canon. The ASME Code of Ethics of Engineers is also explicitly supported by academic honor societies pertaining to engineering, including Pi Tau Sigma and Tau Beta Pi. If an applicant completes legitimate work experience, which itself demonstrates a progression of experience as verified by one or more licensed Professional Engineers, and after the fact elects to continue his/her professional development by obtaining an engineering degree, on what grounds should the Board retroactively disqualify that work experience? A progression of experience has already been demonstrated and appropriately verified, and the applicant has pursued continuing professional development in full accord with the ASME Code of Ethics of Engineers, Pi Tau Sigma, Tau Beta Pi,

and no doubt many others. Documentation is already provided by means of the Engagement Record and Reference Forms. The applicant has, in this case, fully satisfied both the letter and spirit of the law embodied in the Professional Engineers Act.

Board Rule 424(b) should be amended to reflect these facts, to preserve an applicant's completed, legitimate, and verified work experience, and to promote the fair treatment of applicants. I urge the Board to reconsider my petition and to approve this regulatory action.

Respectfully Submitted,

William D. Johns

# Documents from the June 28, 2012, Board Meeting Agenda Packet

## Request for Regulatory Action Pursuant to Government Code Section 11340.6 – Request to Amend Title 16, California Code Of Regulations Section 424 (Experience Requirements – Professional Engineers)

The Board has received a request, pursuant to Government Code section 11340.6, from William D. Johns that the Board pursue regulatory action to amend Title 16, California Code of Regulations section 424 (also referred to as Board Rule 424) relating to the education and experience requirements that an applicant for licensure as a professional engineer must meet. Specifically, Mr. Johns is requesting that the Board amend a portion of subdivision (b) of Board Rule 424. [Note: Mr. Johns refers to it as 424(b)(5); however, the actual paragraph he addresses is not part of subparagraph (5); it is its own paragraph under subdivision (b). Therefore, it will be referred to as 424(b).]

### The current regulation states

The additional actual work experience required to meet the six (6) years of experience requirement shall have been gained after graduation, except for cooperative work study experience and post-graduate education.

### Mr. Johns requests that the regulation be amended as follows

The additional actual work experience required to meet the six (6) years of experience requirement shall have been gained after graduation not have been gained concurrently with credit claimed for education, except for cooperative work study experience and post-graduate education.

Mr. Johns explains the reasons for this request in his letter, dated April 26, 2012, which is included with this report. Also included are subsequent correspondence between Board staff and Mr. Johns regarding the procedures the Board must follow in responding to his request. Furthermore, Board Rule 424 in its entirety is included for reference.

Pursuant to Government Code section 11340.6, any member of the public may request that the Board pursue regulatory action to adopt, amend, or appeal a regulation. Upon receipt of such a request, the Board must decide whether it wishes to grant or deny the request. If the Board chooses to grant the request, then Board staff would proceed with the rulemaking process in the same manner as with any other rulemaking/regulatory proposal – the proposed language would be noticed for a public comment period; a public hearing would be held if requested; and any comments received would be considered before the Board adopted the final language and submitted the final proposal to the Department of Consumer Affairs and the Office of Administrative Law for approval.

### BOARD OPTIONS:

1. GRANT the request and direct Board staff to begin the rulemaking process to amend Board Rule 424 as requested.
2. DENY the request.

1135 Termino Avenue, #8, Long Beach, CA 90804

April 26, 2012

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

RECEIVED APR 30 2012

Mr. Richard B. Moore, P.L.S., Executive Officer  
Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833-2944

Dear Mr. Moore,

Pursuant to Section 11340.6 of the California Government Code, this is to serve as a request for the amendment of a regulation as described below.

SUBSTANCE OR NATURE OF THE AMENDMENT REQUESTED

This request applies to 16 CCR §424(b)(5). The portion of that paragraph to which this request specifically applies currently reads as follows:

"The additional actual work experience required to meet the six (6) years of experience requirement shall have been gained after graduation, except for cooperative work study experience and post-graduate education."

I respectfully request that you consider amending this regulation to use the following statement or wording substantially similar thereto:

"The additional actual work experience required to meet the six (6) years of experience requirement shall ~~have been gained after graduation~~ not have been gained concurrently with credit claimed for education, except for cooperative work study experience and post-graduate education."

REASON FOR THE REQUEST

The subject regulation, together with the exceptions provided, are evidently intended to prevent an applicant from double counting education and work experience gained at the same time. For example, an applicant who works full time for at least two years while pursuing an ABET-accredited undergraduate degree in engineering could otherwise make a claim for two years of work experience and a four year credit for the degree yielding a total of six years claimed, though only four years would have actually been spent.

William D. Johns

April 26, 2011

The way the subject regulation is currently phrased, however, makes it possible – and as experience has begun to show, probable – that an applicant who legitimately earns qualifying work experience following which he or she begins the pursuit an engineering degree for which educational credit is later claimed, could be barred from receiving due credit for the work experience previously completed for no other reason than the fact that it preceded the date on which the qualifying engineering degree was awarded.

The Board's justification for making any such regulation is to serve its own Mission and Vision Statements, namely:

**Mission Statement**

The Mission of Board for Professional Engineers, Land Surveyors, and Geologists is to diligently protect the life, health, property, and welfare of the public. The Board ensures standards for licensure and actively enforces laws and regulations while educating licensees and consumers.

**Vision Statement**

The Board will lead the nation in ensuring that consumers can make informed decisions and have a high degree of confidence in, and access to, competent and ethical professional services provided by our licensees.

The desire to prevent an applicant from double counting experience through mathematical manipulation in order to reduce the number of actual years required to meet the minimum qualification to take the PE exam is perfectly consistent with the Board's Mission and Vision Statements. However, and serving as the sum and substance of this request, to exclude otherwise-qualifying work experience simply because it occurred before the time credited for education, in particular when the two did not overlap, does not serve the Mission and Vision Statements, does not serve to protect the public's interest, and only serves to exclude legitimately qualified and competent engineers from taking the PE exam simply because of the order in which their experience was completed, nevermind that their total experience actually accounted for at least six years as required by the Professional Engineers Act. The regulation as currently phrased is unfair and compromises its intended purpose.

**AUTHORITY TO TAKE REQUESTED ACTION**

The necessary and sufficient authority to take the requested action is granted to the Board in Section 6716(a) of the Business and Professions Code, which states in pertinent part:

"The board may adopt rules and regulations consistent with law and necessary to govern its action."

Respectfully Submitted,



William D. Johns



## BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

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May 29, 2012

William D. Johns  
1135 Termino Avenue, #8  
Long Beach, CA 90804

RE: Request for Regulatory Action

Dear Mr. Johns:

The California Board for Professional Engineers, Land Surveyors, and Geologists is in receipt of your letter, dated April 26, 2012, which was received by the Board on April 30, 2012, in which you requested pursuant to Section 11340.6 of the Government Code that the Board amend Title 16, California Code of Regulations section 424.

Your request will be included as an item for discussion at the Board meeting scheduled to be held on June 28 and 29, 2012, in Sacramento. Your letter will be provided to the Board members for consideration. They will then decide whether or not to grant your request and pursue the amendments through the formal rulemaking process. You will be notified in writing following the meeting what action the Board has taken on your request.

You are welcome to attend the meeting as a member of the public and present your proposal in person, as well as respond to any questions the Board members may have. Please note that your attendance is not mandatory, and the Board will consider your request even if you do not attend the meeting.

If you do wish to attend the meeting, please contact me no later than June 8, 2012, so that we may coordinate the date and time to schedule the discussion of this item in light of your need to travel to Sacramento. You may contact me at (916) 263-2241 or Nancy.Eissler@dca.ca.gov.

Sincerely,

Handwritten signature of Nancy A. Eissler in cursive.

NANCY A. EISSLER  
Enforcement Program Manager

Eissler, Nancy@DCA

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**From:** [REDACTED] on behalf of Bill Johns <[REDACTED]>  
**Sent:** Friday, June 01, 2012 6:58 AM  
**To:** Eissler, Nancy@DCA  
**Cc:** Moore, Ric@DCA  
**Subject:** Request for Regulatory Action

Dear Ms. Eissler,

I am in receipt of your letter dated May 29, 2012, in response to my rule change request dated April 26, 2012.

This rule change request was brought about by the interpretation of the rule in question being currently employed by one of the Engineering Registrars. While I am seeking to modify the rule to encourage an interpretation that I believe makes more sense, my currently pending application to take the PE Exam in October has yet to be reviewed and decided upon. Depending on the order and timing with which my application and this rule change request are evaluated and the results of each, there is a possibility that I may need to make use of the appeals process with respect to my exam application, in which case I intend at that time to make myself available to come to Sacramento on appeal therefor.

Due to a separate trip to Sacramento already being a possibility and in order to minimize any time away from work, I must respectfully decline your invitation to attend the June 28-29th Board meeting in person. I am very happy to make myself available by phone during the meeting should doing so be desired and convenient, but otherwise I believe Mr. Moore is well versed on my position and underlying rationale in the event my letter to be submitted to the Board members does not fully explain the same.

I'm looking forward to hearing what decision is reached as soon as practicable after the Board meeting and welcome any questions you may have.

Sincerely,

Bill Johns

Office: [REDACTED] Work Cell: [REDACTED]  
Personal Cell: [REDACTED]

**Eissler, Nancy@DCA**

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**From:** Eissler, Nancy@DCA  
**Sent:** Friday, June 08, 2012 5:16 PM  
**To:** 'Bill Johns'  
**Cc:** Ric Moore (Ric.Moore@dca.ca.gov)  
**Subject:** RE: Request for Regulatory Action

Dear Mr. Johns:

Thank you for advising us that you will not be attending the meeting of the Board for Professional Engineers, Land Surveyors, and Geologists regarding your request for regulatory action. You will be advised in writing following the meeting of any action taken by the Board on your request. However, based on the statements in your message, it appears that there may be some confusion regarding the regulatory/rulemaking process and the application review and appeal process.

The Board's regulations relating to engineering and surveying are codified in Division 5 of Title 16 of the California Code of Regulations. While the Board does have the authority to adopt, amend, or repeal these regulations, it must do so following the process and procedures described in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code. The rulemaking process takes on average one year from when the Board approves a proposal to be noticed to when the regulatory change takes effect. As such, if the Board were to grant your request to amend the regulations, the rulemaking process would then be started; however, the changes to the regulations would not be effective immediately, and the Board would still have to operate and review and evaluate applications under the regulatory provisions currently in effect.

The review of your application is separate from your request to the Board to change the regulations, and your application must be reviewed and evaluated based on the regulations that are currently in effect. If your application is denied, you will have the right to request a hearing to appeal that denial. Such hearings are referred to as Statements of Issues hearings and are conducted in accordance with Chapters 4, 4.5, and 5 (commencing with Section 11370) of Part 1 of Division 3 of the Government Code. Such appeals are handled by the Office of the Attorney General, and the hearings are conducted by the Office of Administrative Hearings, which has offices in Sacramento, Oakland, Los Angeles, and San Diego so that hearings may be held in locations more convenient to the parties involved. You will be notified in writing of the results of the review and evaluation of your application. If your application is denied, you will be provided with information regarding how to appeal the denial.

Sincerely,

Nancy A. Eissler  
Enforcement Program Manager  
California Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
<http://www.pels.ca.gov>

**424. Experience Requirements – Professional Engineers.**

(a) The engineering branches and title authorities described in Section 404, herein, overlap and some activities are common to two or more engineering branches and title authorities. The minimum number of years of qualifying experience in such overlapping engineering branches and title authorities may be used in securing licensure in any applicable engineering branch or title authority but cannot be used more than once. The only exception to this is experience credit for education. Qualifying education entitles a candidate to experience credit and this experience credit may be used again even though it has already been used to qualify for another examination.

(b) An applicant for licensure as a professional engineer shall be granted credit towards the experience requirement, as stated in subdivision (a), for the following education curriculum:

(1) Four (4) years experience credit for graduation from an approved engineering curriculum.

(2) Two (2) years experience credit for graduation from a non-approved engineering curriculum or from an approved engineering technology curriculum.

(3) Five (5) years of experience credit for graduation from an approved cooperative work-study engineering curriculum.

(4) Five (5) years of experience credit for graduation from an approved post-graduate engineering curriculum.

(5) One-half (1/2) year of education credit for each year of study completed in an approved engineering curriculum that did not result in the awarding of a baccalaureate degree, except that the maximum of such experience shall be two (2) years.

“Life Experience Degrees” are not acceptable and will not be counted towards the education credit.

The additional actual work experience required to meet the six (6) years of experience requirement shall have been gained after graduation, except for cooperative work study experience and post-graduate education.

The sum of qualifying experience credit for education and engineering teaching experience shall not exceed five years.

(c) Qualifying experience is that experience satisfactory to the Board which has been gained while performing engineering tasks under the responsible charge of a person legally qualified to practice in an applicant’s branch of engineering.

(1) For the purposes of this section, “legally qualified” means having an appropriate license as a professional engineer; or by being an employee of the Federal Government; or, except for civil engineers, by virtue of being an employee of a manufacturing, mining, public utility, research and development, or other industrial corporation; or by, except for civil engineers, holding an appropriate license as a contractor.

(2) Qualifying experience shall be computed on an actual time worked basis, but not to exceed forty hours per week.

(3) Applied engineering research is an engineering task for the purposes of determining qualifying experience.

(d) Computation of qualifying experience for licensure as a professional engineer or for authority to use the title “structural engineer” or “geotechnical engineer” shall be to the date of filing of the application; or it shall be to the final filing date announced for the examination if the application is filed within a period of thirty (30) days preceding the final filing date announced for such examination.

## From Geologists and Geophysicists Technical Advisory Committee Meeting on 2/7/12

Discussion and recommendation to change the definition of engineering geology in CCR 3003 (b) to: "Engineering Geology" means the application of geologic data, principles and interpretation so that geologic factors and processes affecting planning, design, construction, maintenance, and vulnerability of civil engineering works are properly recognized and utilized. Definition approved 4-0.

### Second revision

(e) "Professional geophysical work" is work performed at a professional level rather than at a subprofessional or apprentice level and requires the application of scientific knowledge, principles and methods to geophysical problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. The term includes the practice of geophysics for the evaluation and mitigation of earthquake hazards, and environmental and groundwater resource assessment. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision.

"Professional geophysical work" specifically does not include activities wherein the analysis or interpretation of geophysical or geological information is lacking. Such nonprofessional work could encompass party or crew chief and would encompass lesser forms of employment in field parties, the manufacture, assembly or maintenance and repair of geophysical instruments and equipment, computer programming, data processing or retrieval and routine activities normally performed by a technician in acquiring and reporting on geophysical information where the elements of initiative, scientific judgment and decision making are absent. It also does not include those engineering disciplines and other physical sciences wherein geophysical or geological investigation, analysis and interpretation are minimal or lacking.

XIII. **INFORMATION TECHNOLOGY UPDATES**

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A. Request for Change/Online Renewals

XIV.

**ADMINISTRATION**

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- A. FY 2011/12 Budget Overview
- B. FY 2012/12 Budget Introduction
- C. Application Statistics

**FY 2011/12 Budget Overview & FY 2012/13 Introduction:**

The information provided below is a summary of the Engineers and Land Surveyors Board fund and the Geologists & Geophysicists Account. The figures are final for FY 2011-12 revenue and expenditure.

The **Engineers and Land Surveyors (PELS) Fund** as of June 30, 2012 (year-end):

	<b>FY 11/12</b>	<b>FY 10/11</b>
<b>Budget Allotment</b>	\$10.47 Million	\$9.15 Million
<b>Expenditures</b>	\$10.46 Million	\$9.03 Million
<b>Surplus/Deficit</b>	\$11,525	\$123 Thousand
<b>Revenue</b>	\$10.1 Million	\$9.0 Million
<b>Applications</b>	17,632	17,607
<b>Renewals</b>	47,838	46,768

Applications and renewals have increased based on the cyclical nature of the PELS population. Overall, revenue should increase by \$1.3M as a result.

PELS approved budget for FY 2012/13:

	<b>FY 12/13</b>
<b>Budget Allotment</b>	\$9.32 Million

The **Geologist and Geophysicists (GEO) Fund** as of June 30, 2012:

	<b>FY 11/12</b>	<b>FY 10/11</b>
<b>Budget Allotment</b>	\$1.34 Million	\$850 Thousand
<b>Expenditures</b>	\$1 Million	\$791 Thousand
<b>Surplus/Deficit</b>	\$328,679	\$481 Thousand
<b>Revenue</b>	\$987 Thousand	\$1 Million
<b>Applications</b>	411	518
<b>Renewals</b>	3,671	3,738

Applications and renewals have decreased slightly versus last year's figures which will impact revenue as a result. Although there is a decrease, revenue should remain consistent for the Geology and Geophysicists Account as a result of fee changes.

GEO approved budget for FY 2012/13:

	<b>FY 12/13</b>
<b>Budget Allotment</b>	\$1.37 Million

XV. **TECHNICAL ADVISORY COMMITTEES (TACs)**

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- A. Board Assignments to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs
  - 1. Recommendation to Establish a Retired License Status for Geologists and Geophysicists

XVI.

**LIAISON REPORTS**

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- A. ASBOG
- B. ABET
- C. NCEES
- D. Technical and Professional Societies

XVII. **PRESIDENT'S REPORT/BOARD MEMBER ACTIVITIES**

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XVIII. OTHER ITEMS NOT REQUIRING BOARD ACTION

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**XIX. APPROVAL OF CONSENT ITEMS**

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- A. Approval of the Minutes of the June 28, 2012 Board Meeting

**DRAFT**

**MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**

2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
(916) 263-2222

June 28, 2012

**Board Members Present:** Jerry Silva, President; Paul Wilburn, Vice President; Carl Josephson; Mike Modugno; Philip Quartararo; Hong Beom Rhee; Patrick Tami; Michael Trujillo; and Erik Zinn.

**Board Members Absent:** Ray Satorre

**Board Staff Present:** Ric Moore (Executive Officer); Joanne Arnold (Assistant Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); Ray Mathe (Staff Land Surveyor); Susan Christ (Staff Civil Engineer); Patty Smith (Analyst, Geology Program); Larry Kereszt (Enforcement Analyst); Tiffany Criswell (Enforcement Analyst); Linda Brown (Administrative Manager); Jeff Alameida (Budget Analyst) and Gary Duke (Legal Counsel).

**I. Roll Call to Establish a Quorum**

Roll call was taken and a quorum was established.

**II. Public Comment**

**NOTE:** The Board cannot take action on items not on the agenda. The Board will allow for Public Comment on both days, as well as during the discussion of each item on the agenda.

No comments were offered

**XIV. Information Technology Updates**

**A. Request for Change/Online Renewals**

Mr. Donelson discussed the status for the request for change and online renewals. Currently, the Board processes on-line renewals for civil, electrical, mechanical, and land surveyors that meet certain requirements. If they do not meet these requirements, the licensee must go through the traditional method of renewing. To date the board has processed 1,145 on-line renewals. The second phase of adding the additional disciplines has been in discussion with the Office of Information Services (OIS) since May. The process for this involves a request for change which was completed and sent to the Business and Technology Review Committee. When it was reviewed, the Board was instructed to complete a Legacy Hard-Freeze exemption form which is associated with the BreZE

project. Mr. Donelson added that the form is being completed and will be directed to the OIS staff to analyze the cost impact to the BreEZe system. His purpose is to inform the Board of the process as it appears to be more time consuming than anticipated.

## **VII. Executive Officer's Report**

### **A. Legislation**

#### **1. Discussion of Legislation for 2011-2012**

##### **a. Pending Legislation:**

**AB 1588** Atkins. Professions and vocations: reservist licensees: fees and continuing education. This bill would require the boards within Consumer Affairs to waive the renewal fees and continuing education requirements, if applicable, of any licensee who is a reservist called to active duty as a member of the United States Military Reserve or the California National Guard if certain requirements are met.  
**BOARD POSITION:** Support

**AB 1750** Solorio. Rainwater Capture Act of 2012. This bill would authorize residential, commercial, and governmental land owners to install, maintain, and operate rain barrel systems and rainwater capture systems, as defined provided that the systems comply with specified requirements.  
**RECOMMENDED POSITION:** Watch

**MOTION:** Mr. Tami/Mr. Josephson moved to watch.

**VOTE:** 9-0, motion carried.

**AB 1904** Block. Professions and vocations: military spouses: expedited licensure. This bill would require a board within DCA to expedite the license process for an applicant who, holds a license in another jurisdiction, and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States assigned to duty in California.  
**RECOMMENDED POSITION:** Watch

**MOTION:** Mr. Josephson/Mr. Modugno moved to watch.

**VOTE:** 9-0, motion carried.

**AB 2570** Hill. Licensees: settlement agreements. This bill would prohibit a licensee who is regulated by DCA, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau or program, or that requires the other party to withdraw a complaint from the department, board, bureau, or program.  
**RECOMMENDED POSITION:** Support

**MOTION:** Mr. Zinn/Dr. Rhee moved to support.

**VOTE:** 9-0, motion carried.

**SB 975** Wright. Professions and vocations: regulatory authority. This bill would provide that all boards, bureaus and commissions of Consumer Affairs have sole authority to license and regulate the practice of the professions they regulate. No licensing requirements, as specified, shall be imposed upon a person licensed to practice one of those professions by code or by regulation promulgated except by the applicable board, bureau, or commission.

BOARD POSITION: Watch

**SB 1061** Walters. Professional Engineers. This bill (which is identical to last year's SB 692) would change the disciplines currently licensed as "title act" engineers to "practice act" engineers. This bill also would authorize any licensed engineer to practice engineering work in any of those fields in which he or she is competent and proficient – but not necessarily licensed. This bill is dead.

BOARD POSITION: Oppose

**SB 1576** Committee on Business, Professions and Economic Development. Professions and vocations. This is one of the Committee's omnibus bills. (Amends sections 8741, 8762 and 8773 of the LS Act.) This bill, among other things, revises the exemption from the taking of the LSIT to civil engineers licensed prior to January 1, 1982. It also expands the definition of "establish" when filing a record of survey to include "location, relocation, reestablishment or retracement."

RECOMMENDED POSITION: Support

**MOTION:** Mr. Tami/Mr. Modugno moved to support.

**VOTE:** 9-0, motion carried.

#### **VI. Temporary Authorization Application for Stephen Palmer**

Mr. Moore indicated that Mr. Stephen Palmer appeared at the May 15, 2012 board meeting but because a quorum could not be established, the board was not able to hear Mr. Palmer's testimony and take action. Mr. Palmer agreed to call in via teleconference to answer any questions the board members may have regarding his request for temporary authorization.

Mr. Palmer stated that he works for GeoDesign Inc. from Portland, Oregon and added that they also have another office in Anaheim that does projects mainly in the Los Angeles area. Their certified engineering geologist in the Anaheim office recently left the company as an interim and it was decided that Mr. Palmer would attempt to obtain a temporary authorization to act as the Certified Engineering Geologist for a project in West Hollywood, CA. It involves review of previous fault investigations, sub-surface drilling investigations at the site in order to provide input to the geotechnical engineers and also confirm or indicate whether additional fault investigation studies were necessary. He added that he has also decided to apply for permanent licensure in California. Mr. Zinn enquired whether or not Mr. Palmer's client is aware that there are other engineering geologists in Southern California that could do the work. Mr. Palmer agreed that there are other engineering companies that could do the work but the client has made this choice because of the geotechnical engineer involved.

**MOTION:** Mr. Zinn/Mr. Trujillo moved to grant.  
**VOTE:** 9-0, motion carried.

**V. Nomination and Election of President and Vice President for Fiscal Year 2012-2013**

Mr. Tami and Mr. Modugno nominated Paul Wilburn as President and Erik Zinn as Vice President

**MOTION:** Mr. Tami/Mr. Quartararo moved to close nominations.  
**VOTE:** 9-0, motion carried.

**MOTION:** Mr. Tami/Mr. Modugno moved to elect Paul Wilburn as President and Erik Zinn as Vice President.  
**VOTE:** 9-0, motion carried.

**VIII. Division of Investigation Presentation**

Daryl Walker, Chief of the Department of Investigation (DOI) provided background on himself and the division. His background involves 32 years in law enforcement, starting as a police officer, after receiving his bachelor's degree in public administration and has held various investigative positions at the state level. He spent 10 years doing political corruption investigations with the Fair Political Practices Commission and then onto the emergency medical services authority to assist in assembling their enforcement program. He has worked for the Medical Board as a field investigator and ultimately became a commander overseeing four other northern California field offices. Five years ago he arrived at the Division of Investigation as Deputy Chief and two years ago he was sworn in as Chief of the Division.

The Division of Investigation provides services for approximately 40 different boards and bureaus. Their expertise is to learn how to extract information for boards and bureaus. He indicated there are 255 professional licenses and approximately 2.5 million practitioners in various licensing bodies under the Department of Consumer Affairs umbrella which keep the Division busy at all times.

The Division is the law enforcement arm of the Department of Consumer Affairs. Their investigators are Peace Officers under 830.3 of the penal code. All investigators are P.O.S.T. certified which stands for Peace Officers Standards in Training. They do ongoing continuing education in order to maintain their certification.

The Division was formed in 1968 and currently has approximately 57 sworn staff out of 80 employees spread throughout seven field offices throughout the state. DOI has a Special Operations Unit (SOU) which consists of a commander and five investigators. Their role includes internal affairs investigation within the Department of Consumer Affairs at the behest of the Director. They conduct background investigations and any other special operations that may be needed such as security at board meetings. The majority of their time involves doing internal affairs investigations for theft and violence in the workplace.

The cases they are involved in include administrative and criminal. Over time they are doing more criminal cases which involve battery, manslaughter, sexual misconduct, theft, gross negligence, and unprofessional conduct. At any given time, the division carries about 800 cases.

They have been doing a lot more in the way of search warrants at the request of the Board. Arrest rates have gone up substantially due to sting operations. Citations are issued to them and released. If they have a warrant they are arrested.

Another service provided by DOI is computer forensic services with services in Sacramento, Southern California, and in the Bay area. Once a computer is seized, it is run through a software system where despite being password protected and deleted they can still acquire the files.

One of the concerns Mr. Walker had when he arrived at the Department was that occasionally they worked criminal administrative cases parallel with each other. The allegations can be handled administratively by the board or bureau but the allegations should be handled criminally as well. The problem they faced was the standard of proof for criminal cases are higher than an administrative case. Typically, they would have enough evidence to assemble for the Board to move forward to take administrative action. However, they would hang on to the case while still working the criminal component. Once there is enough information on an administrative case, they will forward it onto the board or bureau to take appropriate action while DOI continues work on the criminal component and getting it to the District Attorney's office.

He added that approximately 5 years ago prior to his arrival at the Department, there appeared to be an issue in which cases were not running as efficiently as they could. They had 31 cases over three years old, 139 cases that were 2-3 years old and 389 that were 1-2 years old that had yet to be completed. Currently, they have 4 cases that are over a year old that are criminal cases that the District Attorney has asked them to do additional work. Their case completion rate is 170 cases per month when it used to average around 95 and their average case completion time is six months.

Working with the boards, they developed a filtering system of what should come to them to help reduce caseload.

They have developed an intake unit that provides services that do not require a peace officer. This unit consists of a supervising investigator that has background in field operations and four analysts. All the complaints that come to them is initially reviewed by the intake unit and they gather documentation and determine what can be handled by them or what goes to the field.

In conclusion, Mr. Walker indicated that he is very pleased with the Board and its functions. July 17, 2012 is his last day as Chief and will be falling back on his civil service position as Deputy Chief. He assures that all functions will continue to move forward.

## **IX. Enforcement**

### **A. Enforcement Statistical Reports**

Ms. Eissler reported that the statistical reports that are included in the agenda revealed that the cases are aging and are investigating the reason why. The enforcement unit implemented a new process for contracting with the experts that may have contributed to the delay. She indicated that she and Mr. Moore are looking into the bottleneck for the investigative portion of the cases. The enforcement unit has been making great progress in reducing the backlog of cases that were awaiting the issuance of a citation and moving forward with the appeal process.

Duties have been shifted in the unit to become more efficient in handling the citation program and are reducing the backlog of cases to be referred to the Attorney General's office.

Mr. Modugno would like to set goals by establishing a benchmark, and see a side-by-side comparison from one year to the next to determine where improvement is needed.

Ms. Eissler added that the board is always in need of people to volunteer to be experts and encourages people to contact the board if they are interested. She would like to provide a presentation for the complaint investigation procedure at the next board meeting to better assist board members in understanding the process.

## **VII. Executive Officer's Report (cont.)**

### **B. Strategic Plan Update**

Mr. Alameida provided a status report of the Board's strategic plan and the progress that the board has made. Mr. Moore indicated that the board would present an action plan for the upcoming fiscal year at the next board meeting and requested input from the board.

### **C. Personnel**

Mr. Moore reported that as part of the new fiscal year budget, the Governor is proposing the elimination of retired annuitants and student assistants that are not considered mission critical. The board was asked to provide justification for the retired annuitants but not for the two student assistants which indicate they would be released as well if the department does not approve the justification for the retired annuitants.

The board currently has two half time vacancies and is working with the Department to combine the two into one full time position for examination and licensing. Another vacancy is the fingerprinting position that would bridge between enforcement and applications.

Mr. Moore added that with the new budget, the Governor is imposing a 5% pay cut to all state employees including a one day per month furlough.

## **X. Exams/Licensing**

### **A. April/June 2012 Examination Update**

Mr. Mathe reported statistics for the April 2012 PE and LS examinations.

The National Professional Land Surveyor examination

131 tested, 63 passed for a 48% pass rate.

The State Specific Land Surveyor examination

384 tested, 91 passed for a 24% pass rate.

The Civil engineering examination

1,758 tested, 683 passed for a 39% pass rate.

Seismic Principles and Engineering Surveying examination results were being processed on June 28 and result letters should be mailed the following day.

Chemical Engineering examination

35 tested, 14 passed for a 40% pass rate

Electrical Engineering examination

332 tested, 108 passed for a 33% pass rate

Mechanical Engineering examination

279 tested, 140 passed for a 50% pass rate

National Structural examination

Lateral – 172 tested, 71 passed for a 41% pass rate

Vertical – 177 tested, 62 passed for a 35% pass rate

For the LSIT, it was reported that:

99 were tested, 44 passed with a 44% pass rate

For the EIT, it was reported that:

3,265 were tested, 1,866 passed for a 57% pass rate

The first administration of the Professional Land Surveyor examination utilizing computer based testing resulted in 403 scheduled with only 19 no-shows for a 4.7% no show rate. With traditional examinations, there is generally a 20-30% no show rate. The general comments from the surveying community were positive. Professional associations and those who provide land surveyor review courses indicated that they felt the examination licensed those who they believed should pass compared to those they did not feel as engaged that did not pass. There was also some speculation from the design/essay problems to a multiple choice examination and whether or not it would test at the right cognitive level. The test performed very well. It included 67 new problems and only had issues with two of the 67 problems. Psychometricians indicated that it was a very defensible and well performed examination.

1. Update on Office of State Publishing examination book error

Mr. Mathe reiterated what transpired with the State Civil, engineering surveying examination. The office of State Publishing has admitted that the printing error was their fault and is willing to work with the Board to come to a resolution and compensation for the cost to print the examination.

Mr. Mathe further explained the CBT was the quickest way to administer the examination. About 25% of the population comes from outside the state of California to sit for the examination. The CBT contractor was notified April 20, 2012 to commence scheduling candidates for June 2 through June 9, 2012. On April 23, the examination book was converted to computer based. Prometric trained their staff on the administration of the examination as most exams do not allow reference materials in the room. Prometric reported issues that involved computer malfunction for a significant amount of time and an employee that did not follow protocol in which a candidate was not allowed to bring reference materials another was not allowed to bring their calculator. The board is looking to mitigate those issues with Prometric.

A comparison of the no show rate indicated that for the April 12 examination there was a 22% no show rate compared to the computer based re-test, there was a 2.5% no show rate which reveals a significant drop.

B. October 2012 Examination Update

Mr. Mathe indicated that letters were sent out to all new applicants regarding new fees and refunds. There have been many inquiries from the candidate population however; they understand why fees were increased. Although they may not be happy with the increase, they understand. In addition, Mr. Mathe wanted to

provide reassurance to the EIT/LSIT candidate population regarding the new application process that the candidates do not have to do something with the board before the examination is administered.

He added that the October examination dates are available on the Board's website.

Guam utilizes California's Seismic Principles examination in addition to the National examination to license their licensees. The Board sends approximately 3-5 examinations every exam cycle at their request. They are then returned to the board and are graded and scored along with our examinations. There have been requests to have the examination administered all over the world. One example is a request from Japan. Mr. Mathe wants feedback from the Board regarding opening the Guam site to candidates from overseas as Prometric has a test site there. The board did not foresee a problem and agreed.

Mr. Philip Quartararo excused himself from the remainder of the meeting.

C. Cooperative Licensure Agreement with Washington State for Certified Engineering Geologists and Certified Hydrogeologists

Mr. Moore summarized by indicating that in 2003 such an agreement existed regarding reciprocity in both states. The agreement was made that if someone was an engineering geologist or certified Hydrogeologist, in one of the states and desired to become an engineering geologist in the other state, they would accept the criteria and would not require further examination. The Washington board has requested that the California board formalize the agreement.

Mr. Duke was legal counsel to the Geology Board at the time and the former Executive Officer on a regular basis denied applications for comity from the state of Washington. At that time, Washington was not using the ASBOG examination therefore the Executive Officer had good reason. The Executive Officer participated in Governor's Schwarzenegger's project to reorganize California Government by assembling a task force formed of volunteers of State employees. The Executive Officer worked on the committee and as a result, the Executive Officer was gone from the board for approximately 3-6 months. During this time, a board meeting was held and the board, using its authority granted licensure to an applicant from the state of Washington that took the ASBOG examination and met all of the California requirements. The Executive Officer was directed to work with the Office of Examination Resources. A comparison was conducted between the two examinations and it was determined that the two examinations were functionally equivalent.

Mr. Moore suggested more research needs to be done and Mr. Zinn indicated that the key is to verify that the examinations are similar. Mr. Moore indicated that the Washington board submitted a Memo of Understanding (MOU). He would like the Washington board to know that California is receptive and would like to discuss further so that the board can make a final decision and believes Oregon should be included in the MOU for the CEG as the State of Oregon does not have a CHG.

Mr. Duke sees two issues; are the examinations still equivalent and should we allow reciprocity and asked whether the board wants to link that into the cooperative examination development within the same MOU. Mr. Moore would like to take action at the next board meeting.

**XII. Approval of Delinquent Reinstatements**

**MOTION:** Mr. Tami/Mr. Carlson moved to approve.

**VOTE:** 8-0, motion carried.

**XI. Outreach**

Request for Articles for the Summer Bulletin

Mr. Moore requests articles for the summer bulletin be submitted by July 15 and recalled Mr. Silva's request to have an exit article for the outgoing president and have the new president write one as well. He also added that there will be articles regarding the new fees, new website for an August bulletin. Mr. Zinn suggested an overview article of the integration of the Geology board within the board.

**XIII. Consideration of Rulemaking Proposals**

A. Status of Rulemaking Proposal to Amend Title 16, California Code of Regulations section 443 (Inspection of Examination)

Effective June 18, 2012, with the release of the structural engineer results, no longer is the board allowing for appeals as there are no design essay questions for state and national examinations. Ms. Eissler indicated the board was just removing the portion that allowed appeals of the NCEES examinations. As the Board has moved to CBT for state examinations, there are no more exams that can be appealed so the board may be looking into whether the regulation should be repealed. It would be brought back to the board after discussing with legal counsel to determine if it should be repealed.

B. Request for Regulatory Action pursuant to Government Code section 11340.6 – Request to Amend Title 16, California Code of Regulations section 424 (Experience Requirements – Professional Engineers)

Ms. Eissler reported that this a formal request from a member of the public asking the Board to take regulatory action. The Government Code that addresses the rulemaking process provides that members of the public may submit requests to the Boards recommending regulatory action. The board has received a request from William Jahns to amend Board Rule 424. It relates to the education and experience requirements that an applicant for licensure as a professional engineer must meet. Mr. Jahns is recommending a provision in the regulation be amended. The current regulation states the additional actual work experience required to meet the six years of experience requirement shall have been gained after graduation except for cooperative work study experience and post graduate education. He is recommending that it be amended to remove the provision that says, *Shall have been gained after graduation to shall not have been gained concurrently with credit claimed for education*. The explanation for his request is that he has indicated that his belief that the way the regulations are currently worded, a person who may have worked in the engineering field and decided to go to college to acquire their engineering degree cannot use that work experience gained before they went to college because the way the regulation is worded. The regulation indicates that all of the work experience credit that is used can only be that gained after graduation. She further explained that if a person is claiming educational credit as part of their experience credit to obtain licensure, for an ABET accredited bachelor's degree, they would receive four

years of experience credit for that education, the regulation then says that the work experience credit must be gained after the graduation date. Therefore, any work experience prior to college, cannot be used per the board's policy. Ms. Christ confirmed that the law indicates that after graduation you start your work experience which must be complete by the final filing date. Ms. Eissler added that the Board's evaluators when reviewing applications determine the date the degree was awarded according to the transcript and the registrars count from that date in determining how much qualifying experience the applicant has.

**MOTION:** Mr. Zinn/Dr. Rhee moved to deny request.

**VOTE:** 8-0, motion carried.

## **XV. Administration**

### **A. FY 2011/12 Budget Overview**

Mr. Alameida provided a budget overview for the engineers and land surveyors (PELS) fund and the geologists and geophysicists (GEO) fund. He provided a comparison of April 30, 2011 and April 30, 2012. He indicated that the PELS fund is very close to its budget allotment with an \$818.00 surplus. As for the GEO fund, they have a \$457,000 surplus. This includes contract encumbrances that the board will receive invoices and savings should result in those contracts. Mr. Alameida indicated that the board has contracted with NCEES for approximately \$3.2 million dollars for exam administration. The prior year the board saw about a \$300,000 savings from one administration. If the same result occurs with the invoices in regards to this April's exam administration, disencumbering those contracts will create the savings required to get through the end of the year. The projection that indicates \$818.00 identifies paying all invoices in full. If the board meets the end of the year and disencumbers some of the savings, the board will have a surplus.

## **XVI. Technical Advisory Committees (TACs)**

### **A. Board Assignments to TACs**

Mr. Moore provided a status update regarding the administrative committee. The board asked him to come up with nominations to form the committee. His concern is if there is enough direction before starting the committee as it is very broad. Topics that would be discussed are process improvement, public relations, important topics that address something outside the Board's normal scope of work.

### **B. Appointment of TAC Members**

#### **Appointment of Land Surveyor TAC members**

**MOTION:** Mr. Silva/Mr. Zinn moved to appoint.

**VOTE:** 8-0, motion carried.

#### **Appointment of Geologist and Geophysicist TAC members.**

**MOTION:** Mr. Tami/Mr. Modugno moved to appoint.

**VOTE:** 8-0, motion carried.

### **C. Reports from the TACs - No Report Given**

## **XXI. Approval of Consent Items**

(These items are before the Board for consent and will be approved with a single motion)

following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- A. Approval of the Minutes of the March 8-9, 2012, May 15, 2012, and June 5, 2012, Board Meetings

**MOTION:** Mr. Silva/Mr. Tami moved to approve.

**VOTE:** 8-0, motion carried.

#### **XVIII. Dates of August Board Meeting**

August 23-24, 2012 was the original date of the next board meeting but because it coincides with the NCEES Annual Meeting, the meeting was rescheduled to August 29-30, 2012.

#### **XIX. President's Report/Board Member Activities**

Mr. Silva thanked Board staff for their time and was presented a gavel plaque by Mr. Moore for his time as Board President.

Mr. Josephson indicated that he is still working with the refugee engineers in San Diego and made a presentation about licensing and will meet with the ASCE in July.

Mr. Moore added that the Board received requests from the Los Angeles, ASCE Young Engineers association. They have requested a speaker from the Board to discuss the new fees and the application and examination processes. Board members may be called upon to see if they are interested in making a presentation. With the changes in the fees, examinations, and processes, the board may be able to justify the travel necessary to attend.

Another request has come in from Cal State Fullerton to speak to an engineering class regarding licensure.

#### **XVII. Liaison Reports**

A. ASBOG – No report given

B. ABET – No report given

C. NCEES – The Board is working internally with a committee toward being prepared for the April 2013 Western Zone meeting in San Francisco. The board will present recommendations on budget, events, plans, schedule that must be presented to the Western Zone leadership for approval.

D. Technical and Professional Societies - Mr. Moore, Mr. Mathe, and Ms. Eissler have been invited to speak at various CLSA chapter meeting over the next few months all within driving distance.

Mr. Moore added the Mr. Kereszt with the Board's enforcement unit, has agreed to work with Mr. Mathe on a webinar for CLSA geared toward monument preservation.

- III. **Closed Session** – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]

#### **IV. Open Session to Announce the Results of Closed Session**

During Closed Session the Board took action on one stipulation and two petitions for reconsideration.

**XX. Other Items Not Requiring Board Action**

**XXI. Adjourned at 4:13 p.m.**

**PUBLIC PRESENT**

Roger Hanlin, CLSA

Daryl Walker, Department of Investigation

Steve Hao, CalTrans

Daniel Kramer, Neil O. Anderson & Associates

XX.

ADJOURN

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