



**Board for Professional Engineers,
Land Surveyors, and Geologists**

Meeting of the Board for Professional Engineers, Land Surveyors, and Geologists

April 15-16, 2015

Wednesday, April 15, beginning at 9:00 a.m.
and continuing on Thursday, April 16,
beginning at 9:00 a.m., if necessary

Department of Consumer Affairs, HQ2
1747 N. Market Blvd., Hearing Room
Sacramento, CA 95834

TABLE OF CONTENTS

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

BOARD MEETING LOCATION

APRIL 15-16, 2015

DEPARTMENT OF CONSUMER AFFAIRS, HQ2
1747 N. MARKET BLVD., HEARING ROOM
SACRAMENTO, CA 95834

BOARD MEMBERS

Board Members: Kathy Jones Irish, President; Robert Stockton, Vice President; Natalie Alavi; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Betsy Mathieson; Philip Quartararo; Mohammad Qureshi; Hong Beom Rhee; Karen Roberts; Ray Satorre; Jerry Silva; and Patrick Tami

I. Roll Call to Establish a Quorum	5
II. Public Comment NOTE: The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda.	7
III. Legislation A. Legislative Process B. Discussion of Legislation for 2015: AB 12, AB 85, AB 103, AB 177, AB 320, AB 507, AB 1060, SB 69, SB 284, SB 799 (Possible Action)	9
IV. Consideration of Rulemaking Proposals A. Proposed Amendments to Title 16, California Code of Regulations Sections 416 and 3060 (Substantial Relationship Criteria) (Possible Action)	123
V. Administration A. FY 2014/15 Budget Summary (Possible Action)	133
VI. Enforcement A. Enforcement Statistical Report B. Policy on Disclosure of Complaints and Enforcement Actions (Possible Action) C. Possible Misuse of the Complaint/Investigation Process by Licensees (Possible Action)	139
VII. Executive Officer's Report B. Legislation and Regulation Workgroup Summary C. Personnel D. BreEZe Update E. Sunset Review and Response (Possible Action)	155
VIII. Exams/Licensing A. Spring 2015 Examination Update B. Approval of Oregon State Specific Engineering Geology and Hydrogeology Examinations for Comity Licensure (Possible Action)	195

IX.	Discussion of California Department of Water Resources Urban Water Management Plan Preparation as It Relates to Civil Engineering and Geology (Possible Action)	199
X.	Approval of Delinquent Reinstatements (Possible Action)	203
XI.	Technical Advisory Committees (TACs)	207
	A. Board Assignments to TACs (Possible Action)	
	B. Appointment of TAC Members (Possible Action)	
	C. Reports from the TACs (Possible Action)	
XII.	Liaison Reports	211
	A. ASBOG (Possible Action)	
	B. ABET (Possible Action)	
	C. NCEES (Possible Action)	
	D. Technical and Professional Societies (Possible Action)	
XIII.	President’s Report/Board Member Activities	213
XIV.	Approval of Consent Items (Possible Action) (These items are before the Board for consent and will be approved with a single motion. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)	215
	A. Approval of the Minutes of the February 9-10, 2015, Board Meeting	
XV.	Other Items Not Requiring Board Action	231
XVI.	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)]	233
	A. Civil Litigation	
	1. <u>Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists</u> , Sierra County Superior Court Case No. 7361	
	2. <u>Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs</u> , Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)	
	3. <u>Sassan Salehipour v. Board for Professional Engineers, Land Surveyors, and Geologists</u> , Los Angeles County Superior Court Case No. BS146185	
	4. <u>Paul Christopher Ehe v. Board for Professional Engineers, Land Surveyors, and Geologists</u> (San Bernardino Superior Court, Case No. CIVDS1413253)	
XVII.	Open Session to Announce the Results of Closed Session	235
XVIII.	Adjourn	237

I. Roll Call to Establish a Quorum

II. Public Comment

III. Legislation

- A. Legislative Process
- B. Discussion of Legislation for 2015: AB 12, AB 85, AB 103, AB 177, AB 320, AB 507, AB 1060, SB 69, SB 284, SB 799

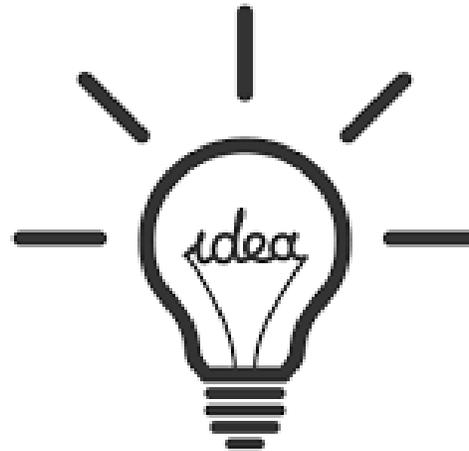
A photograph of the California State Capitol building in Sacramento, California. The building is a large, white, neoclassical structure with a prominent central dome. It is surrounded by lush green trees and a clear blue sky. The image is used as a background for a presentation slide.

THE LEGISLATIVE PROCESS

In California, all laws are enacted by the passage of bills. A bill either proposes a new law or amends or repeals the existing law.

IDEA

- All legislation begins as an idea.
- The process begins when someone persuades a senator or assembly member to author a bill.

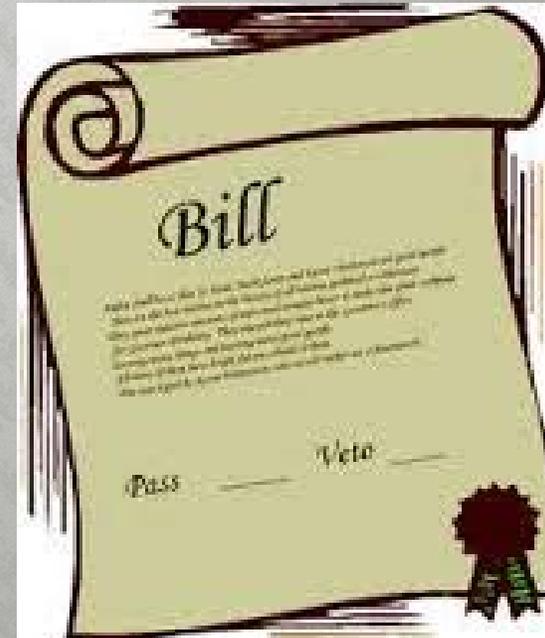


INTRODUCTION

- A legislator sends the idea for the bill to the Office of the Legislative Counsel, where it is drafted into bill form.
- The draft of the bill is returned to the legislator for introduction. If the author is a Senator, the bill is introduced in the Senate. If the author is an Assembly Member, the bill is introduced in the Assembly.
- The bill is designated by a number and title that reflects where it began. For example, Senate Bill 9, or SB 9 or Assembly Bill 1270, or AB 1270.

FIRST READING

- A bill's first reading is when the clerk reads the bill number, the name of the author, and the descriptive title of the bill.
- The bill is then sent electronically to the Office of State Printing. A bill must be in print for 30 days, giving time for public review, before it can be acted on.



COMMITTEE HEARINGS

- The bill goes to the Senate or Assembly Rules Committee where it is assigned to the appropriate policy committee for its first hearing.
- During the committee hearing the author presents the bill to the committee, and testimony may be heard in support or opposition to the bill.
- Bills that require the expenditure of funds must also be heard in the fiscal committees, Senate Appropriations and Assembly Appropriations. Each committee is made up of a specified number of Senators or Assembly Members



SECOND READING

No. 22
CALIFORNIA LEGISLATURE
AT SACRAMENTO
2015-16 REGULAR SESSION

**Senate
Daily File**



SENATOR KEVIN DE LEÓN
President pro Tempore

SENATOR WILLIAM W. MONNING
Majority Floor Leader

SENATOR BOB HUFF
Minority Floor Leader

Compiled Under the Direction of
DANIEL ALVAREZ
Secretary of the Senate

By
JAMIE TAYLOR
Daily File Clerk

SENATE CONVENES AT 2 P.M.
MONDAY, FEBRUARY 9, 2015
(FLOOR SESSION)
TWENTY--SECOND DAY IN SESSION

(Please report any errors or omissions to Daily File Clerk: Phone 651-4171)

- Bills passed by committees are read a second time in the house of origin and then placed in the Daily File for a third reading.

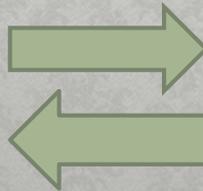
THIRD READING



- When a bill is read the third time, it is explained by the author, discussed by the members, and voted on by a roll call vote.
- Bill analyses are also prepared prior to third reading.
- Bill analyses are prepared by related legislative Committees.

REPEAT PROCESS IN OTHER HOUSE

- Once the bill has been approved by the house of origin it proceeds to the other house where the procedure described above is repeated.



RESOLUTION OF DIFFERENCES



- If a bill is amended in the second house, it must go back to the house of origin for concurrence, meaning agreement on those amendments.
- If the house of origin does not concur in those amendments, the bill is referred to a two-house conference committee to resolve the differences. Three members of the committee are from the Senate and three are from the Assembly.
- If a compromise is reached, the bill is returned to both houses for a vote.

GOVERNOR

The bill then goes to the Governor. The Governor has three choices.

1. Sign the bill into law
2. Allow it to become law without signature
3. Veto it



SECRETARY OF STATE

- Governor approves a bill deposits it with the Secretary of State. The Secretary of State assigns the bill a number known as the chapter number.



CALIFORNIA LAW



- Bills to become law are sent to the Secretary of State for final review.
- Each bill is given a chapter number and the Secretary of State stamps it with the Great Seal of the State of California. These chaptered bills are statutes, and ordinarily become part of the California Codes. The California Codes are a comprehensive collection of laws grouped by subject matter.

2015 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE

Revised 01/26/2015

APRIL						
S	M	T	W	TH	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Apr. 6 Legislature reconvenes from **Spring Recess** (J.R. 51(a)(2)).

MAY						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

May 1 Last day for **policy committees** to hear and report to Fiscal Committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

May 15 Last day for **policy committees** to hear and report to the Floor **non-fiscal** bills introduced in their house (J.R. 61(a)(3)).

May 22 Last day for **policy committees** to meet prior to June 8 (J.R. 61(a)(4)).

May 25 Memorial Day.

May 29 Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61 (a)(5)). Last day for **fiscal committees** to meet prior to June 8 (J.R. 61 (a)(6)).

JUNE						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

June 1 – 5 **Floor Session only**. No committee may meet for any purpose (J.R. 61(a)(7)).

June 5 Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).

June 8 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).

FYI Legislation

Senate Bill 69 (Leno D) Budget Act of 2015.

Status: 1/12/2015-Read first time.

Location: 1/9/2015-S. BUDGET & F.R.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: SB 69

Bill Summary: This bill would make appropriations for the support of state government for the 2015-16 fiscal year. This bill would declare that it is to take effect immediately as a Budget Bill.

Staff Comment: This is the Senate Budget Bill. Each house of the legislature introduces identical Budget Bills.

Laws: An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, relating to the state budget, to take effect immediately, budget bill.

Assembly Bill 103 (Weber D) Budget Act of 2015.

Status: 1/26/2015-Referred to Committee on Budget.

Location: 1/26/2015- Assembly Budget

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 103

Bill Summary: This bill would make appropriations for the support of state government for the 2015-16 fiscal year. This bill would declare that it is to take effect immediately as a Budget Bill.

Staff Comment: This is the Assembly Budget Bill. Each house of the legislature introduces identical Budget Bills.

Laws: An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, relating to the state budget, to take effect immediately, budget bill.

Introduced Legislation

Assembly Bill 12 (Cooley D)

State government: administrative regulations: review.

Status: 3/23/2015-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 1/16/2015- Assembly Accountability and Administrative Review

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 12

Bill Summary: This bill would require every state agency, department, board, bureau or other entity to review and revise regulations to eliminate inconsistent, overlapping, duplicative, and outdated provisions and adopt the revisions as emergency regulations by January 1, 2018. Additionally, this bill would require the Business, Consumer Services, and Housing Agency to submit a report to the Governor and Legislature affirming compliance with these provisions.

Staff Comment: Board staff routinely reviews and revises regulations. We established a legislative and regulatory review committee to complete this workload. Staff anticipate this requirement to be absorbable.

Staff Recommendation: It is recommended that the Board take a **WATCH** position on AB 12.

Laws: An act to amend Section 11349.1.5 of, and to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of, the Government Code, relating to state agency regulations.

ASSEMBLY BILL

No. 12

Introduced by Assembly Member Cooley

December 1, 2014

An act to amend Section 11349.1.5 of, and to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of, the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as introduced, Cooley. State government: administrative regulations: review.

(1) Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, and after a noticed public hearing, review and revise that agency's regulations to eliminate any inconsistencies, overlaps, or outdated provisions in the regulations, adopt the revisions as emergency regulations, and report to the Legislature and Governor, as specified. The bill would further require each agency to, on or before January 1, 2017, compile an overview of the statutory law that agency administers.

(2) The act requires a state agency proposing to adopt, amend, or repeal a major regulation, as defined, to prepare a standardized regulatory impact analysis of the proposed change. The act requires the office and the Department of Finance to, from time to time, review the

analyses for compliance with specific department regulations. The act further requires the office to, on or before November 1, 2015, submit a report on the analyses to the Senate and Assembly Committees on Governmental Organization, as specified.

This bill would instead require the office and department to annually review the analyses. The bill would also require the office to annually submit a report on the analyses to the Senate Committee on Governmental Organization and the Assembly Committee on Accountability and Administrative Review.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11349.1.5 of the Government Code is
2 amended to read:

3 11349.1.5. (a) The Department of Finance and the office ~~shall,~~
4 ~~from time to time,~~ *shall annually* review the standardized
5 regulatory impact analyses required by subdivision (c) of Section
6 11346.3 and submitted to the office pursuant to Section 11347.3,
7 for adherence to the regulations adopted by the department pursuant
8 to Section 11346.36.

9 (b) *(1) On or before November 1, 2015, and annually thereafter,*
10 ~~the office shall submit to the Senate and Assembly Committees~~
11 *Committee on Governmental Organization and the Assembly*
12 *Committee on Accountability and Administrative Review* a report
13 describing the extent to which submitted standardized regulatory
14 impact analyses for proposed major regulations *for the fiscal year*
15 *ending in June 30, of that year* adhere to the regulations adopted
16 pursuant to Section 11346.36. The report shall include a discussion
17 of agency adherence to the regulations as well as a comparison
18 between various state agencies on the question of adherence. The
19 report ~~may~~ *shall* also include any recommendations from the office
20 for actions the Legislature might consider for improving state
21 agency ~~performance.~~ *performance and compliance in the creation*
22 *of the standardized regulatory impact analyses as described in*
23 *Section 11346.3.*

24 (2) *The report shall be submitted in compliance with Section*
25 *9795 of the Government Code.*

1 (c) In addition to the *annual* report required by subdivision (b),
 2 the office ~~may~~ *shall* notify the Legislature of noncompliance by a
 3 state agency with the regulations adopted pursuant to Section
 4 11346.36, in any manner or form determined by the ~~office~~. *office*
 5 *and shall post the report and notice of noncompliance on the*
 6 *office’s Internet Web site.*

7 SEC. 2. Chapter 3.6 (commencing with Section 11366) is added
 8 to Part 1 of Division 3 of Title 2 of the Government Code, to read:

9
 10 CHAPTER 3.6. REGULATORY REFORM

11
 12 Article 1. Findings and Declarations

13
 14 11366. The Legislature finds and declares all of the following:

15 (a) The Administrative Procedure Act (Chapter 3.5 (commencing
 16 with Section 11340), Chapter 4 (commencing with Section 11370),
 17 Chapter 4.5 (commencing with Section 11400), and Chapter 5
 18 (commencing with Section 11500)) requires agencies and the
 19 Office of Administrative Law to review regulations to ensure their
 20 consistency with law and to consider impacts on the state’s
 21 economy and businesses, including small businesses.

22 (b) However, the act does not require agencies to individually
 23 review their regulations to identify overlapping, inconsistent,
 24 duplicative, or out-of-date regulations that may exist.

25 (c) At a time when the state’s economy is slowly recovering,
 26 unemployment and underemployment continue to affect all
 27 Californians, especially older workers and younger workers who
 28 received college degrees in the last seven years but are still awaiting
 29 their first great job, and with state government improving but in
 30 need of continued fiscal discipline, it is important that state
 31 agencies systematically undertake to identify, publicly review, and
 32 eliminate overlapping, inconsistent, duplicative, or out-of-date
 33 regulations, both to ensure they more efficiently implement and
 34 enforce laws and to reduce unnecessary and outdated rules and
 35 regulations.

36 (d) The purpose of this chapter is to require each agency to
 37 compile an overview of the statutory law that agency oversees or
 38 administers in its regulatory activity that includes a synopsis of
 39 key programs, when each key program was authorized or instituted,

1 and any emerging challenges the agency is encountering with
2 respect to those programs.

3

4

Article 2. Definitions

5

6 11366.1. For the purpose of this chapter, the following
7 definitions shall apply:

8 (a) “State agency” means a state agency, as defined in Section
9 11000, except those state agencies or activities described in Section
10 11340.9.

11 (b) “Regulation” has the same meaning as provided in Section
12 11342.600.

13

14

Article 3. State Agency Duties

15

16 11366.2. On or before January 1, 2018, each state agency shall
17 do all of the following:

18 (a) Review all provisions of the California Code of Regulations
19 applicable to, or adopted by, that state agency.

20 (b) Identify any regulations that are duplicative, overlapping,
21 inconsistent, or out of date.

22 (c) Adopt, amend, or repeal regulations to reconcile or eliminate
23 any duplication, overlap, inconsistencies, or out-of-date provisions.

24 (d) Hold at least one noticed public hearing, that shall be noticed
25 on the Internet Web site of the state agency, for the purposes of
26 accepting public comment on proposed revisions to its regulations.

27 (e) Notify the appropriate policy and fiscal committees of each
28 house of the Legislature of the revisions to regulations that the
29 state agency proposes to make at least 90 days prior to a noticed
30 public hearing pursuant to subdivision (d) and at least 90 days
31 prior to the proposed adoption, amendment, or repeal of the
32 regulations pursuant to subdivision (f), for the purpose of allowing
33 those committees to review, and hold hearings on, the proposed
34 revisions to the regulations.

35 (f) Adopt as emergency regulations, consistent with Section
36 11346.1, those changes, as provided for in subdivision (c), to a
37 regulation identified by the state agency as duplicative,
38 overlapping, inconsistent, or out of date.

39 (g) (1) Report to the Governor and the Legislature on the state
40 agency’s compliance with this chapter, including the number and

1 content of regulations the state agency identifies as duplicative,
2 overlapping, inconsistent, or out of date, and the state agency's
3 actions to address those regulations.

4 (2) The report shall be submitted in compliance with Section
5 9795 of the Government Code.

6 11366.3. (a) On or before January 1, 2018, each agency listed
7 in Section 12800 shall notify a department, board, or other unit
8 within that agency of any existing regulations adopted by that
9 department, board, or other unit that the agency has determined
10 may be duplicative, overlapping, or inconsistent with a regulation
11 adopted by another department, board, or other unit within that
12 agency.

13 (b) A department, board, or other unit within an agency shall
14 notify that agency of revisions to regulations that it proposes to
15 make at least 90 days prior to a noticed public hearing pursuant to
16 subdivision (d) of Section 11366.2 and at least 90 days prior to
17 adoption, amendment, or repeal of the regulations pursuant to
18 subdivision (f) of Section 11366.2. The agency shall review the
19 proposed regulations and make recommendations to the
20 department, board, or other unit within 30 days of receiving the
21 notification regarding any duplicative, overlapping, or inconsistent
22 regulation of another department, board, or other unit within the
23 agency.

24 11366.4. An agency listed in Section 12800 shall notify a state
25 agency of any existing regulations adopted by that agency that
26 may duplicate, overlap, or be inconsistent with the state agency's
27 regulations.

28 11366.43. On or before January 1, 2017, each state agency
29 shall compile an overview of the statutory law that state agency
30 oversees or administers. The overview shall include a synopsis of
31 the state agency's key programs, when each program was
32 authorized or instituted, when any statute authorizing a program
33 was significantly revised to alter, redirect, or extend the original
34 program and the reason for the revision, if known, and an
35 identification of any emerging challenges the state agency is
36 encountering with respect to the programs.

37 11366.45. This chapter shall not be construed to weaken or
38 undermine in any manner any human health, public or worker
39 rights, public welfare, environmental, or other protection
40 established under statute. This chapter shall not be construed to

1 affect the authority or requirement for an agency to adopt
2 regulations as provided by statute. Rather, it is the intent of the
3 Legislature to ensure that state agencies focus more efficiently and
4 directly on their duties as prescribed by law so as to use scarce
5 public dollars more efficiently to implement the law, while
6 achieving equal or improved economic and public benefits.

7
8
9

Article 4. Chapter Repeal

10 11366.5. This chapter shall remain in effect only until January
11 1, 2019, and as of that date is repealed, unless a later enacted
12 statute, that is enacted before January 1, 2019, deletes or extends
13 that date.

O

Introduced Legislation

Assembly Bill 85 (Wilk R)

Open meetings.

Status: 1/26/2015-Referred to Committee on Governmental Organization

Calendar: 4/8/2015 1:30 p.m. - State Capitol, Room 4202 Assembly Governmental Organization, GRAY, Chair

Location: 1/26/2015- Assembly Governmental Organization

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 85

Bill Summary: The Bagley-Keene Open Meeting Act requires that all meetings of a state body be open and public and that all persons be permitted to attend and participate in a meeting of a state body. This bill would specify that the definition of "state body" includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body.

Staff Comment: The Board already obeys the Bagley-Keene Open Meeting Act. This bill would further define a "state body" to include groups of two or more.

Staff Recommendation: It is recommended that the Board take a **WATCH** position on AB 85

Laws: An act to amend Section 11121 of the Government Code, relating to State government, and declaring the urgency thereof, to take effect immediately.

ASSEMBLY BILL

No. 85

Introduced by Assembly Member Wilk

January 6, 2015

An act to amend Section 11121 of the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 85, as introduced, Wilk. Open meetings.

The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

This bill would specify that the definition of “state body” includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

This bill would make legislative findings and declarations, including, but not limited to, a statement of the Legislature’s intent that this bill is declaratory of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The unpublished decision of the Third District Court of
4 Appeals in *Funeral Security Plans v. State Board of Funeral*
5 *Directors* (1994) 28 Cal. App.4th 1470 is an accurate reflection of
6 legislative intent with respect to the applicability of the
7 Bagley-Keene Open Meeting Act (Article 9 (commencing with
8 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
9 the Government Code) to a two-member standing advisory
10 committee of a state body.

11 (b) A two-member committee of a state body, even if operating
12 solely in an advisory capacity, already is a “state body,” as defined
13 in subdivision (d) of Section 11121 of the Government Code, if a
14 member of the state body sits on the committee and the committee
15 receives funds from the state body.

16 (c) It is the intent of the Legislature that this bill is declaratory
17 of existing law.

18 SEC. 2. Section 11121 of the Government Code is amended
19 to read:

20 11121. As used in this article, “state body” means each of the
21 following:

22 (a) Every state board, or commission, or similar multimember
23 body of the state that is created by statute or required by law to
24 conduct official meetings and every commission created by
25 executive order.

26 (b) A board, commission, committee, or similar multimember
27 body that exercises any authority of a state body delegated to it by
28 that state body.

29 (c) An advisory board, advisory commission, advisory
30 committee, advisory subcommittee, or similar multimember
31 advisory body of a state body, if created by formal action of the
32 state body or of any member of the state body, and if the advisory
33 body so created consists of three or more ~~persons~~: *persons, except*
34 *as in subdivision (d).*

1 (d) A board, commission, committee, or similar multimember
2 body on which a member of a body that is a state body pursuant
3 to this section serves in his or her official capacity as a
4 representative of that state body and that is supported, in whole or
5 in part, by funds provided by the state body, whether the
6 multimember body is organized and operated by the state body or
7 by a private corporation.

8 SEC. 3. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to avoid unnecessary litigation and ensure the people's
13 right to access the meetings of public bodies pursuant to Section
14 3 of Article 1 of the California Constitution, it is necessary that
15 act take effect immediately

Introduced Legislation

Assembly Bill 320 (Wood D) Engineers.

Status: 2/23/2015-Referred to Committee on Business and Professions

Location: 2/23/2015- Assembly Business and Professions

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 320

Bill Summary: This bill would prohibit a person from using the title "Environmental Engineer" unless the person is licensed as an "Environmental Engineer". This bill would set forth the intent of the Legislature that the board be responsible for defining Environmental Engineering through rulemaking and that the board adopt standardized examination materials applicable to Environmental Engineering, as specified.

Staff Comment: As indicated in the Professional Engineers Act (Business and Professions Code §§ 6700 – 6799) the Board’s reason for existence is to protect the public. Introducing an "Environmental Engineer" title act will not regulate the practice of Environmental Engineering. With Title Acts, only the use of the title is regulated. Moreover, AB 320 will not prevent a person from practicing Environmental Engineering, it will only prevent a person from using the title “Environmental Engineer”. The legislative intent statement for AB 320 indicates it is necessary for public protection to “regulate this profession”. However, this bill would not regulate this profession, it will only restrict a person from using the title. For the last 20 years, the Board has held the position that restricting only the use of the title without also regulating the associated practice does not provide sufficient public protection. This bill is sponsored by the Professional Engineers in California Government (PECG), which is the bargaining unit (union) that represents engineers employed by the State of California.

Staff Recommendation: It is recommended that the Board take an **OPPOSE** position on AB 320.

Laws: An act to amend Section 6732 of the Business and Professions Code, relating to engineers.

ASSEMBLY BILL

No. 320

Introduced by Assembly Member Wood

February 13, 2015

An act to amend Section 6732 of the Business and Professions Code, relating to engineers.

LEGISLATIVE COUNSEL'S DIGEST

AB 320, as introduced, Wood. Engineers.

Existing law provides for the licensing and regulation of professional engineers and land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists in the Department of Consumer Affairs. Existing law prohibits a person from representing himself or herself as an engineer, as described by various titles, unless the person is licensed as an engineer. Existing law makes a violation of those prohibitions a misdemeanor.

This bill would additionally prohibit a person from using the title “environmental engineer” unless the person is licensed as an engineer. The bill would provide legislative findings and declarations in support of the licensure of environmental engineers in California. The bill would set forth the intent of the Legislature that the board be responsible for defining environmental engineering through rulemaking and that the board adopt standardized examination materials applicable to environmental engineering, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Over the past few decades, the study and practice of
4 environmental engineering has expanded greatly throughout
5 California and the nation. Many colleges in California have
6 accredited environmental engineering programs and thousands of
7 California engineers currently provide essential environmental
8 engineering services to all levels of government, private industry,
9 and the public.

10 (b) Despite leading the way in environmental protection and
11 global climate change remediation programs, the State of California
12 is an anomaly in that it does not currently offer a pathway for the
13 licensure of environmental engineers. Forty-eight other states test
14 and provide a licensing path for environmental engineers. Hawaii
15 and California currently do not.

16 (c) As programs of environmental mitigation and protection
17 continue to expand in scope and complexity for our air, water, and
18 soil testing and certification of environmental engineers is needed
19 to establish benchmarks for competency to protect and safeguard
20 the public.

21 (d) The Board for Professional Engineers, Land Surveyors, and
22 Geologists (BPELSG) safeguards the life, health, property, and
23 public welfare by regulating the practice of professional
24 engineering. The BPELSG provides this public service by testing
25 and licensing individuals, establishing regulations, enforcing laws
26 and regulations, and providing information so that consumers can
27 make informed decisions.

28 (e) In the early 1970s, the BPELSG created title acts in the
29 branches of agriculture, control system, corrosion, fire protection,
30 manufacturing, nuclear, quality, safety, and traffic. At that time,
31 the BPELSG did not approve a petition to add an environmental
32 engineer title act. In 1986, the authority to establish new title
33 registration branches returned to the Legislature.

1 (f) In California, professional engineers are licensed in the three
2 practice act categories of civil, electrical, and mechanical
3 engineering, and licensed in the 10 title act categories of
4 agricultural, chemical, control system, fire protection, industrial,
5 manufacturing, metallurgical, nuclear, petroleum, and traffic
6 engineering.

7 (g) Environmental engineering is the branch of engineering that
8 understands and applies engineering principles in the areas of solid
9 waste management, water supply and treatment, wastewater
10 treatment, air pollution management, hazardous waste management,
11 and related environmental and public health impact, assessment,
12 and mitigation including the physical, chemical, and biological
13 processes by which pollutants form, release, disperse, react, or
14 neutralize in air, water, or soil.

15 (h) Given the proliferation of the practice of environmental
16 engineering in the public and private sectors in California, it is
17 now necessary to create an environmental engineering title act
18 within the Professional Engineers Act to safeguard life, health,
19 property, and the public welfare and regulating this profession.

20 (i) It is the intent of the Legislature that the BPELSG will be
21 responsible for defining “environmental engineering” through
22 rulemaking, adding to the definitions found in Section 404 of Title
23 16 of the California Code of Regulations, and using the same
24 process used to define the other title acts. It is the intent of the
25 Legislature that the BPELSG will also adopt national standardized
26 examination materials applicable to environmental engineering,
27 similar to testing for other branches of engineering.

28 (j) Creating a new environmental engineering title act does not
29 require the expenditure of state funds. Just as is the case with other
30 practice and title act licensees, it is the intent of the Legislature
31 that applicant fees will cover the cost of license and registration.

32 SEC. 2. Section 6732 of the Business and Professions Code is
33 amended to read:

34 6732. It is unlawful for anyone other than a professional
35 engineer licensed under this chapter to stamp or seal any plans,
36 specifications, plats, reports, or other documents with the seal or
37 stamp of a professional engineer, or in any manner, use the title
38 “professional engineer,” “licensed engineer,” “registered engineer,”
39 or “consulting engineer,” or any of the following branch titles:
40 “agricultural engineer,” “chemical engineer,” “civil engineer,”

1 “control system engineer,” “electrical engineer,” “*environmental*
2 *engineer*,” “fire protection engineer,” “industrial engineer,”
3 “mechanical engineer,” “metallurgical engineer,” “nuclear
4 engineer,” “petroleum engineer,” or “traffic engineer,” or any
5 combination of these words and phrases or abbreviations thereof
6 unless licensed under this chapter.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

O



PROFESSIONAL ENGINEERS

IN CALIFORNIA GOVERNMENT

April 7, 2015

Ms. Kathy Jones Irish
President
Board for Professional Engineers, Land Surveyors and Geologists
2535 Capitol Oakes Drive, Ste. 300
Sacramento, CA 95833

RE: PECG-Sponsored AB 320 (Woods) – Request for Support

Dear President Jones Irish:

On behalf of the Professional Engineers in California Government (PECG), I write to request the Board's support for AB 320 (Wood), PECG sponsored legislation to establish a title act for the branch of environmental engineering within the Professional Engineers Act.

Given the proliferation of the teaching and practice of environmental engineering, PECG believes it is now necessary to recognize and regulate environmental engineers with their own title act.

Today, no less than 9 public and private universities in our state provide accredited environmental engineering programs. And in recent decades, the application of environmental engineering has expanded greatly throughout California and the nation.

During that same period, the State of California has implemented some of the most comprehensive and complicated environmental and global climate change regulatory programs in the world. Thousands of California engineers currently provide essential environmental engineering services to all levels of government, private industry and the public.

Yet, the State of California does not offer a pathway for the licensure of environmental engineers. While forty-eight other states test and provide for an environmental engineer license, Hawaii and California do not. As programs of environmental mitigation and protection continue to expand in scope and complexity for our air, water, and soil -- testing and certification of environmental engineers is needed to establish benchmarks for competency to help protect and safeguard the public.

HEADQUARTERS: 455 Capitol Mall, Suite 501, Sacramento, CA 95814 • (916) 446-0400
LOS ANGELES: 215 N. Marengo Avenue, Suite 185, Pasadena, CA 91101 • (818) 500-9941
SAN FRANCISCO: 1 Sutter Street, Suite 800, San Francisco, CA 94104 • (415) 861-5720
TELEFAX: Headquarters (916) 446-0489; Los Angeles (818) 247-2348; San Francisco (415) 861-5360

PECG-Sponsored AB 320 (Woods) – Request for Support

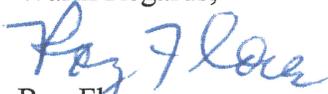
April 7, 2015

Page 2

AB 320 merely creates an environmental engineer title act. The legislation leaves it up to the Board to define “environmental engineering” through rulemaking (adding to the definitions found in Title 16 CCR §404), the same process used to define the other title acts. The adoption of national standardized examination materials and related steps necessary to implement a new title act would be left to the discretion of the Board.

PECG thanks you and your fellow Board members for considering our request to support AB 320. If PECG can provide any additional information or background, please call Ted Toppin at 916/446-0400.

Warm Regards,



Roy Flores

PECG President

cc: Members, Board for Professional Engineers, Land Surveyors and Geologists
Hon. Jim Wood, Member, California State Assembly
Richard B. Moore, P.L.S, Board Executive Officer
Nancy A. Eissler, Board Assistant Executive Officer

Introduced Legislation

Assembly Bill 507 (Olsen R)

Department of Consumer Affairs: BreEZe system: annual report.

Last Amendment: 3/26/2015

Status: 3/26/2015-Referred to Committee on Business and Professions. From committee chair, with author's amendments: Amend, and re-refer to Committee on Business and Professions. Read second time and amended.

Calendar: 4/14/2015 9 a.m. - State Capitol, Room 447 Assembly Business and Professions, Bonilla, Chair

Location: 3/26/2015-A. B.&P.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 507

Bill Summary: AB 507 would require the Department of Consumer Affairs (DCA) to submit a report to the Legislature and the Department of Finance (DOF) each year that details its plan for implementing BreEZe for the 19 boards and bureaus, of which this Board is one, that have not yet transitioned into the new system.

Staff Comment: This bill would require DCA to submit a report that would include a timeline, total estimated costs and a cost-benefit analysis for the remaining boards and bureaus that have not yet transitioned into the BreEze system.

Staff Recommendation: It is recommended that the Board take a **WATCH** position on AB 507

Laws: An act to add Section 210.5 to the Business and Professions Code, relating to the Department of Consumer Affairs.

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 507

**Introduced by Assembly Member Olsen
(Principal coauthor: Assembly Member Gray)**

February 23, 2015

An act to ~~amend~~ *add* Section ~~106~~ of 210.5 to the Business and Professions Code, relating to the Department of Consumer Affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 507, as amended, Olsen. Department of Consumer ~~Affairs~~.
Affairs: BreEZe system: annual report.

Existing law authorizes the Department of Consumer Affairs to enter into a contract with a vendor for the licensing and enforcement of the BreEZe system, which is a specified integrated, enterprisewide enforcement case management and licensing system, no sooner than 30 days after written notification to certain committees of the Legislature. Existing law requires the amount of contract funds for the system to be consistent with costs approved by the office of the State Chief Information Officer, based on information provided by the department in a specified manner.

This bill would, on and after January 31, 2016, require the department to submit an annual report to the Legislature and the Department of Finance that includes, among other things, the department's plans for implementing the BreEZe system at specified regulatory entities included in the department's's 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation.

~~Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer~~

~~Affairs. Existing law authorizes the Governor to remove from office any member of any board within the department appointed by him or her for, among other things, unprofessional or dishonorable conduct.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 210.5 is added to the Business and
2 Professions Code, immediately following Section 210, to read:

3 210.5. (a) On and after January 31, 2016, the department
4 shall submit an annual report to the Legislature and the
5 Department of Finance that includes all of the following:

6 (1) The department’s plan for implementing the BreEZe system
7 at the regulatory entities in the department’s third phase of the
8 implementation project, including, but not limited to, a timeline
9 for implementation.

10 (2) The total estimated costs of implementation of the BreEZe
11 system at the regulatory entities in the department’s third phase
12 of the implementation project and the results of any cost-benefit
13 analysis the department conducted for the third phase of the
14 implementation project.

15 (3) A description of whether and to what extent the BreEZe
16 system will achieve any operational efficiencies resulting from
17 implementation by the boards and regulatory entities within the
18 department’s jurisdiction.

19 (b) The report described in subdivision (a) shall be submitted
20 in compliance with Section 9795 of the Government Code.

21 (c) For purposes of this section, “the regulatory entities in the
22 department’s third phase of the implementation project” includes
23 all of the following:

24 (1) Acupuncture Board.

25 (2) Board for Professional Engineers, Land Surveyors, and
26 Geologists.

27 (3) Bureau of Automotive Repair.

28 (4) Bureau of Electronic and Appliance Repair, Home
29 Furnishings, and Thermal Insulation.

30 (5) Bureau for Private Postsecondary Education.

31 (6) California Architects Board.

- 1 (7) *California Board of Accountancy.*
- 2 (8) *California State Board of Pharmacy.*
- 3 (9) *Cemetery and Funeral Bureau.*
- 4 (10) *Contractors' State License Board.*
- 5 (11) *Court Reporters Board of California.*
- 6 (12) *Landscape Architects Technical Committee.*
- 7 (13) *Professional Fiduciaries Bureau.*
- 8 (14) *Speech-Language Pathology and Audiology and Hearing*
- 9 *Aid Dispensers Board.*
- 10 (15) *State Athletic Commission.*
- 11 (16) *State Board of Chiropractic Examiners.*
- 12 (17) *State Board of Guide Dogs for the Blind.*
- 13 (18) *Structural Pest Control Board.*
- 14 (19) *Telephone Medical Advice Services Bureau.*

15 ~~SECTION 1. Section 106 of the Business and Professions Code~~
 16 ~~is amended to read:~~

17 ~~106. The Governor has power to remove from office at any~~
 18 ~~time, any member of any board appointed by him or her for~~
 19 ~~continued neglect of duties required by law, for incompetence, or~~
 20 ~~unprofessional or dishonorable conduct. This section shall not be~~
 21 ~~construed as a limitation or restriction on the power of the~~
 22 ~~Governor, conferred on him or her by any other law, to remove~~
 23 ~~any member of any board.~~

O

Introduced Legislation

Assembly Bill 1060 (Bonilla D) Professions and vocations: licensure.

Status: 3/19/2015-Referred to Committee on Business and Professions

Calendar: 4/14/2015 9 a.m. - State Capitol, Room 447 Assembly Business and Professions, Bonilla, Chair

Location: 3/19/2015- Assembly Business and Professions

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 1060

Bill Summary: This bill would require a board, upon suspension or revocation of a license, to provide the licensee with certain information pertaining to rehabilitation, reinstatement, or penalty reduction through first-class mail and by email.

Staff Comment: This bill would require that the Board send certain enforcement information via first-class mail and by email, if an email is on file.

Staff Recommendation: It is recommended that the Board take a **WATCH** position on AB 1060

Laws: An act to amend Section 491 of the Business and Professions Code, relating to professions and vocations.

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1060

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Section 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Bonilla. Professions and vocations: licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law requires the board, upon suspension or revocation of a license, to provide the ex-licensee with certain information pertaining to rehabilitation, reinstatement, or reduction of penalty, as specified.

This bill would ~~authorize~~ *require* the board to provide that information through first-class mail and by ~~electronic means~~: *email if the board has an email address on file for the ex-licensee.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 491 of the Business and Professions Code
- 2 is amended to read:

1 491. (a) Upon suspension or revocation of a license by a board
2 on one or more of the grounds specified in Section 490, the board
3 shall:
4 (1) Send a copy of the provisions of Section 11522 of the
5 Government Code to the ex-licensee.
6 (2) Send a copy of the criteria relating to rehabilitation
7 formulated under Section 482 to the ex-licensee.
8 (b) Subdivision (a) ~~may~~ shall be satisfied through first-class
9 mail and by ~~electronic means~~. *email if the board has an email*
10 *address on file for the ex-licensee.*

O

Introduced Legislation

Senate Bill 284 (Cannella R)

Engineering and land surveying: limited liability partnerships.

Status: 3/24/2015-Set for hearing April 20.

Calendar: 4/20/2015 1 p.m. and upon adjournment of Floor Session - Room 3191 Senate Business, Professions and Economic Development, Hill, Chair

Location: 3/5/2015-Senate Business, Professions and Economic Development

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: SB 284

Bill Summary: This bill indefinitely extends provisions that authorize persons licensed to engage in the practice of engineering or land surveying to form registered limited liability partnerships and foreign limited liability partnerships and requires those partnerships to provide security of no less than \$2,000,000 for claims arising out of the partnership's professional practice.

Staff Comment: SB 284 will simply continue the authorization for engineers and land surveyors to operate within their scope of licensure while conducting business as a limited liability partnership similar to that of certified public accountants and attorneys and to be designated as a registered limited liability partnership or foreign limited liability partnership, something that they have been authorized to do since 2010. ACEC-CA is the sponsor of this bill.

Staff Recommendation: It is recommended that the Board take a **WATCH** position on SB 284.

Laws: An act to amend and repeal Sections 6738 and 8729 of the Business and Professions Code, and to amend and repeal Sections 16101, 16956, and 16959 of the Corporations Code, relating to the practice of engineering and land surveying.

Introduced by Senator CannellaFebruary 19, 2015

An act to amend and repeal Sections 6738 and 8729 of the Business and Professions Code, and to amend and repeal Sections 16101, 16956, and 16959 of the Corporations Code, relating to the practice of engineering and land surveying.

LEGISLATIVE COUNSEL'S DIGEST

SB 284, as introduced, Cannella. Engineering and land surveying: limited liability partnerships.

The Professional Engineers Act provides for the licensure and regulation of engineers and the professional Land Surveyors' Act provides for the licensure and regulation of land surveyors by the board for Professional Engineers, Land Surveyors, and Geologists. The Uniform Partnership Act of 1994 authorizes the formation of registered limited liability partnerships and foreign limited liability partnerships as specified.

Existing law, until January 1, 2016, authorizes persons licensed to engage in the practice of engineering or land surveying to form registered limited liability partnerships and foreign limited liability partnerships and requires those partnerships to provide security of no less than \$2,000,000 for claims arising out of the partnership's professional practice. Existing law, until January 1, 2016, also provides that engineers or land surveyors are not prohibited from practicing or offering to practice, within the scope of their licensure, as a limited liability partnership if specified requirements are met, including, among others, that any offer, promotion, or advertisement by the business that contains the name of any individual in the business must clearly and specifically designate the license or registration discipline of the

individual named. Existing law repeals these provisions on January 1, 2016.

This bill would delete the repeal provisions, thereby extending the operation of those provisions indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6738 of the Business and Professions
2 Code, as amended by Section 1 of Chapter 634 of the Statutes of
3 2010, is amended to read:

4 6738. (a) This chapter does not prohibit one or more civil,
5 electrical, or mechanical engineers from practicing or offering to
6 practice, within the scope of their license, civil (including
7 geotechnical and structural), electrical, or mechanical engineering
8 as a sole proprietorship, partnership, limited liability partnership,
9 firm, or corporation (hereinafter called business), if all of the
10 following requirements are met:

11 (1) A civil, electrical, or mechanical engineer currently licensed
12 in this state is an owner, partner, or officer in charge of the
13 engineering practice of the business.

14 (2) All civil, electrical, or mechanical engineering services are
15 performed by, or under the responsible charge of, a professional
16 engineer licensed in the appropriate branch of professional
17 engineering.

18 (3) If the business name of a California engineering business
19 contains the name of any person, then that person shall be licensed
20 as a professional engineer, a licensed land surveyor, a licensed
21 architect, or a geologist registered under the Geologist and
22 Geophysicist Act (Chapter 12.5 (commencing with Section 7800)).
23 Any offer, promotion, or advertisement by the business that
24 contains the name of any individual in the business, other than by
25 use of the name of an individual in the business name, shall clearly
26 and specifically designate the license or registration discipline of
27 each individual named.

28 (b) An out-of-state business with a branch office in this state
29 shall meet the requirements of subdivision (a) and shall have an
30 owner, partner, or officer who is in charge of the engineering work
31 in the branch in this state, who is licensed in this state, and who is

1 physically present at the branch office in this state on a regular
2 basis. However, the name of the business may contain the name
3 of any person not licensed in this state if that person is
4 appropriately registered or licensed in another state. Any offer,
5 promotion, or advertisement that contains the name of any
6 individual in the business, other than by use of the names of the
7 individuals in the business name, shall clearly and specifically
8 designate the license or registration discipline of each individual
9 named.

10 (c) The business name of a California engineering business may
11 be a fictitious name. However, if the fictitious name includes the
12 name of any person, the requirements of paragraph (3) of
13 subdivision (a) shall be met.

14 (d) A person not licensed under this chapter may also be a
15 partner or an officer of a civil, electrical, or mechanical engineering
16 business if the requirements of subdivision (a) are met. Nothing
17 in this section shall be construed to permit a person who is not
18 licensed under this chapter to be the sole owner of a civil, electrical,
19 or mechanical engineering business, unless otherwise exempt under
20 this chapter.

21 (e) This chapter does not prevent an individual or business
22 engaged in any line of endeavor other than the practice of civil,
23 electrical, or mechanical engineering from employing or
24 contracting with a licensed civil, electrical, or mechanical engineer
25 to perform the respective engineering services incidental to the
26 conduct of business.

27 (f) This section shall not prevent the use of the name of any
28 business engaged in rendering civil, electrical, or mechanical
29 engineering services, including the use by any lawful successor
30 or survivor, that lawfully was in existence on December 31, 1987.
31 However, the business is subject to paragraphs (1) and (2) of
32 subdivision (a).

33 (g) A business engaged in rendering civil, electrical, or
34 mechanical engineering services may use in its name the name of
35 a deceased or retired person provided all of the following
36 conditions are satisfied:

37 (1) The person's name had been used in the name of the
38 business, or a predecessor in interest of the business, prior to and
39 after the death or retirement of the person.

1 (2) The person shall have been an owner, partner, or officer of
2 the business, or an owner, partner, or officer of the predecessor in
3 interest of the business.

4 (3) The person shall have been licensed as a professional
5 engineer, or a land surveyor, or an architect, or a geologist, (A) by
6 the appropriate licensing board if that person is operating a place
7 of business or practice in this state, or (B) by the applicable state
8 board if no place of business existed in this state.

9 (4) The person, if retired, has consented to the use of the name
10 and does not permit the use of the name in the title of another
11 professional engineering business in this state during the period
12 of the consent. However, the retired person may use his or her
13 name as the name of a new or purchased business if it is not
14 identical in every respect to that person’s name as used in the
15 former business.

16 (5) The business shall be subject to the provisions of paragraphs
17 (1) and (2) of subdivision (a).

18 (h) This section does not affect the provisions of Sections 6731.2
19 and 8726.1.

20 (i) A current organization record form shall be filed with the
21 board for all businesses engaged in rendering civil, electrical, or
22 mechanical engineering services.

23 ~~(j) This section shall remain in effect only until January 1, 2016,~~
24 ~~and as of that date is repealed, unless a later enacted statute, that~~
25 ~~is enacted before January 1, 2016, deletes or extends that date.~~

26 SEC. 2. Section 6738 of the Business and Professions Code,
27 as added by Section 2 of Chapter 634 of the Statutes of 2010, is
28 repealed.

29 ~~6738.—(a) This chapter does not prohibit one or more civil,~~
30 ~~electrical, or mechanical engineers from practicing or offering to~~
31 ~~practice within the scope of their license civil (including~~
32 ~~geotechnical and structural), electrical, or mechanical engineering~~
33 ~~as a sole proprietorship, partnership, firm, or corporation~~
34 ~~(hereinafter called business), if all of the following requirements~~
35 ~~are met:~~

36 ~~(1) A civil, electrical, or mechanical engineer currently licensed~~
37 ~~in this state is an owner, partner, or officer in charge of the~~
38 ~~engineering practice of the business.~~

39 ~~(2) All civil, electrical, or mechanical engineering services are~~
40 ~~performed by, or under the responsible charge of, a professional~~

1 ~~engineer licensed in the appropriate branch of professional~~
2 ~~engineering.~~

3 ~~(3) If the business name of a California engineering business~~
4 ~~contains the name of any person, then that person shall be licensed~~
5 ~~as a professional engineer, a licensed land surveyor, a licensed~~
6 ~~architect, or a geologist registered under the Geologist and~~
7 ~~Geophysicist Act (Chapter 12.5 (commencing with Section 7800)).~~
8 ~~Any offer, promotion, or advertisement by the business that~~
9 ~~contains the name of any individual in the business, other than by~~
10 ~~use of the name of an individual in the business name, shall clearly~~
11 ~~and specifically designate the license or registration discipline of~~
12 ~~each individual named.~~

13 ~~(b) An out-of-state business with a branch office in this state~~
14 ~~shall meet the requirements of subdivision (a) and shall have an~~
15 ~~owner, partner, or officer who is in charge of the engineering work~~
16 ~~in the branch in this state, who is licensed in this state, and who is~~
17 ~~physically present at the branch office in this state on a regular~~
18 ~~basis. However, the name of the business may contain the name~~
19 ~~of any person not licensed in this state if that person is~~
20 ~~appropriately registered or licensed in another state. Any offer,~~
21 ~~promotion, or advertisement that contains the name of any~~
22 ~~individual in the business, other than by use of the names of the~~
23 ~~individuals in the business name, shall clearly and specifically~~
24 ~~designate the license or registration discipline of each individual~~
25 ~~named.~~

26 ~~(c) The business name of a California engineering business may~~
27 ~~be a fictitious name. However, if the fictitious name includes the~~
28 ~~name of any person, the requirements of paragraph (3) of~~
29 ~~subdivision (a) shall be met.~~

30 ~~(d) A person not licensed under this chapter may also be a~~
31 ~~partner or an officer of a civil, electrical, or mechanical engineering~~
32 ~~business if the requirements of subdivision (a) are met. Nothing~~
33 ~~in this section shall be construed to permit a person who is not~~
34 ~~licensed under this chapter to be the sole owner of a civil, electrical,~~
35 ~~or mechanical engineering business, unless otherwise exempt under~~
36 ~~this chapter.~~

37 ~~(e) This chapter does not prevent an individual or business~~
38 ~~engaged in any line of endeavor other than the practice of civil,~~
39 ~~electrical, or mechanical engineering from employing or~~
40 ~~contracting with a licensed civil, electrical, or mechanical engineer~~

1 to perform the respective engineering services incidental to the
2 conduct of business.

3 ~~(f) This section shall not prevent the use of the name of any
4 business engaged in rendering civil, electrical, or mechanical
5 engineering services, including the use by any lawful successor
6 or survivor, that lawfully was in existence on December 31, 1987.
7 However, the business is subject to paragraphs (1) and (2) of
8 subdivision (a):~~

9 ~~(g) A business engaged in rendering civil, electrical, or
10 mechanical engineering services may use in its name the name of
11 a deceased or retired person provided all of the following
12 conditions are satisfied:~~

13 ~~(1) The person's name had been used in the name of the
14 business, or a predecessor in interest of the business, prior to and
15 after the death or retirement of the person.~~

16 ~~(2) The person shall have been an owner, partner, or officer of
17 the business, or an owner, partner, or officer of the predecessor in
18 interest of the business.~~

19 ~~(3) The person shall have been licensed as a professional
20 engineer, or a land surveyor, or an architect, or a geologist, (A) by
21 the appropriate licensing board if that person is operating a place
22 of business or practice in this state, or (B) by the applicable state
23 board if no place of business existed in this state.~~

24 ~~(4) The person, if retired, has consented to the use of the name
25 and does not permit the use of the name in the title of another
26 professional engineering business in this state during the period
27 of the consent. However, the retired person may use his or her
28 name as the name of a new or purchased business if it is not
29 identical in every respect to that person's name as used in the
30 former business.~~

31 ~~(5) The business shall be subject to the provisions of paragraphs
32 (1) and (2) of subdivision (a):~~

33 ~~(h) This section does not affect the provisions of Sections 6731.2
34 and 8726.1.~~

35 ~~(i) A current organization record form shall be filed with the
36 board for all businesses engaged in rendering civil, electrical, or
37 mechanical engineering services.~~

38 ~~(j) This section shall become operative on January 1, 2016.~~

1 SEC. 3. Section 8729 of the Business and Professions Code,
2 as amended by Section 3 of Chapter 634 of the Statutes of 2010,
3 is amended to read:

4 8729. (a) This chapter does not prohibit one or more licensed
5 land surveyors or civil engineers licensed in this state prior to 1982
6 (hereinafter called civil engineers) from practicing or offering to
7 practice, within the scope of their licensure, land surveying as a
8 sole proprietorship, partnership, limited liability partnership, firm,
9 or corporation (hereinafter called business), if the following
10 conditions are satisfied:

11 (1) A land surveyor or civil engineer currently licensed in the
12 state is an owner, partner, or officer in charge of the land surveying
13 practice of the business.

14 (2) All land surveying services are performed by or under the
15 responsible charge of a land surveyor or civil engineer.

16 (3) If the business name of a California land surveying business
17 contains the name of a person, then that person shall be licensed
18 by the board as a land surveyor or licensed by the board in any
19 year as a civil engineer. Any offer, promotion, or advertisement
20 by the business that contains the name of any individual in the
21 business, other than by use of the name of the individual in the
22 business name, shall clearly and specifically designate the license
23 discipline of each individual named.

24 (b) An out-of-state business with a branch office in this state
25 shall meet the requirements of subdivision (a) and shall have an
26 owner, partner, or officer who is in charge of the land surveying
27 work in this state, who is licensed in this state, and who is
28 physically present at the branch office in this state on a regular
29 basis. However, the name of the business may contain the name
30 of a person not licensed in this state, if that person is appropriately
31 licensed or registered in another state. Any offer, promotion, or
32 advertisement that contains the name of any individual in the
33 business, other than by use of the name of the individual in the
34 business name, shall clearly and specifically designate the license
35 or registration discipline of each individual named.

36 (c) The business name of a California land surveying business
37 may be a fictitious name. However, if the fictitious name includes
38 the names of any person, the requirements of paragraph (3) of
39 subdivision (a) shall be met.

1 (d) A person not licensed under this chapter or licensed as a
2 civil engineer in this state prior to 1982 may also be a partner or
3 an officer of a land surveying business if the conditions of
4 subdivision (a) are satisfied. Nothing in this section shall be
5 construed to permit a person who is not licensed under this chapter
6 or licensed as a civil engineer in this state prior to 1982 to be the
7 sole owner or officer of a land surveying business, unless otherwise
8 exempt under this chapter.

9 (e) This chapter does not prevent an individual or business
10 engaged in any line of endeavor, other than the practice of land
11 surveying, from employing or contracting with a licensed land
12 surveyor or a licensed civil engineer to perform the respective land
13 surveying services incidental to the conduct of business.

14 (f) This section shall not prevent the use of the name of any
15 business engaged in rendering land surveying services, including
16 the use by any lawful successor or survivor, that lawfully was in
17 existence on June 1, 1941. However, the business is subject to the
18 provisions of paragraphs (1) and (2) of subdivision (a).

19 (g) A business engaged in rendering land surveying services
20 may use in its name the name of a deceased or retired person if
21 the following conditions are satisfied:

22 (1) The person's name had been used in the name of the
23 business, or a predecessor in interest of the business, prior to the
24 death or retirement of the person.

25 (2) The person shall have been an owner, partner, or officer of
26 the business, or an owner, partner, or officer of the predecessor in
27 interest of the business.

28 (3) The person shall have been licensed as a land surveyor or a
29 civil engineer by the board, if operating a place of business or
30 practice in this state, or by an applicable state board in the event
31 no place of business existed in this state.

32 (4) The person, if retired, has consented to the use of the name
33 and does not permit the use of the name in the title of another land
34 surveying business in this state during the period of that consent,
35 except that a retired person may use his or her name as the name
36 of a new or purchased business, if that business is not identical in
37 every respect to that person's name as used in the former business.

38 (5) The business shall be subject to paragraphs (1) and (2) of
39 subdivision (a).

40 (h) This section does not affect Sections 6731.2 and 8726.1.

1 (i) A current organization record form shall be filed with the
2 board for all businesses engaged in rendering professional land
3 surveying services.

4 ~~(j) This section shall remain in effect only until January 1, 2016,~~
5 ~~and as of that date is repealed, unless a later enacted statute, that~~
6 ~~is enacted before January 1, 2016, deletes or extends that date.~~

7 SEC. 4. Section 8729 of the Business and Professions Code,
8 as added by Section 4 of Chapter 634 of the Statutes of 2010, is
9 repealed.

10 ~~8729. (a) This chapter does not prohibit one or more licensed~~
11 ~~land surveyors or civil engineers licensed in this state prior to 1982~~
12 ~~(hereinafter called civil engineers) from practicing or offering to~~
13 ~~practice within the scope of their licensure, land surveying as a~~
14 ~~sole proprietorship, partnership, firm, or corporation (hereinafter~~
15 ~~called business), if the following conditions are satisfied:~~

16 ~~(1) A land surveyor or civil engineer currently licensed in the~~
17 ~~state is an owner, partner, or officer in charge of the land surveying~~
18 ~~practice of the business.~~

19 ~~(2) All land surveying services are performed by or under the~~
20 ~~responsible charge of a land surveyor or civil engineer.~~

21 ~~(3) If the business name of a California land surveying business~~
22 ~~contains the name of a person, then that person shall be licensed~~
23 ~~by the board as a land surveyor or licensed by the board in any~~
24 ~~year as a civil engineer. Any offer, promotion, or advertisement~~
25 ~~by the business that contains the name of any individual in the~~
26 ~~business, other than by use of the name of the individual in the~~
27 ~~business name, shall clearly and specifically designate the license~~
28 ~~discipline of each individual named.~~

29 ~~(b) An out-of-state business with a branch office in this state~~
30 ~~shall meet the requirements of subdivision (a) and shall have an~~
31 ~~owner, partner, or officer who is in charge of the land surveying~~
32 ~~work in this state, who is licensed in this state, and who is~~
33 ~~physically present at the branch office in this state on a regular~~
34 ~~basis. However, the name of the business may contain the name~~
35 ~~of a person not licensed in this state, if that person is appropriately~~
36 ~~licensed or registered in another state. Any offer, promotion, or~~
37 ~~advertisement that contains the name of any individual in the~~
38 ~~business, other than by use of the name of the individual in the~~
39 ~~business name, shall clearly and specifically designate the license~~
40 ~~or registration discipline of each individual named.~~

1 ~~(e) The business name of a California land surveying business~~
2 ~~may be a fictitious name. However, if the fictitious name includes~~
3 ~~the names of any person, the requirements of paragraph (3) of~~
4 ~~subdivision (a) shall be met.~~

5 ~~(d) A person not licensed under this chapter or licensed as a~~
6 ~~civil engineer in this state prior to 1982 may also be a partner or~~
7 ~~an officer of a land surveying business if the conditions of~~
8 ~~subdivision (a) are satisfied. Nothing in this section shall be~~
9 ~~construed to permit a person who is not licensed under this chapter~~
10 ~~or licensed as a civil engineer in this state prior to 1982 to be the~~
11 ~~sole owner or office of a land surveying business, unless otherwise~~
12 ~~exempt under this chapter.~~

13 ~~(e) This chapter does not prevent an individual or business~~
14 ~~engaged in any line of endeavor, other than the practice of land~~
15 ~~surveying, from employing or contracting with a licensed land~~
16 ~~surveyor or a licensed civil engineer to perform the respective land~~
17 ~~surveying services incidental to the conduct of business.~~

18 ~~(f) This section shall not prevent the use of the name of any~~
19 ~~business engaged in rendering land surveying services, including~~
20 ~~the use by any lawful successor or survivor, that lawfully was in~~
21 ~~existence on June 1, 1941. However, the business is subject to the~~
22 ~~provisions of paragraphs (1) and (2) of subdivision (a).~~

23 ~~(g) A business engaged in rendering land surveying services~~
24 ~~may use in its name the name of a deceased or retired person if~~
25 ~~the following conditions are satisfied:~~

26 ~~(1) The person's name had been used in the name of the~~
27 ~~business, or a predecessor in interest of the business, prior to the~~
28 ~~death or retirement of the person.~~

29 ~~(2) The person shall have been an owner, partner, or officer of~~
30 ~~the business, or an owner, partner, or officer of the predecessor in~~
31 ~~interest of the business.~~

32 ~~(3) The person shall have been licensed as a land surveyor or a~~
33 ~~civil engineer by the board, if operating a place of business or~~
34 ~~practice in this state, or by an applicable state board in the event~~
35 ~~no place of business existed in this state.~~

36 ~~(4) The person, if retired, has consented to the use of the name~~
37 ~~and does not permit the use of the name in the title of another land~~
38 ~~surveying business in this state during the period of that consent,~~
39 ~~except that a retired person may use his or her name as the name~~

1 of a new or purchased business, if that business is not identical in
2 every respect to that person's name as used in the former business.

3 ~~(5) The business shall be subject to paragraphs (1) and (2) of~~
4 ~~subdivision (a).~~

5 ~~(h) This section does not affect Sections 6731.2 and 8726.1.~~

6 ~~(i) A current organization record form shall be filed with the~~
7 ~~board for all businesses engaged in rendering professional land~~
8 ~~surveying services.~~

9 ~~(j) This section shall become operative on January 1, 2016.~~

10 SEC. 5. Section 16101 of the Corporations Code, as amended
11 by Section 1 of Chapter 291 of the Statutes of 2011, is amended
12 to read:

13 16101. As used in this chapter, the following terms and phrases
14 have the following meanings:

15 (1) "Business" includes every trade, occupation, and profession.

16 (2) "Debtor in bankruptcy" means a person who is the subject
17 of either of the following:

18 (A) An order for relief under Title 11 of the United States Code
19 or a comparable order under a successor statute of general
20 application.

21 (B) A comparable order under federal, state, or foreign law
22 governing insolvency.

23 (3) "Distribution" means a transfer of money or other property
24 from a partnership to a partner in the partner's capacity as a partner
25 or to the partner's transferee.

26 (4) "Electronic transmission by the partnership" means a
27 communication (a) delivered by (1) facsimile telecommunication
28 or electronic mail when directed to the facsimile number or
29 electronic mail address, respectively, for that recipient on record
30 with the partnership, (2) posting on an electronic message board
31 or network that the partnership has designated for those
32 communications, together with a separate notice to the recipient
33 of the posting, which transmission shall be validly delivered upon
34 the later of the posting or delivery of the separate notice thereof,
35 or (3) other means of electronic communication, (b) to a recipient
36 who has provided an unrevoked consent to the use of those means
37 of transmission, and (c) that creates a record that is capable of
38 retention, retrieval, and review, and that may thereafter be rendered
39 into clearly legible tangible form. However, an electronic
40 transmission by a partnership to an individual partner is not

1 authorized unless, in addition to satisfying the requirements of this
2 section, the transmission satisfies the requirements applicable to
3 consumer consent to electronic records as set forth in the Electronic
4 Signatures in Global and National Commerce Act (15 U.S.C. Sec.
5 7001(c)(1)).

6 (5) “Electronic transmission to the partnership” means a
7 communication (a) delivered by (1) facsimile telecommunication
8 or electronic mail when directed to the facsimile number or
9 electronic mail address, respectively, which the partnership has
10 provided from time to time to partners for sending communications
11 to the partnership, (2) posting on an electronic message board or
12 network that the partnership has designated for those
13 communications, and which transmission shall be validly delivered
14 upon the posting, or (3) other means of electronic communication,
15 (b) as to which the partnership has placed in effect reasonable
16 measures to verify that the sender is the partner (in person or by
17 proxy) purporting to send the transmission, and (c) that creates a
18 record that is capable of retention, retrieval, and review, and that
19 may thereafter be rendered into clearly legible tangible form.

20 (6) (A) “Foreign limited liability partnership” means a
21 partnership, other than a limited partnership, formed pursuant to
22 an agreement governed by the laws of another jurisdiction and
23 denominated or registered as a limited liability partnership or
24 registered limited liability partnership under the laws of that
25 jurisdiction (i) in which each partner is a licensed person or a
26 person licensed or authorized to provide professional limited
27 liability partnership services in a jurisdiction or jurisdictions other
28 than this state, (ii) which is licensed under the laws of the state to
29 engage in the practice of architecture, the practice of public
30 accountancy, the practice of engineering, the practice of land
31 surveying, or the practice of law, or (iii) which (I) is related to a
32 registered limited liability partnership that practices public
33 accountancy or, to the extent permitted by the State Bar, practices
34 law or is related to a foreign limited liability partnership and (II)
35 provides services related or complementary to the professional
36 limited liability partnership services provided by, or provides
37 services or facilities to, that registered limited liability partnership
38 or foreign limited liability partnership.

39 (B) For the purposes of clause (iii) of subparagraph (A), a
40 partnership is related to a registered limited liability partnership

1 or foreign limited liability partnership if (i) at least a majority of
2 the partners in one partnership are also partners in the other
3 partnership, or (ii) at least a majority in interest in each partnership
4 hold interests in or are members of another person, except an
5 individual, and each partnership renders services pursuant to an
6 agreement with that other person, or (iii) one partnership, directly
7 or indirectly through one or more intermediaries, controls, is
8 controlled by, or is under common control with, the other
9 partnership.

10 (7) “Licensed person” means any person who is duly licensed,
11 authorized, or registered under the provisions of the Business and
12 Professions Code to provide professional limited liability
13 partnership services or who is lawfully able to render professional
14 limited liability partnership services in this state.

15 (8) (A) “Registered limited liability partnership” means a
16 partnership, other than a limited partnership, formed pursuant to
17 an agreement governed by Article 10 (commencing with Section
18 16951), that is registered under Section 16953 and (i) each of the
19 partners of which is a licensed person or a person licensed or
20 authorized to provide professional limited liability partnership
21 services in a jurisdiction or jurisdictions other than this state, (ii)
22 is licensed under the laws of the state to engage in the practice of
23 architecture, the practice of public accountancy, the practice of
24 engineering, the practice of land surveying, or the practice of law,
25 or (iii)(I) is related to a registered limited liability partnership that
26 practices public accountancy or, to the extent permitted by the
27 State Bar, practices law or is related to a foreign limited liability
28 partnership and (II) provides services related or complementary
29 to the professional limited liability partnership services provided
30 by, or provides services or facilities to, that registered limited
31 liability partnership or foreign limited liability partnership.

32 (B) For the purposes of clause (iii) of subparagraph (A), a
33 partnership is related to a registered limited liability partnership
34 or foreign limited liability partnership if (i) at least a majority of
35 the partners in one partnership are also partners in the other
36 partnership, or (ii) at least a majority in interest in each partnership
37 hold interests in or are members of another person, other than an
38 individual, and each partnership renders services pursuant to an
39 agreement with that other person, or (iii) one partnership, directly
40 or indirectly through one or more intermediaries, controls, is

1 controlled by, or is under common control with, the other
2 partnership.

3 (9) “Partnership” means an association of two or more persons
4 to carry on as coowners a business for profit formed under Section
5 16202, predecessor law, or comparable law of another jurisdiction,
6 and includes, for all purposes of the laws of this state, a registered
7 limited liability partnership, and excludes any partnership formed
8 under ~~Chapter 2 (commencing with Section 15501), Chapter 3~~
9 ~~(commencing with Section 15611), or Chapter 5.5~~ 4.5
10 (commencing with Section 15900).

11 (10) “Partnership agreement” means the agreement, whether
12 written, oral, or implied, among the partners concerning the
13 partnership, including amendments to the partnership agreement.

14 (11) “Partnership at will” means a partnership in which the
15 partners have not agreed to remain partners until the expiration of
16 a definite term or the completion of a particular undertaking.

17 (12) “Partnership interest” or “partner’s interest in the
18 partnership” means all of a partner’s interests in the partnership,
19 including the partner’s transferable interest and all management
20 and other rights.

21 (13) “Person” means an individual, corporation, business trust,
22 estate, trust, partnership, limited partnership, limited liability
23 partnership, limited liability company, association, joint venture,
24 government, governmental subdivision, agency, or instrumentality,
25 or any other legal or commercial entity.

26 (14) “Professional limited liability partnership services” means
27 the practice of architecture, the practice of public accountancy,
28 the practice of engineering, the practice of land surveying, or the
29 practice of law.

30 (15) “Property” means all property, real, personal, or mixed,
31 tangible or intangible, or any interest therein.

32 (16) “State” means a state of the United States, the District of
33 Columbia, the Commonwealth of Puerto Rico, or any territory or
34 insular possession subject to the jurisdiction of the United States.

35 (17) “Statement” means a statement of partnership authority
36 under Section 16303, a statement of denial under Section 16304,
37 a statement of dissociation under Section 16704, a statement of
38 dissolution under Section 16805, a statement of conversion or a
39 certificate of conversion under Section 16906, a statement of

1 merger under Section 16915, or an amendment or cancellation of
2 any of the foregoing.

3 (18) “Transfer” includes an assignment, conveyance, lease,
4 mortgage, deed, and encumbrance.

5 (19) The inclusion of the practice of architecture as a
6 professional limited liability partnership service permitted by this
7 section shall extend only until January 1, ~~2016~~. 2019.

8 ~~(20) This section shall remain in effect only until January 1,~~
9 ~~2016, and as of that date is repealed, unless a later enacted statute,~~
10 ~~that is enacted before January 1, 2016, deletes or extends that date.~~

11 SEC. 6. Section 16101 of the Corporations Code, as amended
12 by Section 2 of Chapter 291 of the Statutes of 2011, is repealed.

13 ~~16101. As used in this chapter, the following terms and phrases~~
14 ~~have the following meanings:~~

15 (1) “Business” includes every trade, occupation, and profession.

16 (2) “Debtor in bankruptcy” means a person who is the subject
17 of either of the following:

18 (A) ~~An order for relief under Title 11 of the United States Code~~
19 ~~or a comparable order under a successor statute of general~~
20 ~~application.~~

21 (B) ~~A comparable order under federal, state, or foreign law~~
22 ~~governing insolvency.~~

23 (3) “Distribution” means a transfer of money or other property
24 from a partnership to a partner in the partner’s capacity as a partner
25 or to the partner’s transferee.

26 (4) “Electronic transmission by the partnership” means a
27 communication (a) delivered by (1) facsimile telecommunication
28 or electronic mail when directed to the facsimile number or
29 electronic mail address, respectively, for that recipient on record
30 with the partnership, (2) posting on an electronic message board
31 or network that the partnership has designated for those
32 communications, together with a separate notice to the recipient
33 of the posting, which transmission shall be validly delivered upon
34 the later of the posting or delivery of the separate notice thereof,
35 or (3) other means of electronic communication, (b) to a recipient
36 who has provided an unrevoked consent to the use of those means
37 of transmission, and (c) that creates a record that is capable of
38 retention, retrieval, and review, and that may thereafter be rendered
39 into clearly legible tangible form. However, an electronic
40 transmission by a partnership to an individual partner is not

1 authorized unless, in addition to satisfying the requirements of this
2 section, the transmission satisfies the requirements applicable to
3 consumer consent to electronic records as set forth in the Electronic
4 Signatures in Global and National Commerce Act (15 U.S.C. Sec.
5 7001(e)(1)).

6 ~~(5) “Electronic transmission to the partnership” means a~~
7 ~~communication (a) delivered by (1) facsimile telecommunication~~
8 ~~or electronic mail when directed to the facsimile number or~~
9 ~~electronic mail address, respectively, which the partnership has~~
10 ~~provided from time to time to partners for sending communications~~
11 ~~to the partnership, (2) posting on an electronic message board or~~
12 ~~network that the partnership has designated for those~~
13 ~~communications, and which transmission shall be validly delivered~~
14 ~~upon the posting, or (3) other means of electronic communication,~~
15 ~~(b) as to which the partnership has placed in effect reasonable~~
16 ~~measures to verify that the sender is the partner (in person or by~~
17 ~~proxy) purporting to send the transmission, and (c) that creates a~~
18 ~~record that is capable of retention, retrieval, and review, and that~~
19 ~~may thereafter be rendered into clearly legible tangible form.~~

20 ~~(6) (A) “Foreign limited liability partnership” means a~~
21 ~~partnership, other than a limited partnership, formed pursuant to~~
22 ~~an agreement governed by the laws of another jurisdiction and~~
23 ~~denominated or registered as a limited liability partnership or~~
24 ~~registered limited liability partnership under the laws of that~~
25 ~~jurisdiction (i) in which each partner is a licensed person or a~~
26 ~~person licensed or authorized to provide professional limited~~
27 ~~liability partnership services in a jurisdiction or jurisdictions other~~
28 ~~than this state, (ii) which is licensed under the laws of the state to~~
29 ~~engage in the practice of architecture, the practice of public~~
30 ~~accountancy, or the practice of law, or (iii) which (I) is related to~~
31 ~~a registered limited liability partnership that practices public~~
32 ~~accountancy or, to the extent permitted by the State Bar, practices~~
33 ~~law or is related to a foreign limited liability partnership and (II)~~
34 ~~provides services related or complementary to the professional~~
35 ~~limited liability partnership services provided by, or provides~~
36 ~~services or facilities to, that registered limited liability partnership~~
37 ~~or foreign limited liability partnership.~~

38 ~~(B) For the purposes of clause (iii) of subparagraph (A), a~~
39 ~~partnership is related to a registered limited liability partnership~~
40 ~~or foreign limited liability partnership if (i) at least a majority of~~

1 the partners in one partnership are also partners in the other
2 partnership, or (ii) at least a majority in interest in each partnership
3 hold interests in or are members of another person, except an
4 individual, and each partnership renders services pursuant to an
5 agreement with that other person, or (iii) one partnership, directly
6 or indirectly through one or more intermediaries, controls, is
7 controlled by, or is under common control with, the other
8 partnership.

9 (7) “Licensed person” means any person who is duly licensed,
10 authorized, or registered under the provisions of the Business and
11 Professions Code to provide professional limited liability
12 partnership services or who is lawfully able to render professional
13 limited liability partnership services in this state.

14 (8) (A) “Registered limited liability partnership” means a
15 partnership, other than a limited partnership, formed pursuant to
16 an agreement governed by Article 10 (commencing with Section
17 16951), that is registered under Section 16953 and (i) each of the
18 partners of which is a licensed person or a person licensed or
19 authorized to provide professional limited liability partnership
20 services in a jurisdiction or jurisdictions other than this state, (ii)
21 is licensed under the laws of the state to engage in the practice of
22 architecture, practice of public accountancy, or the practice of law,
23 or (iii)(I) is related to a registered limited liability partnership that
24 practices public accountancy or, to the extent permitted by the
25 State Bar, practices law or is related to a foreign limited liability
26 partnership and (II) provides services related or complementary
27 to the professional limited liability partnership services provided
28 by, or provides services or facilities to, that registered limited
29 liability partnership or foreign limited liability partnership.

30 (B) For the purposes of clause (iii) of subparagraph (A), a
31 partnership is related to a registered limited liability partnership
32 or foreign limited liability partnership if (i) at least a majority of
33 the partners in one partnership are also partners in the other
34 partnership, or (ii) at least a majority in interest in each partnership
35 hold interests in or are members of another person, other than an
36 individual, and each partnership renders services pursuant to an
37 agreement with that other person, or (iii) one partnership, directly
38 or indirectly through one or more intermediaries, controls, is
39 controlled by, or is under common control with, the other
40 partnership.

1 (9) “Partnership” means an association of two or more persons
 2 to carry on as coowners a business for profit formed under Section
 3 16202, predecessor law, or comparable law of another jurisdiction,
 4 and includes, for all purposes of the laws of this state, a registered
 5 limited liability partnership, and excludes any partnership formed
 6 under Chapter 2 (commencing with Section 15501), Chapter 3
 7 (commencing with Section 15611), or Chapter 5.5 (commencing
 8 with Section 15900).

9 (10) “Partnership agreement” means the agreement, whether
 10 written, oral, or implied, among the partners concerning the
 11 partnership, including amendments to the partnership agreement.

12 (11) “Partnership at will” means a partnership in which the
 13 partners have not agreed to remain partners until the expiration of
 14 a definite term or the completion of a particular undertaking.

15 (12) “Partnership interest” or “partner’s interest in the
 16 partnership” means all of a partner’s interests in the partnership,
 17 including the partner’s transferable interest and all management
 18 and other rights.

19 (13) “Person” means an individual, corporation, business trust,
 20 estate, trust, partnership, limited partnership, limited liability
 21 partnership, limited liability company, association, joint venture,
 22 government, governmental subdivision, agency, or instrumentality,
 23 or any other legal or commercial entity.

24 (14) “Professional limited liability partnership services” means
 25 the practice of architecture, the practice of public accountancy, or
 26 the practice of law.

27 (15) “Property” means all property, real, personal, or mixed,
 28 tangible or intangible, or any interest therein.

29 (16) “State” means a state of the United States, the District of
 30 Columbia, the Commonwealth of Puerto Rico, or any territory or
 31 insular possession subject to the jurisdiction of the United States.

32 (17) “Statement” means a statement of partnership authority
 33 under Section 16303, a statement of denial under Section 16304,
 34 a statement of dissociation under Section 16704, a statement of
 35 dissolution under Section 16805, a statement of conversion or a
 36 certificate of conversion under Section 16906, a statement of
 37 merger under Section 16915, or an amendment or cancellation of
 38 any of the foregoing.

39 (18) “Transfer” includes an assignment, conveyance, lease,
 40 mortgage, deed, and encumbrance.

1 ~~(19) The inclusion of the practice of architecture as a~~
2 ~~professional limited liability partnership service permitted by this~~
3 ~~section shall extend only until January 1, 2019.~~

4 ~~(20) This section shall become operative on January 1, 2016.~~

5 SEC. 7. Section 16956 of the Corporations Code, as amended
6 by Section 7 of Chapter 634 of the Statutes of 2010, is amended
7 to read:

8 16956. (a) At the time of registration pursuant to Section
9 16953, in the case of a registered limited liability partnership, and
10 Section 16959, in the case of a foreign limited liability partnership,
11 and at all times during which those partnerships shall transact
12 intrastate business, every registered limited liability partnership
13 and foreign limited liability partnership, as the case may be, shall
14 be required to provide security for claims against it as follows:

15 (1) For claims based upon acts, errors, or omissions arising out
16 of the practice of public accountancy, a registered limited liability
17 partnership or foreign limited liability partnership providing
18 accountancy services shall comply with one, or pursuant to
19 subdivision (b) some combination, of the following:

20 (A) Maintaining a policy or policies of insurance against liability
21 imposed on or against it by law for damages arising out of claims;
22 however, the total aggregate limit of liability under the policy or
23 policies of insurance for partnerships with five or fewer licensed
24 persons shall not be less than one million dollars (\$1,000,000),
25 and for partnerships with more than five licensees rendering
26 professional services on behalf of the partnership, an additional
27 one hundred thousand dollars (\$100,000) of insurance shall be
28 obtained for each additional licensee; however, the maximum
29 amount of insurance is not required to exceed five million dollars
30 (\$5,000,000) in any one designated period, less amounts paid in
31 defending, settling, or discharging claims as set forth in this
32 subparagraph. The policy or policies may be issued on a
33 claims-made or occurrence basis, and shall cover: (i) in the case
34 of a claims-made policy, claims initially asserted in the designated
35 period, and (ii) in the case of an occurrence policy, occurrences
36 during the designated period. For purposes of this subparagraph,
37 “designated period” means a policy year or any other period
38 designated in the policy that is not greater than 12 months. The
39 impairment or exhaustion of the aggregate limit of liability by
40 amounts paid under the policy in connection with the settlement,

1 discharge, or defense of claims applicable to a designated period
 2 shall not require the partnership to acquire additional insurance
 3 coverage for that designated period. The policy or policies of
 4 insurance may be in a form reasonably available in the commercial
 5 insurance market and may be subject to those terms, conditions,
 6 exclusions, and endorsements that are typically contained in those
 7 policies. A policy or policies of insurance maintained pursuant to
 8 this subparagraph may be subject to a deductible or self-insured
 9 retention.

10 Upon the dissolution and winding up of the partnership, the
 11 partnership shall, with respect to any insurance policy or policies
 12 then maintained pursuant to this subparagraph, maintain or obtain
 13 an extended reporting period endorsement or equivalent provision
 14 in the maximum total aggregate limit of liability required to comply
 15 with this subparagraph for a minimum of three years if reasonably
 16 available from the insurer.

17 (B) Maintaining in trust or bank escrow, cash, bank certificates
 18 of deposit, United States Treasury obligations, bank letters of
 19 credit, or bonds of insurance or surety companies as security for
 20 payment of liabilities imposed by law for damages arising out of
 21 all claims; however, the maximum amount of security for
 22 partnerships with five or fewer licensed persons shall not be less
 23 than one million dollars (\$1,000,000), and for partnerships with
 24 more than five licensees rendering professional services on behalf
 25 of the partnership, an additional one hundred thousand dollars
 26 (\$100,000) of security shall be obtained for each additional
 27 licensee; however, the maximum amount of security is not required
 28 to exceed five million dollars (\$5,000,000). The partnership
 29 remains in compliance with this section during a calendar year
 30 notwithstanding amounts paid during that calendar year from the
 31 accounts, funds, Treasury obligations, letters of credit, or bonds
 32 in defending, settling, or discharging claims of the type described
 33 in this paragraph, provided that the amount of those accounts,
 34 funds, Treasury obligations, letters of credit, or bonds was at least
 35 the amount specified in the preceding sentence as of the first
 36 business day of that calendar year. Notwithstanding the pendency
 37 of other claims against the partnership, a registered limited liability
 38 partnership or foreign limited liability partnership shall be deemed
 39 to be in compliance with this subparagraph as to a claim if within
 40 30 days after the time that a claim is initially asserted through

1 service of a summons, complaint, or comparable pleading in a
2 judicial or administrative proceeding, the partnership has provided
3 the required amount of security by designating and segregating
4 funds in compliance with the requirements of this subparagraph.

5 (C) Unless the partnership has satisfied subparagraph (D), each
6 partner of a registered limited liability partnership or foreign
7 limited liability partnership providing accountancy services, by
8 virtue of that person’s status as a partner, thereby automatically
9 guarantees payment of the difference between the maximum
10 amount of security required for the partnership by this paragraph
11 and the security otherwise provided in accordance with
12 subparagraphs (A) and (B), provided that the aggregate amount
13 paid by all partners under these guarantees shall not exceed the
14 difference. Neither withdrawal by a partner nor the dissolution and
15 winding up of the partnership shall affect the rights or obligations
16 of a partner arising prior to withdrawal or dissolution and winding
17 up, and the guarantee provided for in this subparagraph shall apply
18 only to conduct that occurred prior to the withdrawal or dissolution
19 and winding up. Nothing contained in this subparagraph shall
20 affect or impair the rights or obligations of the partners among
21 themselves, or the partnership, including, but not limited to, rights
22 of contribution, subrogation, or indemnification.

23 (D) Confirming, pursuant to the procedure in subdivision (c),
24 that, as of the most recently completed fiscal year of the
25 partnership, it had a net worth equal to or exceeding ten million
26 dollars (\$10,000,000).

27 (2) For claims based upon acts, errors, or omissions arising out
28 of the practice of law, a registered limited liability partnership or
29 foreign limited liability partnership providing legal services shall
30 comply with one, or pursuant to subdivision (b) some combination,
31 of the following:

32 (A) Each registered limited liability partnership or foreign
33 limited liability partnership providing legal services shall maintain
34 a policy or policies of insurance against liability imposed on or
35 against it by law for damages arising out of claims; however, the
36 total aggregate limit of liability under the policy or policies of
37 insurance for partnerships with five or fewer licensed persons shall
38 not be less than one million dollars (\$1,000,000), and for
39 partnerships with more than five licensees rendering professional
40 services on behalf of the partnership, an additional one hundred

1 thousand dollars (\$100,000) of insurance shall be obtained for
2 each additional licensee; however, the maximum amount of
3 insurance is not required to exceed seven million five hundred
4 thousand dollars (\$7,500,000) in any one designated period, less
5 amounts paid in defending, settling, or discharging claims as set
6 forth in this subparagraph. The policy or policies may be issued
7 on a claims-made or occurrence basis, and shall cover (i) in the
8 case of a claims-made policy, claims initially asserted in the
9 designated period, and (ii) in the case of an occurrence policy,
10 occurrences during the designated period. For purposes of this
11 subparagraph, “designated period” means a policy year or any
12 other period designated in the policy that is not greater than 12
13 months. The impairment or exhaustion of the aggregate limit of
14 liability by amounts paid under the policy in connection with the
15 settlement, discharge, or defense of claims applicable to a
16 designated period shall not require the partnership to acquire
17 additional insurance coverage for that designated period. The policy
18 or policies of insurance may be in a form reasonably available in
19 the commercial insurance market and may be subject to those
20 terms, conditions, exclusions, and endorsements that are typically
21 contained in those policies. A policy or policies of insurance
22 maintained pursuant to this subparagraph may be subject to a
23 deductible or self-insured retention.

24 Upon the dissolution and winding up of the partnership, the
25 partnership shall, with respect to any insurance policy or policies
26 then maintained pursuant to this subparagraph, maintain or obtain
27 an extended reporting period endorsement or equivalent provision
28 in the maximum total aggregate limit of liability required to comply
29 with this subparagraph for a minimum of three years if reasonably
30 available from the insurer.

31 (B) Each registered limited liability partnership or foreign
32 limited liability partnership providing legal services shall maintain
33 in trust or bank escrow, cash, bank certificates of deposit, United
34 States Treasury obligations, bank letters of credit, or bonds of
35 insurance or surety companies as security for payment of liabilities
36 imposed by law for damages arising out of all claims; however,
37 the maximum amount of security for partnerships with five or
38 fewer licensed persons shall not be less than one million dollars
39 (\$1,000,000), and for partnerships with more than five licensees
40 rendering professional services on behalf of the partnership, an

1 additional one hundred thousand dollars (\$100,000) of security
2 shall be obtained for each additional licensee; however, the
3 maximum amount of security is not required to exceed seven
4 million five hundred thousand dollars (\$7,500,000). The partnership
5 remains in compliance with this section during a calendar year
6 notwithstanding amounts paid during that calendar year from the
7 accounts, funds, Treasury obligations, letters of credit, or bonds
8 in defending, settling, or discharging claims of the type described
9 in this paragraph, provided that the amount of those accounts,
10 funds, Treasury obligations, letters of credit, or bonds was at least
11 the amount specified in the preceding sentence as of the first
12 business day of that calendar year. Notwithstanding the pendency
13 of other claims against the partnership, a registered limited liability
14 partnership or foreign limited liability partnership shall be deemed
15 to be in compliance with this subparagraph as to a claim if within
16 30 days after the time that a claim is initially asserted through
17 service of a summons, complaint, or comparable pleading in a
18 judicial or administrative proceeding, the partnership has provided
19 the required amount of security by designating and segregating
20 funds in compliance with the requirement of this subparagraph.

21 (C) Unless the partnership has satisfied the requirements of
22 subparagraph (D), each partner of a registered limited liability
23 partnership or foreign limited liability partnership providing legal
24 services, by virtue of that person's status as a partner, thereby
25 automatically guarantees payment of the difference between the
26 maximum amount of security required for the partnership by this
27 paragraph and the security otherwise provided in accordance with
28 the provisions of subparagraphs (A) and (B), provided that the
29 aggregate amount paid by all partners under these guarantees shall
30 not exceed the difference. Neither withdrawal by a partner nor the
31 dissolution and winding up of the partnership shall affect the rights
32 or obligations of a partner arising prior to withdrawal or dissolution
33 and winding up, and the guarantee provided for in this
34 subparagraph shall apply only to conduct that occurred prior to
35 the withdrawal or dissolution and winding up. Nothing contained
36 in this subparagraph shall affect or impair the rights or obligations
37 of the partners among themselves, or the partnership, including,
38 but not limited to, rights of contribution, subrogation, or
39 indemnification.

1 (D) Confirming, pursuant to the procedure in subdivision (c),
2 that, as of the most recently completed fiscal year of the
3 partnership, it had a net worth equal to or exceeding fifteen million
4 dollars (\$15,000,000).

5 (3) For claims based upon acts, errors, or omissions arising out
6 of the practice of architecture, a registered limited liability
7 partnership or foreign limited liability partnership providing
8 architectural services shall comply with one, or pursuant to
9 subdivision (b) some combination, of the following:

10 (A) Maintaining a policy or policies of insurance against liability
11 imposed on or against it by law for damages arising out of claims;
12 however, the total aggregate limit of liability under the policy or
13 policies of insurance for partnerships with five or fewer licensees
14 rendering professional services on behalf of the partnership shall
15 not be less than one million dollars (\$1,000,000), and for
16 partnerships with more than five licensees rendering professional
17 services on behalf of the partnership, an additional one hundred
18 thousand dollars (\$100,000) of liability coverage shall be obtained
19 for each additional licensee; however, the total aggregate limit of
20 liability under the policy or policies of insurance is not required
21 to exceed five million dollars (\$5,000,000). The policy or policies
22 may be issued on a claims-made or occurrence basis, and shall
23 cover: (i) in the case of a claims-made policy, claims initially
24 asserted in the designated period, and (ii) in the case of an
25 occurrence policy, occurrences during the designated period. For
26 purposes of this subparagraph, “designated period” means a policy
27 year or any other period designated in the policy that is not greater
28 than 12 months. The impairment or exhaustion of the aggregate
29 limit of liability by amounts paid under the policy in connection
30 with the settlement, discharge, or defense of claims applicable to
31 a designated period shall not require the partnership to acquire
32 additional insurance coverage for that designated period. The policy
33 or policies of insurance may be in a form reasonably available in
34 the commercial insurance market and may be subject to those
35 terms, conditions, exclusions, and endorsements that are typically
36 contained in those policies. A policy or policies of insurance
37 maintained pursuant to this subparagraph may be subject to a
38 deductible or self-insured retention.

39 Upon the dissolution and winding up of the partnership, the
40 partnership shall, with respect to any insurance policy or policies

1 then maintained pursuant to this subparagraph, maintain or obtain
2 an extended reporting period endorsement or equivalent provision
3 in the maximum total aggregate limit of liability required to comply
4 with this subparagraph for a minimum of three years if reasonably
5 available from the insurer.

6 (B) Maintaining in trust or bank escrow, cash, bank certificates
7 of deposit, United States Treasury obligations, bank letters of
8 credit, or bonds of insurance or surety companies as security for
9 payment of liabilities imposed by law for damages arising out of
10 all claims; however, the maximum amount of security for
11 partnerships with five or fewer licensees rendering professional
12 services on behalf of the partnership shall not be less than one
13 million dollars (\$1,000,000), and for partnerships with more than
14 five licensees rendering professional services on behalf of the
15 partnership, an additional one hundred thousand dollars (\$100,000)
16 of security shall be obtained for each additional licensee; however,
17 the maximum amount of security is not required to exceed five
18 million dollars (\$5,000,000). The partnership remains in
19 compliance with this section during a calendar year notwithstanding
20 amounts paid during that calendar year from the accounts, funds,
21 Treasury obligations, letters of credit, or bonds in defending,
22 settling, or discharging claims of the type described in this
23 paragraph, provided that the amount of those accounts, funds,
24 Treasury obligations, letters of credit, or bonds was at least the
25 amount specified in the preceding sentence as of the first business
26 day of that calendar year. Notwithstanding the pendency of other
27 claims against the partnership, a registered limited liability
28 partnership or foreign limited liability partnership shall be deemed
29 to be in compliance with this subparagraph as to a claim if within
30 30 days after the time that a claim is initially asserted through
31 service of a summons, complaint, or comparable pleading in a
32 judicial or administrative proceeding, the partnership has provided
33 the required amount of security by designating and segregating
34 funds in compliance with the requirements of this subparagraph.

35 (C) Unless the partnership has satisfied subparagraph (D), each
36 partner of a registered limited liability partnership or foreign
37 limited liability partnership providing architectural services, by
38 virtue of that person's status as a partner, thereby automatically
39 guarantees payment of the difference between the maximum
40 amount of security required for the partnership by this paragraph

1 and the security otherwise provided in accordance with
 2 subparagraphs (A) and (B), provided that the aggregate amount
 3 paid by all partners under these guarantees shall not exceed the
 4 difference. Neither withdrawal by a partner nor the dissolution and
 5 winding up of the partnership shall affect the rights or obligations
 6 of a partner arising prior to withdrawal or dissolution and winding
 7 up, and the guarantee provided for in this subparagraph shall apply
 8 only to conduct that occurred prior to the withdrawal or dissolution
 9 and winding up. Nothing contained in this subparagraph shall
 10 affect or impair the rights or obligations of the partners among
 11 themselves, or the partnership, including, but not limited to, rights
 12 of contribution, subrogation, or indemnification.

13 (D) Confirming, pursuant to the procedure in subdivision (c),
 14 that, as of the most recently completed fiscal year of the
 15 partnership, it had a net worth equal to or exceeding ten million
 16 dollars (\$10,000,000).

17 (4) For claims based upon acts, errors, or omissions arising out
 18 of the practice of engineering or the practice of land surveying, a
 19 registered limited liability partnership or foreign limited liability
 20 partnership providing engineering or land surveying services shall
 21 comply with one, or pursuant to subdivision (b) some combination,
 22 of the following:

23 (A) Maintaining a policy or policies of insurance against liability
 24 imposed on or against it by law for damages arising out of claims;
 25 however, the total aggregate limit of liability under the policy or
 26 policies of insurance for partnerships with five or fewer licensees
 27 rendering professional services on behalf of the partnership shall
 28 not be less than two million dollars (\$2,000,000), and for
 29 partnerships with more than five licensees rendering professional
 30 services on behalf of the partnership, an additional one hundred
 31 thousand dollars (\$100,000) of liability coverage shall be obtained
 32 for each additional licensee; however, the total aggregate limit of
 33 liability under the policy or policies of insurance is not required
 34 to exceed five million dollars (\$5,000,000). The policy or policies
 35 may be issued on a claims-made or occurrence basis, and shall
 36 cover: (i) in the case of a claims-made policy, claims initially
 37 asserted in the designated period, and (ii) in the case of an
 38 occurrence policy, occurrences during the designated period. For
 39 purposes of this subparagraph, “designated period” means a policy
 40 year or any other period designated in the policy that is not greater

1 than 12 months. The impairment or exhaustion of the aggregate
2 limit of liability by amounts paid under the policy in connection
3 with the settlement, discharge, or defense of claims applicable to
4 a designated period shall not require the partnership to acquire
5 additional insurance coverage for that designated period. The policy
6 or policies of insurance may be in a form reasonably available in
7 the commercial insurance market and may be subject to those
8 terms, conditions, exclusions, and endorsements that are typically
9 contained in those policies. A policy or policies of insurance
10 maintained pursuant to this subparagraph may be subject to a
11 deductible or self-insured retention.

12 Upon the dissolution and winding up of the partnership, the
13 partnership shall, with respect to any insurance policy or policies
14 then maintained pursuant to this subparagraph, maintain or obtain
15 an extended reporting period endorsement or equivalent provision
16 in the maximum total aggregate limit of liability required to comply
17 with this subparagraph for a minimum of three years if reasonably
18 available from the insurer.

19 (B) Maintaining in trust or bank escrow, cash, bank certificates
20 of deposit, United States Treasury obligations, bank letters of
21 credit, or bonds of insurance or surety companies as security for
22 payment of liabilities imposed by law for damages arising out of
23 all claims; however, the maximum amount of security for
24 partnerships with five or fewer licensees rendering professional
25 services on behalf of the partnership shall not be less than two
26 million dollars (\$2,000,000), and for partnerships with more than
27 five licensees rendering professional services on behalf of the
28 partnership, an additional one hundred thousand dollars (\$100,000)
29 of security shall be obtained for each additional licensee; however,
30 the maximum amount of security is not required to exceed five
31 million dollars (\$5,000,000). The partnership remains in
32 compliance with this section during a calendar year,
33 notwithstanding amounts paid during that calendar year from the
34 accounts, funds, Treasury obligations, letters of credit, or bonds
35 in defending, settling, or discharging claims of the type described
36 in this paragraph, provided that the amount of those accounts,
37 funds, Treasury obligations, letters of credit, or bonds was at least
38 the amount specified in the preceding sentence as of the first
39 business day of that calendar year. Notwithstanding the pendency
40 of other claims against the partnership, a registered limited liability

1 partnership or foreign limited liability partnership shall be deemed
2 to be in compliance with this subparagraph as to a claim if, within
3 30 days after the time that a claim is initially asserted through
4 service of a summons, complaint, or comparable pleading in a
5 judicial or administrative proceeding, the partnership has provided
6 the required amount of security by designating and segregating
7 funds in compliance with the requirements of this subparagraph.

8 (C) Unless the partnership has satisfied subparagraph (D), each
9 partner of a registered limited liability partnership or foreign
10 limited liability partnership providing engineering services or land
11 surveying services, by virtue of that person's status as a partner,
12 thereby automatically guarantees payment of the difference
13 between the maximum amount of security required for the
14 partnership by this paragraph and the security otherwise provided
15 in accordance with subparagraphs (A) and (B), provided that the
16 aggregate amount paid by all partners under these guarantees shall
17 not exceed the difference. Neither withdrawal by a partner nor the
18 dissolution and winding up of the partnership shall affect the rights
19 or obligations of a partner arising prior to withdrawal or dissolution
20 and winding up, and the guarantee provided for in this
21 subparagraph shall apply only to conduct that occurred prior to
22 the withdrawal or dissolution and winding up. Nothing contained
23 in this subparagraph shall affect or impair the rights or obligations
24 of the partners among themselves, or the partnership, including,
25 but not limited to, rights of contribution, subrogation, or
26 indemnification.

27 (D) Confirming, pursuant to the procedure in subdivision (c),
28 that, as of the most recently completed fiscal year of the
29 partnership, it had a net worth equal to or exceeding ten million
30 dollars (\$10,000,000).

31 (b) For purposes of satisfying the security requirements of this
32 section, a registered limited liability partnership or foreign limited
33 liability partnership may aggregate the security provided by it
34 pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1)
35 of subdivision (a), subparagraphs (A), (B), (C), and (D) of
36 paragraph (2) of subdivision (a), subparagraphs (A), (B), (C), and
37 (D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B),
38 (C), and (D) of paragraph (4) of subdivision (a), as the case may
39 be. Any registered limited liability partnership or foreign limited
40 liability partnership intending to comply with the alternative

1 security provisions set forth in subparagraph (D) of paragraph (1)
2 of subdivision (a), subparagraph (D) of paragraph (2) of subdivision
3 (a), subparagraph (D) of paragraph (3) of subdivision (a), or
4 subparagraph (D) of paragraph (4) of subdivision (a), shall furnish
5 the following information to the Secretary of State’s office, in the
6 manner prescribed in, and accompanied by all information required
7 by, the applicable section:

8
9 TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
10 WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D),
11 SECTION 16956(a)(3)(D), OR SECTION 16956(a)(4)(D) OF THE
12 CALIFORNIA CORPORATIONS CODE

13
14 The undersigned hereby confirms the following:

- 15 1. _____
- 16 Name of registered or foreign limited liability partnership
- 17 2. _____
- 18 Jurisdiction where partnership is organized
- 19 3. _____
- 20 Address of principal office
- 21 4. The registered or foreign limited liability partnership chooses
- 22 to satisfy the requirements of Section 16956 by confirming,
- 23 pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D),
- 24 16956(a)(3)(D), or 16956 (a)(4)(D) and pursuant to Section 16956(c),
- 25 that, as of the most recently completed fiscal year, the partnership had
- 26 a net worth equal to or exceeding ten million dollars
- 27 (\$10,000,000), in the case of a partnership providing
- 28 accountancy services, fifteen million dollars (\$15,000,000)
- 29 in the case of a partnership providing legal services, or
- 30 ten million dollars (\$10,000,000), in the case of a partnership
- 31 providing architectural services, engineering services, or land surveying
- 32 services.
- 33 5. _____
- 34 Title of authorized person executing this form
- 35 6. _____
- 36 Signature of authorized person executing this form

37
38 (c) Pursuant to subparagraph (D) of paragraph (1) of subdivision
39 (a), subparagraph (D) of paragraph (2) of subdivision (a),
40 subparagraph (D) of paragraph (3) of subdivision (a), or

1 subparagraph (D) of paragraph (4) of subdivision (a), a registered
2 limited liability partnership or foreign limited liability partnership
3 may satisfy the requirements of this section by confirming that, as
4 of the last day of its most recently completed fiscal year, it had a
5 net worth equal to or exceeding the amount required. In order to
6 comply with this alternative method of meeting the requirements
7 established in this section, a registered limited liability partnership
8 or foreign limited liability partnership shall file an annual
9 confirmation with the Secretary of State's office, signed by an
10 authorized member of the registered limited liability partnership
11 or foreign limited liability partnership, accompanied by a
12 transmittal form as prescribed by subdivision (b). In order to be
13 current in a given year, the partnership form for confirming
14 compliance with the optional security requirement shall be on file
15 within four months of the completion of the fiscal year and, upon
16 being filed, shall constitute full compliance with the financial
17 security requirements for purposes of this section as of the
18 beginning of the fiscal year. A confirmation filed during any
19 particular fiscal year shall continue to be effective for the first four
20 months of the next succeeding fiscal year.

21 (d) Neither the existence of the requirements of subdivision (a)
22 nor the extent of the registered limited liability partnership's or
23 foreign limited liability partnership's compliance with the
24 alternative requirements in this section shall be admissible in court
25 or in any way be made known to a jury or other trier of fact in
26 determining an issue of liability for, or to the extent of, the damages
27 in question.

28 (e) Notwithstanding any other provision of this section, if a
29 registered limited liability partnership or foreign limited liability
30 partnership is otherwise in compliance with the terms of this section
31 at the time that a bankruptcy or other insolvency proceeding is
32 commenced with respect to the registered limited liability
33 partnership or foreign limited liability partnership, it shall be
34 deemed to be in compliance with this section during the pendency
35 of the proceeding. A registered limited liability partnership that
36 has been the subject of a proceeding and that conducts business
37 after the proceeding ends shall thereafter comply with paragraph
38 (1), (2), (3), or (4) of subdivision (a), in order to obtain the
39 limitations on liability afforded by subdivision (c) of Section
40 16306.

1 ~~(f) This section shall remain in effect only until January 1, 2016,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2016, deletes or extends that date.~~

4 SEC. 8. Section 16956 of the Corporations Code, as added by
5 Section 8 of Chapter 634 of the Statutes of 2010, is repealed.

6 ~~16956. (a) At the time of registration pursuant to Section~~
7 ~~16953, in the case of a registered limited liability partnership, and~~
8 ~~Section 16959, in the case of a foreign limited liability partnership,~~
9 ~~and at all times during which those partnerships shall transact~~
10 ~~intrastate business, every registered limited liability partnership~~
11 ~~and foreign limited liability partnership, as the case may be, shall~~
12 ~~be required to provide security for claims against it as follows:~~

13 ~~(1) For claims based upon acts, errors, or omissions arising out~~
14 ~~of the practice of public accountancy, a registered limited liability~~
15 ~~partnership or foreign limited liability partnership providing~~
16 ~~accountancy services shall comply with one, or pursuant to~~
17 ~~subdivision (b) some combination, of the following:~~

18 ~~(A) Maintaining a policy or policies of insurance against liability~~
19 ~~imposed on or against it by law for damages arising out of claims;~~
20 ~~however, the total aggregate limit of liability under the policy or~~
21 ~~policies of insurance for partnerships with five or fewer licensed~~
22 ~~persons shall not be less than one million dollars (\$1,000,000),~~
23 ~~and for partnerships with more than five licensees rendering~~
24 ~~professional services on behalf of the partnership, an additional~~
25 ~~one hundred thousand dollars (\$100,000) of insurance shall be~~
26 ~~obtained for each additional licensee; however, the maximum~~
27 ~~amount of insurance is not required to exceed five million dollars~~
28 ~~(\$5,000,000) in any one designated period, less amounts paid in~~
29 ~~defending, settling, or discharging claims as set forth in this~~
30 ~~subparagraph. The policy or policies may be issued on a~~
31 ~~claims-made or occurrence basis, and shall cover: (i) in the case~~
32 ~~of a claims-made policy, claims initially asserted in the designated~~
33 ~~period, and (ii) in the case of an occurrence policy, occurrences~~
34 ~~during the designated period. For purposes of this subparagraph,~~
35 ~~“designated period” means a policy year or any other period~~
36 ~~designated in the policy that is not greater than 12 months. The~~
37 ~~impairment or exhaustion of the aggregate limit of liability by~~
38 ~~amounts paid under the policy in connection with the settlement,~~
39 ~~discharge, or defense of claims applicable to a designated period~~
40 ~~shall not require the partnership to acquire additional insurance~~

1 coverage for that designated period. The policy or policies of
 2 insurance may be in a form reasonably available in the commercial
 3 insurance market and may be subject to those terms, conditions,
 4 exclusions, and endorsements that are typically contained in those
 5 policies. A policy or policies of insurance maintained pursuant to
 6 this subparagraph may be subject to a deductible or self-insured
 7 retention.

8 Upon the dissolution and winding up of the partnership, the
 9 partnership shall, with respect to any insurance policy or policies
 10 then maintained pursuant to this subparagraph, maintain or obtain
 11 an extended reporting period endorsement or equivalent provision
 12 in the maximum total aggregate limit of liability required to comply
 13 with this subparagraph for a minimum of three years if reasonably
 14 available from the insurer.

15 (B) Maintaining in trust or bank escrow, cash, bank certificates
 16 of deposit, United States Treasury obligations, bank letters of
 17 credit, or bonds of insurance or surety companies as security for
 18 payment of liabilities imposed by law for damages arising out of
 19 all claims; however, the maximum amount of security for
 20 partnerships with five or fewer licensed persons shall not be less
 21 than one million dollars (\$1,000,000), and for partnerships with
 22 more than five licensees rendering professional services on behalf
 23 of the partnership, an additional one hundred thousand dollars
 24 (\$100,000) of security shall be obtained for each additional
 25 licensee; however, the maximum amount of security is not required
 26 to exceed five million dollars (\$5,000,000). The partnership
 27 remains in compliance with this section during a calendar year
 28 notwithstanding amounts paid during that calendar year from the
 29 accounts, funds, Treasury obligations, letters of credit, or bonds
 30 in defending, settling, or discharging claims of the type described
 31 in this paragraph, provided that the amount of those accounts,
 32 funds, Treasury obligations, letters of credit, or bonds was at least
 33 the amount specified in the preceding sentence as of the first
 34 business day of that calendar year. Notwithstanding the pendency
 35 of other claims against the partnership, a registered limited liability
 36 partnership or foreign limited liability partnership shall be deemed
 37 to be in compliance with this subparagraph as to a claim if within
 38 30 days after the time that a claim is initially asserted through
 39 service of a summons, complaint, or comparable pleading in a
 40 judicial or administrative proceeding, the partnership has provided

1 the required amount of security by designating and segregating
2 funds in compliance with the requirements of this subparagraph.

3 (C) ~~Unless the partnership has satisfied subparagraph (D), each~~
4 ~~partner of a registered limited liability partnership or foreign~~
5 ~~limited liability partnership providing accountancy services, by~~
6 ~~virtue of that person's status as a partner, thereby automatically~~
7 ~~guarantees payment of the difference between the maximum~~
8 ~~amount of security required for the partnership by this paragraph~~
9 ~~and the security otherwise provided in accordance with~~
10 ~~subparagraphs (A) and (B), provided that the aggregate amount~~
11 ~~paid by all partners under these guarantees shall not exceed the~~
12 ~~difference. Neither withdrawal by a partner nor the dissolution and~~
13 ~~winding up of the partnership shall affect the rights or obligations~~
14 ~~of a partner arising prior to withdrawal or dissolution and winding~~
15 ~~up, and the guarantee provided for in this subparagraph shall apply~~
16 ~~only to conduct that occurred prior to the withdrawal or dissolution~~
17 ~~and winding up. Nothing contained in this subparagraph shall~~
18 ~~affect or impair the rights or obligations of the partners among~~
19 ~~themselves, or the partnership, including, but not limited to, rights~~
20 ~~of contribution, subrogation, or indemnification.~~

21 (D) ~~Confirming, pursuant to the procedure in subdivision (c),~~
22 ~~that, as of the most recently completed fiscal year of the~~
23 ~~partnership, it had a net worth equal to or exceeding ten million~~
24 ~~dollars (\$10,000,000).~~

25 (2) ~~For claims based upon acts, errors, or omissions arising out~~
26 ~~of the practice of law, a registered limited liability partnership or~~
27 ~~foreign limited liability partnership providing legal services shall~~
28 ~~comply with one, or pursuant to subdivision (b) some combination,~~
29 ~~of the following:~~

30 (A) ~~Each registered limited liability partnership or foreign~~
31 ~~limited liability partnership providing legal services shall maintain~~
32 ~~a policy or policies of insurance against liability imposed on or~~
33 ~~against it by law for damages arising out of claims; however, the~~
34 ~~total aggregate limit of liability under the policy or policies of~~
35 ~~insurance for partnerships with five or fewer licensed persons shall~~
36 ~~not be less than one million dollars (\$1,000,000), and for~~
37 ~~partnerships with more than five licensees rendering professional~~
38 ~~services on behalf of the partnership, an additional one hundred~~
39 ~~thousand dollars (\$100,000) of insurance shall be obtained for~~
40 ~~each additional licensee; however, the maximum amount of~~

1 insurance is not required to exceed seven million five hundred
 2 thousand dollars (\$7,500,000) in any one designated period, less
 3 amounts paid in defending, settling, or discharging claims as set
 4 forth in this subparagraph. The policy or policies may be issued
 5 on a claims-made or occurrence basis, and shall cover (i) in the
 6 case of a claims-made policy, claims initially asserted in the
 7 designated period, and (ii) in the case of an occurrence policy,
 8 occurrences during the designated period. For purposes of this
 9 subparagraph, “designated period” means a policy year or any
 10 other period designated in the policy that is not greater than 12
 11 months. The impairment or exhaustion of the aggregate limit of
 12 liability by amounts paid under the policy in connection with the
 13 settlement, discharge, or defense of claims applicable to a
 14 designated period shall not require the partnership to acquire
 15 additional insurance coverage for that designated period. The policy
 16 or policies of insurance may be in a form reasonably available in
 17 the commercial insurance market and may be subject to those
 18 terms, conditions, exclusions, and endorsements that are typically
 19 contained in those policies. A policy or policies of insurance
 20 maintained pursuant to this subparagraph may be subject to a
 21 deductible or self-insured retention.

22 Upon the dissolution and winding up of the partnership, the
 23 partnership shall, with respect to any insurance policy or policies
 24 then maintained pursuant to this subparagraph, maintain or obtain
 25 an extended reporting period endorsement or equivalent provision
 26 in the maximum total aggregate limit of liability required to comply
 27 with this subparagraph for a minimum of three years if reasonably
 28 available from the insurer.

29 (B) Each registered limited liability partnership or foreign
 30 limited liability partnership providing legal services shall maintain
 31 in trust or bank escrow, cash, bank certificates of deposit, United
 32 States Treasury obligations, bank letters of credit, or bonds of
 33 insurance or surety companies as security for payment of liabilities
 34 imposed by law for damages arising out of all claims; however,
 35 the maximum amount of security for partnerships with five or
 36 fewer licensed persons shall not be less than one million dollars
 37 (\$1,000,000), and for partnerships with more than five licensees
 38 rendering professional services on behalf of the partnership, an
 39 additional one hundred thousand dollars (\$100,000) of security
 40 shall be obtained for each additional licensee; however, the

1 maximum amount of security is not required to exceed seven
2 million five hundred thousand dollars (\$7,500,000). The partnership
3 remains in compliance with this section during a calendar year
4 notwithstanding amounts paid during that calendar year from the
5 accounts, funds, Treasury obligations, letters of credit, or bonds
6 in defending, settling, or discharging claims of the type described
7 in this paragraph, provided that the amount of those accounts,
8 funds, Treasury obligations, letters of credit, or bonds was at least
9 the amount specified in the preceding sentence as of the first
10 business day of that calendar year. Notwithstanding the pendency
11 of other claims against the partnership, a registered limited liability
12 partnership or foreign limited liability partnership shall be deemed
13 to be in compliance with this subparagraph as to a claim if within
14 30 days after the time that a claim is initially asserted through
15 service of a summons, complaint, or comparable pleading in a
16 judicial or administrative proceeding, the partnership has provided
17 the required amount of security by designating and segregating
18 funds in compliance with the requirement of this subparagraph.

19 (C) Unless the partnership has satisfied the requirements of
20 subparagraph (D), each partner of a registered limited liability
21 partnership or foreign limited liability partnership providing legal
22 services, by virtue of that person's status as a partner, thereby
23 automatically guarantees payment of the difference between the
24 maximum amount of security required for the partnership by this
25 paragraph and the security otherwise provided in accordance with
26 the provisions of subparagraphs (A) and (B), provided that the
27 aggregate amount paid by all partners under these guarantees shall
28 not exceed the difference. Neither withdrawal by a partner nor the
29 dissolution and winding up of the partnership shall affect the rights
30 or obligations of a partner arising prior to withdrawal or dissolution
31 and winding up, and the guarantee provided for in this
32 subparagraph shall apply only to conduct that occurred prior to
33 the withdrawal or dissolution and winding up. Nothing contained
34 in this subparagraph shall affect or impair the rights or obligations
35 of the partners among themselves, or the partnership, including,
36 but not limited to, rights of contribution, subrogation, or
37 indemnification.

38 (D) Confirming, pursuant to the procedure in subdivision (c),
39 that, as of the most recently completed fiscal year of the

1 partnership, it had a net worth equal to or exceeding fifteen million
2 dollars (\$15,000,000).

3 ~~(3) For claims based upon acts, errors, or omissions arising out~~
4 ~~of the practice of architecture, a registered limited liability~~
5 ~~partnership or foreign limited liability partnership providing~~
6 ~~architectural services shall comply with one, or pursuant to~~
7 ~~subdivision (b) some combination, of the following:~~

8 ~~(A) Maintaining a policy or policies of insurance against liability~~
9 ~~imposed on or against it by law for damages arising out of claims~~
10 ~~in an amount for each claim of at least one hundred thousand~~
11 ~~dollars (\$100,000) multiplied by the number of licensed persons~~
12 ~~rendering professional services on behalf of the partnership;~~
13 ~~however, the total aggregate limit of liability under the policy or~~
14 ~~policies of insurance for partnerships with five or fewer licensees~~
15 ~~rendering professional services on behalf of the partnership shall~~
16 ~~not be less than five hundred thousand dollars (\$500,000), and for~~
17 ~~all other partnerships is not required to exceed five million dollars~~
18 ~~(\$5,000,000) in any one designated period, less amounts paid in~~
19 ~~defending, settling, or discharging claims as set forth in this~~
20 ~~subparagraph. On and after January 1, 2008, the total aggregate~~
21 ~~limit of liability under the policy or policies of insurance for~~
22 ~~partnerships with five or fewer licensees rendering professional~~
23 ~~services on behalf of the partnership shall not be less than one~~
24 ~~million dollars (\$1,000,000), and for partnerships with more than~~
25 ~~five licensees rendering professional services on behalf of the~~
26 ~~partnership, an additional one hundred thousand dollars (\$100,000)~~
27 ~~of liability coverage shall be obtained for each additional licensee;~~
28 ~~however, the total aggregate limit of liability under the policy or~~
29 ~~policies of insurance is not required to exceed five million dollars~~
30 ~~(\$5,000,000). The policy or policies may be issued on a~~
31 ~~claims-made or occurrence basis, and shall cover: (i) in the case~~
32 ~~of a claims-made policy, claims initially asserted in the designated~~
33 ~~period, and (ii) in the case of an occurrence policy, occurrences~~
34 ~~during the designated period. For purposes of this subparagraph,~~
35 ~~“designated period” means a policy year or any other period~~
36 ~~designated in the policy that is not greater than 12 months. The~~
37 ~~impairment or exhaustion of the aggregate limit of liability by~~
38 ~~amounts paid under the policy in connection with the settlement,~~
39 ~~discharge, or defense of claims applicable to a designated period~~
40 ~~shall not require the partnership to acquire additional insurance~~

1 coverage for that designated period. The policy or policies of
2 insurance may be in a form reasonably available in the commercial
3 insurance market and may be subject to those terms, conditions,
4 exclusions, and endorsements that are typically contained in those
5 policies. A policy or policies of insurance maintained pursuant to
6 this subparagraph may be subject to a deductible or self-insured
7 retention.

8 Upon the dissolution and winding up of the partnership, the
9 partnership shall, with respect to any insurance policy or policies
10 then maintained pursuant to this subparagraph, maintain or obtain
11 an extended reporting period endorsement or equivalent provision
12 in the maximum total aggregate limit of liability required to comply
13 with this subparagraph for a minimum of three years if reasonably
14 available from the insurer.

15 (B) Maintaining in trust or bank escrow, cash, bank certificates
16 of deposit, United States Treasury obligations, bank letters of
17 credit, or bonds of insurance or surety companies as security for
18 payment of liabilities imposed by law for damages arising out of
19 all claims in an amount of at least one hundred thousand dollars
20 (\$100,000) multiplied by the number of licensed persons rendering
21 professional services on behalf of the partnership; however, the
22 maximum amount of security for partnerships with five or fewer
23 licensees rendering professional services on behalf of the
24 partnership shall not be less than five hundred thousand dollars
25 (\$500,000), and for all other partnerships is not required to exceed
26 five million dollars (\$5,000,000). On and after January 1, 2008,
27 the maximum amount of security for partnerships with five or
28 fewer licensees rendering professional services on behalf of the
29 partnership shall not be less than one million dollars (\$1,000,000),
30 and for partnerships with more than five licensees rendering
31 professional services on behalf of the partnership, an additional
32 one hundred thousand dollars (\$100,000) of security shall be
33 obtained for each additional licensee; however, the maximum
34 amount of security is not required to exceed five million dollars
35 (\$5,000,000). The partnership remains in compliance with this
36 section during a calendar year notwithstanding amounts paid during
37 that calendar year from the accounts, funds, Treasury obligations,
38 letters of credit, or bonds in defending, settling, or discharging
39 claims of the type described in this paragraph, provided that the
40 amount of those accounts, funds, Treasury obligations, letters of

1 credit, or bonds was at least the amount specified in the preceding
2 sentence as of the first business day of that calendar year.
3 Notwithstanding the pendency of other claims against the
4 partnership, a registered limited liability partnership or foreign
5 limited liability partnership shall be deemed to be in compliance
6 with this subparagraph as to a claim if within 30 days after the
7 time that a claim is initially asserted through service of a summons,
8 complaint, or comparable pleading in a judicial or administrative
9 proceeding, the partnership has provided the required amount of
10 security by designating and segregating funds in compliance with
11 the requirements of this subparagraph.

12 (C) ~~Unless the partnership has satisfied subparagraph (D), each~~
13 ~~partner of a registered limited liability partnership or foreign~~
14 ~~limited liability partnership providing architectural services, by~~
15 ~~virtue of that person's status as a partner, thereby automatically~~
16 ~~guarantees payment of the difference between the maximum~~
17 ~~amount of security required for the partnership by this paragraph~~
18 ~~and the security otherwise provided in accordance with~~
19 ~~subparagraphs (A) and (B), provided that the aggregate amount~~
20 ~~paid by all partners under these guarantees shall not exceed the~~
21 ~~difference. Neither withdrawal by a partner nor the dissolution and~~
22 ~~winding up of the partnership shall affect the rights or obligations~~
23 ~~of a partner arising prior to withdrawal or dissolution and winding~~
24 ~~up, and the guarantee provided for in this subparagraph shall apply~~
25 ~~only to conduct that occurred prior to the withdrawal or dissolution~~
26 ~~and winding up. Nothing contained in this subparagraph shall~~
27 ~~affect or impair the rights or obligations of the partners among~~
28 ~~themselves, or the partnership, including, but not limited to, rights~~
29 ~~of contribution, subrogation, or indemnification.~~

30 (D) ~~Confirming, pursuant to the procedure in subdivision (e),~~
31 ~~that, as of the most recently completed fiscal year of the~~
32 ~~partnership, it had a net worth equal to or exceeding ten million~~
33 ~~dollars (\$10,000,000).~~

34 (b) ~~For purposes of satisfying the security requirements of this~~
35 ~~section, a registered limited liability partnership or foreign limited~~
36 ~~liability partnership may aggregate the security provided by it~~
37 ~~pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1)~~
38 ~~of subdivision (a), subparagraphs (A), (B), (C), and (D) of~~
39 ~~paragraph (2) of subdivision (a), or subparagraphs (A), (B), (C),~~
40 ~~and (D) of paragraph (3) of subdivision (a), as the case may be.~~

1 ~~Any registered limited liability partnership or foreign limited~~
 2 ~~liability partnership intending to comply with the alternative~~
 3 ~~security provisions set forth in subparagraph (D) of paragraph (1)~~
 4 ~~of subdivision (a), subparagraph (D) of paragraph (2) of subdivision~~
 5 ~~(a), or subparagraph (D) of paragraph (3) of subdivision (a) shall~~
 6 ~~furnish the following information to the Secretary of State's office,~~
 7 ~~in the manner prescribed in, and accompanied by all information~~
 8 ~~required by, the applicable section:~~

9

10 TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
 11 WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D), OR
 12 SECTION 16956(a)(3)(D) OF THE CALIFORNIA
 13 CORPORATIONS CODE

14

15 The undersigned hereby confirms the following:

16

1. - _____ -

17

 Name of registered or foreign limited liability partnership

18

2. - _____ -

19

 Jurisdiction where partnership is organized

20

3. - _____ -

21

 Address of principal office

22

4. The registered or foreign limited liability partnership chooses
 23 to satisfy the requirements of Section 16956 by confirming,
 24 pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), or
 25 16956(a)(3)(D) and pursuant to Section 16956(e), that, as of
 26 the most recently completed fiscal year, the partnership had
 27 a net worth equal to or exceeding ten million dollars
 28 (\$10,000,000), in the case of a partnership providing
 29 accountancy services, fifteen million dollars (\$15,000,000)
 30 in the case of a partnership providing legal services, or
 31 ten million dollars (\$10,000,000), in the case of a partnership
 32 providing architectural services.

33

5. - _____ -

34

 Title of authorized person executing this form

35

6. - _____ -

36

 Signature of authorized person executing this form

37

38 ~~(e) Pursuant to subparagraph (D) of paragraph (1) of subdivision~~
 39 ~~(a), subparagraph (D) of paragraph (2) of subdivision (a), or~~
 40 ~~subparagraph (D) of paragraph (3) of subdivision (a), a registered~~

1 limited liability partnership or foreign limited liability partnership
2 may satisfy the requirements of this section by confirming that, as
3 of the last day of its most recently completed fiscal year, it had a
4 net worth equal to or exceeding the amount required. In order to
5 comply with this alternative method of meeting the requirements
6 established in this section, a registered limited liability partnership
7 or foreign limited liability partnership shall file an annual
8 confirmation with the Secretary of State's office, signed by an
9 authorized member of the registered limited liability partnership
10 or foreign limited liability partnership, accompanied by a
11 transmittal form as prescribed by subdivision (b). In order to be
12 current in a given year, the partnership form for confirming
13 compliance with the optional security requirement shall be on file
14 within four months of the completion of the fiscal year and, upon
15 being filed, shall constitute full compliance with the financial
16 security requirements for purposes of this section as of the
17 beginning of the fiscal year. A confirmation filed during any
18 particular fiscal year shall continue to be effective for the first four
19 months of the next succeeding fiscal year.

20 (d) Neither the existence of the requirements of subdivision (a)
21 nor the extent of the registered limited liability partnership's or
22 foreign limited liability partnership's compliance with the
23 alternative requirements in this section shall be admissible in court
24 or in any way be made known to a jury or other trier of fact in
25 determining an issue of liability for, or to the extent of, the damages
26 in question.

27 (e) Notwithstanding any other provision of this section, if a
28 registered limited liability partnership or foreign limited liability
29 partnership is otherwise in compliance with the terms of this section
30 at the time that a bankruptcy or other insolvency proceeding is
31 commenced with respect to the registered limited liability
32 partnership or foreign limited liability partnership, it shall be
33 deemed to be in compliance with this section during the pendency
34 of the proceeding. A registered limited liability partnership that
35 has been the subject of a proceeding and that conducts business
36 after the proceeding ends shall thereafter comply with paragraph
37 (1), (2), or (3) of subdivision (a), in order to obtain the limitations
38 on liability afforded by subdivision (c) of Section 16306.

39 (f) This section shall become operative on January 1, 2016.

1 SEC. 9. Section 16959 of the Corporations Code, as mended
2 by Section 35 of Chapter 834 of the Statutes of 2014, is amended
3 to read:

4 16959. (a) (1) Before transacting intrastate business in this
5 state, a foreign limited liability partnership shall comply with all
6 statutory and administrative registration or filing requirements of
7 the state board, commission, or agency that prescribes the rules
8 and regulations governing a particular profession in which the
9 partnership proposes to be engaged, pursuant to the applicable
10 provisions of the Business and Professions Code relating to the
11 profession or applicable rules adopted by the governing board. A
12 foreign limited liability partnership that transacts intrastate business
13 in this state shall within 30 days after the effective date of the act
14 enacting this section or the date on which the foreign limited
15 liability partnership first transacts intrastate business in this state,
16 whichever is later, register with the Secretary of State by submitting
17 to the Secretary of State an application for registration as a foreign
18 limited liability partnership, signed by a person with authority to
19 do so under the laws of the jurisdiction of formation of the foreign
20 limited liability partnership, stating the name of the partnership,
21 the street address of its principal office, the mailing address of the
22 principal office if different from the street address, the name and
23 street address of its agent for service of process in this state in
24 accordance with subdivision (a) of Section 16309, a brief statement
25 of the business in which the partnership engages, and any other
26 matters that the partnership determines to include.

27 (2) Annexed to the application for registration shall be a
28 certificate from an authorized public official of the foreign limited
29 liability partnership's jurisdiction of organization to the effect that
30 the foreign limited liability partnership is in good standing in that
31 jurisdiction, if the laws of that jurisdiction permit the issuance of
32 those certificates, or, in the alternative, a statement by the foreign
33 limited liability partnership that the laws of its jurisdiction of
34 organization do not permit the issuance of those certificates.

35 (b) The registration shall be accompanied by a fee as set forth
36 in subdivision (b) of Section 12189 of the Government Code.

37 (c) If the Secretary of State finds that an application for
38 registration conforms to law and all requisite fees have been paid,
39 the Secretary of State shall issue a certificate of registration to
40 transact intrastate business in this state.

1 (d) The Secretary of State may cancel the filing of the
2 registration if a check or other remittance accepted in payment of
3 the filing fee is not paid upon presentation. Upon receiving written
4 notification that the item presented for payment has not been
5 honored for payment, the Secretary of State shall give a first written
6 notice of the applicability of this section to the agent for service
7 of process or to the person submitting the instrument. Thereafter,
8 if the amount has not been paid by cashier's check or equivalent,
9 the Secretary of State shall give a second written notice of
10 cancellation and the cancellation shall thereupon be effective. The
11 second notice shall be given 20 days or more after the first notice
12 and 90 days or less after the original filing.

13 (e) A partnership becomes registered as a foreign limited liability
14 partnership at the time of the filing of the initial registration with
15 the Secretary of State or at any later date or time specified in the
16 registration and the payment of the fee required by subdivision
17 (b). A partnership continues to be registered as a foreign limited
18 liability partnership until a notice that it is no longer so registered
19 as a foreign limited liability partnership has been filed pursuant to
20 Section 16960 or, if applicable, once it has been dissolved and
21 finally wound up. The status of a partnership registered as a foreign
22 limited liability partnership and the liability of a partner of that
23 foreign limited liability partnership shall not be adversely affected
24 by errors or subsequent changes in the information stated in an
25 application for registration under subdivision (a) or an amended
26 registration or notice under Section 16960.

27 (f) The fact that a registration or amended registration pursuant
28 to Section 16960 is on file with the Secretary of State is notice that
29 the partnership is a foreign limited liability partnership and of those
30 other facts contained therein that are required to be set forth in the
31 registration or amended registration.

32 (g) The Secretary of State shall provide a form for a registration
33 under subdivision (a), which shall include the form for confirming
34 compliance with the optional security requirement pursuant to
35 subdivision (c) of Section 16956. The Secretary of State shall
36 include with instructional materials, provided in conjunction with
37 the form for registration under subdivision (a), a notice that filing
38 the registration will obligate the limited liability partnership to pay
39 an annual tax for that taxable year to the Franchise Tax Board
40 pursuant to Section 17948 of the Revenue and Taxation Code.

1 That notice shall be updated annually to specify the dollar amount
2 of this tax.

3 (h) A foreign limited liability partnership transacting intrastate
4 business in this state shall not maintain any action, suit, or
5 proceeding in any court of this state until it has registered in this
6 state pursuant to this section.

7 (i) Any foreign limited liability partnership that transacts
8 intrastate business in this state without registration is subject to a
9 penalty of twenty dollars (\$20) for each day that unauthorized
10 intrastate business is transacted, up to a maximum of ten thousand
11 dollars (\$10,000).

12 (j) A partner of a foreign limited liability partnership is not liable
13 for the debts or obligations of the foreign limited liability
14 partnership solely by reason of its having transacted business in
15 this state without registration.

16 (k) A foreign limited liability partnership, transacting business
17 in this state without registration, appoints the Secretary of State
18 as its agent for service of process with respect to causes of action
19 arising out of the transaction of business in this state.

20 (l) “Transact intrastate business” as used in this section means
21 to repeatedly and successively provide professional limited liability
22 partnership services in this state, other than in interstate or foreign
23 commerce.

24 (m) Without excluding other activities that may not be
25 considered to be transacting intrastate business, a foreign limited
26 liability partnership shall not be considered to be transacting
27 intrastate business merely because its subsidiary or affiliate
28 transacts intrastate business, or merely because of its status as any
29 one or more of the following:

- 30 (1) A shareholder of a domestic corporation.
- 31 (2) A shareholder of a foreign corporation transacting intrastate
32 business.
- 33 (3) A limited partner of a foreign limited partnership transacting
34 intrastate business.
- 35 (4) A limited partner of a domestic limited partnership.
- 36 (5) A member or manager of a foreign limited liability company
37 transacting intrastate business.
- 38 (6) A member or manager of a domestic limited liability
39 company.

1 (n) Without excluding other activities that may not be considered
2 to be transacting intrastate business, a foreign limited liability
3 partnership shall not be considered to be transacting intrastate
4 business within the meaning of this subdivision solely by reason
5 of carrying on in this state any one or more of the following
6 activities:

7 (1) Maintaining or defending any action or suit or any
8 administrative or arbitration proceeding, or effecting the settlement
9 thereof or the settlement of claims or disputes.

10 (2) Holding meetings of its partners or carrying on any other
11 activities concerning its internal affairs.

12 (3) Maintaining bank accounts.

13 (4) Maintaining offices or agencies for the transfer, exchange,
14 and registration of the foreign limited liability partnership's
15 securities or maintaining trustees or depositories with respect to
16 those securities.

17 (5) Effecting sales through independent contractors.

18 (6) Soliciting or procuring orders, whether by mail or through
19 employees or agents or otherwise, where those orders require
20 acceptance without this state before becoming binding contracts.

21 (7) Creating or acquiring evidences of debt or mortgages, liens,
22 or security interest in real or personal property.

23 (8) Securing or collecting debts or enforcing mortgages and
24 security interests in property securing the debts.

25 (9) Conducting an isolated transaction that is completed within
26 180 days and not in the course of a number of repeated transactions
27 of a like nature.

28 (o) A person shall not be deemed to be transacting intrastate
29 business in this state merely because of its status as a partner of a
30 registered limited liability partnership or a foreign limited liability
31 company whether or not registered to transact intrastate business
32 in this state.

33 (p) The Attorney General may bring an action to restrain a
34 foreign limited liability partnership from transacting intrastate
35 business in this state in violation of this chapter.

36 (q) Nothing in this section is intended to, or shall, augment,
37 diminish, or otherwise alter existing provisions of law, statutes,
38 or court rules relating to services by a California architect,
39 California public accountant, California engineer, California land
40 surveyor, or California attorney in another jurisdiction, or services

1 by an out-of-state architect, out-of-state public accountant,
2 out-of-state engineer, out-of-state land surveyor, or out-of-state
3 attorney in California.

4 (r) An agent designated for service of process may deliver to
5 the Secretary of State, on a form prescribed by the Secretary of
6 State for filing, a signed and acknowledged written statement of
7 resignation as an agent for service of process containing the name
8 of the foreign limited liability partnership and Secretary of State's
9 file number of the foreign limited liability partnership, the name
10 of the resigning agent for service of process, and a statement that
11 the agent is resigning. On filing of the statement of resignation,
12 the authority of the agent to act in that capacity shall cease and the
13 Secretary of State shall mail or otherwise provide written notice
14 of the filing of the statement of resignation to the foreign limited
15 liability partnership at its principal office.

16 (s) The resignation of an agent may be effective if, on a form
17 prescribed by the Secretary of State containing the name of the
18 foreign limited liability partnership and Secretary of State's file
19 number for the foreign limited liability partnership and the name
20 of the agent for service of process, the agent disclaims having been
21 properly appointed as the agent.

22 (t) If an individual who has been designated agent for service
23 of process dies or resigns or no longer resides in the state, or if the
24 corporate agent for that purpose resigns, dissolves, withdraws from
25 the state, forfeits its right to transact intrastate business, has its
26 corporate rights, powers, and privileges suspended, or ceases to
27 exist, the foreign limited liability partnership shall promptly file
28 an amended application for registration as a foreign limited liability
29 partnership designating a new agent.

30 (u) The Secretary of State may destroy or otherwise dispose of
31 any resignation filed pursuant to this section after a new application
32 for registration as a foreign limited liability partnership is filed
33 pursuant to this section replacing the agent for service of process
34 that has resigned.

35 ~~(v) This section shall remain in effect only until January 1, 2016,~~
36 ~~and as of that date is repealed, unless a later enacted statute, that~~
37 ~~is enacted before January 1, 2016, deletes or extends that date.~~

38 SEC. 10. Section 16959 of the Corporations Code is repealed.

39 ~~16959. (a) (1) Before transacting intrastate business in this~~
40 ~~state, a foreign limited liability partnership shall comply with all~~

1 statutory and administrative registration or filing requirements of
2 the state board, commission, or agency that prescribes the rules
3 and regulations governing a particular profession in which the
4 partnership proposes to be engaged, pursuant to the applicable
5 provisions of the Business and Professions Code relating to the
6 profession or applicable rules adopted by the governing board. A
7 foreign limited liability partnership that transacts intrastate business
8 in this state shall within 30 days after the effective date of the act
9 enacting this section or the date on which the foreign limited
10 liability partnership first transacts intrastate business in this state,
11 whichever is later, register with the Secretary of State by submitting
12 to the Secretary of State an application for registration as a foreign
13 limited liability partnership, signed by a person with authority to
14 do so under the laws of the jurisdiction of formation of the foreign
15 limited liability partnership, stating the name of the partnership,
16 the street address of its principal office, the mailing address of the
17 principal office if different from the street address, the name and
18 street address of its agent for service of process in this state in
19 accordance with subdivision (a) of Section 16309, a brief statement
20 of the business in which the partnership engages, and any other
21 matters that the partnership determines to include.

22 (2) Annexed to the application for registration shall be a
23 certificate from an authorized public official of the foreign limited
24 liability partnership's jurisdiction of organization to the effect that
25 the foreign limited liability partnership is in good standing in that
26 jurisdiction, if the laws of that jurisdiction permit the issuance of
27 those certificates, or, in the alternative, a statement by the foreign
28 limited liability partnership that the laws of its jurisdiction of
29 organization do not permit the issuance of those certificates.

30 (b) The registration shall be accompanied by a fee as set forth
31 in subdivision (b) of Section 12189 of the Government Code.

32 (c) If the Secretary of State finds that an application for
33 registration conforms to law and all requisite fees have been paid,
34 the Secretary of State shall issue a certificate of registration to
35 transact intrastate business in this state.

36 (d) The Secretary of State may cancel the filing of the
37 registration if a check or other remittance accepted in payment of
38 the filing fee is not paid upon presentation. Upon receiving written
39 notification that the item presented for payment has not been
40 honored for payment, the Secretary of State shall give a first written

1 notice of the applicability of this section to the agent for service
2 of process or to the person submitting the instrument. Thereafter,
3 if the amount has not been paid by cashier's check or equivalent,
4 the Secretary of State shall give a second written notice of
5 cancellation and the cancellation shall thereupon be effective. The
6 second notice shall be given 20 days or more after the first notice
7 and 90 days or less after the original filing.

8 (e) A partnership becomes registered as a foreign limited liability
9 partnership at the time of the filing of the initial registration with
10 the Secretary of State or at any later date or time specified in the
11 registration and the payment of the fee required by subdivision
12 (b). A partnership continues to be registered as a foreign limited
13 liability partnership until a notice that it is no longer so registered
14 as a foreign limited liability partnership has been filed pursuant to
15 Section 16960 or, if applicable, once it has been dissolved and
16 finally wound up. The status of a partnership registered as a foreign
17 limited liability partnership and the liability of a partner of that
18 foreign limited liability partnership shall not be adversely affected
19 by errors or subsequent changes in the information stated in an
20 application for registration under subdivision (a) or an amended
21 registration or notice under Section 16960.

22 (f) The fact that a registration or amended registration pursuant
23 to Section 16960 is on file with the Secretary of State is notice that
24 the partnership is a foreign limited liability partnership and of those
25 other facts contained therein that are required to be set forth in the
26 registration or amended registration.

27 (g) The Secretary of State shall provide a form for a registration
28 under subdivision (a), which shall include the form for confirming
29 compliance with the optional security requirement pursuant to
30 subdivision (e) of Section 16956. The Secretary of State shall
31 include with instructional materials, provided in conjunction with
32 the form for registration under subdivision (a), a notice that filing
33 the registration will obligate the limited liability partnership to pay
34 an annual tax for that taxable year to the Franchise Tax Board
35 pursuant to Section 17948 of the Revenue and Taxation Code.
36 That notice shall be updated annually to specify the dollar amount
37 of this tax.

38 (h) A foreign limited liability partnership transacting intrastate
39 business in this state shall not maintain any action, suit, or

1 proceeding in any court of this state until it has registered in this
 2 state pursuant to this section.

3 (i) Any foreign limited liability partnership that transacts
 4 intrastate business in this state without registration is subject to a
 5 penalty of twenty dollars (\$20) for each day that unauthorized
 6 intrastate business is transacted, up to a maximum of ten thousand
 7 dollars (\$10,000).

8 (j) A partner of a foreign limited liability partnership is not liable
 9 for the debts or obligations of the foreign limited liability
 10 partnership solely by reason of its having transacted business in
 11 this state without registration.

12 (k) A foreign limited liability partnership, transacting business
 13 in this state without registration, appoints the Secretary of State
 14 as its agent for service of process with respect to causes of action
 15 arising out of the transaction of business in this state.

16 (l) “Transact intrastate business” as used in this section means
 17 to repeatedly and successively provide professional limited liability
 18 partnership services in this state, other than in interstate or foreign
 19 commerce.

20 (m) Without excluding other activities that may not be
 21 considered to be transacting intrastate business, a foreign limited
 22 liability partnership shall not be considered to be transacting
 23 intrastate business merely because its subsidiary or affiliate
 24 transacts intrastate business, or merely because of its status as any
 25 one or more of the following:

26 (1) A shareholder of a domestic corporation.

27 (2) A shareholder of a foreign corporation transacting intrastate
 28 business.

29 (3) A limited partner of a foreign limited partnership transacting
 30 intrastate business.

31 (4) A limited partner of a domestic limited partnership.

32 (5) A member or manager of a foreign limited liability company
 33 transacting intrastate business.

34 (6) A member or manager of a domestic limited liability
 35 company.

36 (n) Without excluding other activities that may not be considered
 37 to be transacting intrastate business, a foreign limited liability
 38 partnership shall not be considered to be transacting intrastate
 39 business within the meaning of this subdivision solely by reason

1 of carrying on in this state any one or more of the following
2 activities:

3 (1) Maintaining or defending any action or suit or any
4 administrative or arbitration proceeding, or effecting the settlement
5 thereof or the settlement of claims or disputes.

6 (2) Holding meetings of its partners or carrying on any other
7 activities concerning its internal affairs.

8 (3) Maintaining bank accounts.

9 (4) Maintaining offices or agencies for the transfer, exchange,
10 and registration of the foreign limited liability partnership's
11 securities or maintaining trustees or depositories with respect to
12 those securities.

13 (5) Effecting sales through independent contractors.

14 (6) Soliciting or procuring orders, whether by mail or through
15 employees or agents or otherwise, where those orders require
16 acceptance without this state before becoming binding contracts.

17 (7) Creating or acquiring evidences of debt or mortgages, liens,
18 or security interest in real or personal property.

19 (8) Securing or collecting debts or enforcing mortgages and
20 security interests in property securing the debts.

21 (9) Conducting an isolated transaction that is completed within
22 180 days and not in the course of a number of repeated transactions
23 of a like nature.

24 (o) A person shall not be deemed to be transacting intrastate
25 business in this state merely because of its status as a partner of a
26 registered limited liability partnership or a foreign limited liability
27 company whether or not registered to transact intrastate business
28 in this state.

29 (p) The Attorney General may bring an action to restrain a
30 foreign limited liability partnership from transacting intrastate
31 business in this state in violation of this chapter.

32 (q) Nothing in this section is intended to, or shall, augment,
33 diminish, or otherwise alter existing provisions of law, statutes,
34 or court rules relating to services by a California architect,
35 California public accountant, or California attorney in another
36 jurisdiction, or services by an out-of-state architect, out-of-state
37 public accountant, or out-of-state attorney in California.

38 (r) An agent designated for service of process may deliver to
39 the Secretary of State, on a form prescribed by the Secretary of
40 State for filing, a signed and acknowledged written statement of

1 resignation as an agent for service of process containing the name
2 of the foreign limited liability partnership and Secretary of State's
3 file number of the foreign limited liability partnership, the name
4 of the resigning agent for service of process, and a statement that
5 the agent is resigning. On filing of the statement of resignation,
6 the authority of the agent to act in that capacity shall cease and the
7 Secretary of State shall mail or otherwise provide written notice
8 of the filing of the statement of resignation to the foreign limited
9 liability partnership at its principal office.

10 (s) ~~The resignation of an agent may be effective if, on a form~~
11 ~~prescribed by the Secretary of State containing the name and~~
12 ~~Secretary of State's file number for the foreign limited liability~~
13 ~~partnership and the name of the agent for service of process, the~~
14 ~~agent disclaims having been properly appointed as the agent.~~

15 (t) ~~If an individual who has been designated agent for service~~
16 ~~of process dies or resigns or no longer resides in the state, or if the~~
17 ~~corporate agent for that purpose resigns, dissolves, withdraws from~~
18 ~~the state, forfeits its right to transact intrastate business, has its~~
19 ~~corporate rights, powers, and privileges suspended, or ceases to~~
20 ~~exist, the foreign limited liability partnership shall promptly file~~
21 ~~an amended application for registration as a foreign limited liability~~
22 ~~partnership designating a new agent.~~

23 (u) ~~The Secretary of State may destroy or otherwise dispose of~~
24 ~~any resignation filed pursuant to this section after a new application~~
25 ~~for registration as a foreign limited liability partnership is filed~~
26 ~~pursuant to this section replacing the agent for service of process~~
27 ~~that has resigned.~~

28 (v) ~~This section shall become operative on January 1, 2016.~~

O

Introduced Legislation

Senate Bill 799

(Committee on Business, Professions and Economic Development)
Business and professions.

Status: 3/25/2015-Referred to Committee on Business, Professions and Economic Development

Calendar: 4/27/2015 1 p.m. and upon adjournment of Floor Session - Room 3191 Senate Business, Professions and Economic Development, Hill, Chair

Location: 3/25/2015-Senate Business, Professions and Economic Development.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: SB 799

Bill Summary: Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all public school structures, hospitals and other medical facilities be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer. This bill would repeal the requirements that all civil engineering plans and other specified documents for construction of public school structures be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer.

Staff Comment: This is the Senate Committee on Business, Professions and Economic Development omnibus bill. This bill would remove language that was added to Section 6735 last year at request of SEAOC. Concerns have been expressed by several parties over the new wording of Section 6735 and the potential misinterpretation that could result for this new wording. It was decided that the best course of action would be to remove that language and return Section 6735 to its prior state and allow SEAOC to develop clearer language that could be included with its "Significate Structures" proposal in the future.

Staff Recommendation: It is recommended that the Board take a **SUPPORT** position on SB 799

Laws: An act to amend Sections 5070.1, 5087, 6735, 7083, 8508, 8513, 8552, 8611, and 17913 of, and to repeal Section 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski)

March 18, 2015

An act to amend Sections 5070.1, 5087, 6735, 7083, 8508, 8513, 8552, 8611, and 17913 of, and to repeal Section 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 799, as introduced, Committee on Business, Professions and Economic Development. Business and professions.

(1) Existing law provides that an accountant whose license was canceled by operation of law, after nonrenewal, as specified, may, upon application to the board and meeting specified requirements, have his or her license placed into a retired status.

This bill would prohibit the California Board of Accountancy from restoring that license in retired status to active or inactive status and instead would require the individual to apply for a new license in order to restore his or her license.

(2) Existing law authorizes the California Board of Accountancy to issue a certified public account (CPA) license to an applicant who holds a valid and unrevoked CPA license in another state, under specified conditions.

This bill would require that an out-of-state applicant hold a current, active, and unrestricted CPA license in order to be issued a CPA license under this provision.

(3) The Professional Engineers Act provides for the regulation and licensure of professional engineers by the Board for Professional

Engineers, Land Surveyors, and Geologists. A violation of the licensing provisions of the act is a misdemeanor. Existing law requires all civil engineering plans, calculations, specifications, and reports to be prepared by, or under the responsible charge of, a licensed civil engineer, as specified. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all public school structures to be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all hospitals and other medical facilities having surgery and emergency treatment areas to be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

This bill would repeal the requirements that all civil engineering plans and other specified documents for construction of public school structures be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. The bill would also repeal the requirements that all civil engineering plans and other specified documents for construction of specified hospital and medical facilities be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

(4) The California Constitution provides that laborers of every class who have worked upon or have furnished material for a property have a lien upon that property for the value of the labor done and material furnished. The California Constitution requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens. Existing law requires specified structural pest control operators to provide notice regarding possible liens, as specified, to the owner of property prior to entering into a contract to provide work on that property. A violation of these provisions is a misdemeanor.

This bill would extend the notice requirements to all structural pest control operators.

(5) Existing law requires a structural pest control operator to provide a report detailing the results of an inspection for wood destroying pests or organisms prior to commencing work on a contract or expressing an opinion regarding the presence or absence of wood destroying pests or organisms, to the Structural Pest Control Board, within the Department of Consumer Affairs, as specified. Existing law requires that the pest control operator deliver a copy of the report to the person requesting

inspection, or designated agent, within 10 business days of the inspection. Existing law requires a pest control operator to deliver a copy of that report to the owner or the owner’s agent within 10 working days of an inspection.

This bill would remove the requirement that the pest control operator provide the owner of the property or the owner’s agent with a copy of the report, unless the owner was the person who requested the inspection.

(6) Existing law creates the California Travel and Tourism Commission and provides for the membership and meetings of the commission.

This bill would specify that all meetings of the commission take place in California and would authorize commissioners to attend meetings of the commission by conference telephone or other technology, as specified.

(7) Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5070.1 of the Business and Professions
- 2 Code is amended to read:
- 3 5070.1. (a) The board may establish, by regulation, a system
- 4 for the placement of a license into a retired status, upon application,
- 5 for certified public accountants and public accountants who are
- 6 not actively engaged in the practice of public accountancy or any
- 7 activity~~which~~ that requires them to be licensed by the board.
- 8 (b) No licensee with a license in a retired status shall engage in
- 9 any activity for which a permit is required.
- 10 (c) The board shall deny an applicant’s application to place a
- 11 license in a retired status if the permit is subject to an outstanding
- 12 order of the board, is suspended, revoked, or otherwise punitively

1 restricted by the board, or is subject to disciplinary action under
2 this chapter.

3 (d) (1) The holder of a license that was canceled pursuant to
4 Section 5070.7 may apply for the placement of that license in a
5 retired status pursuant to subdivision (a).

6 (2) Upon approval of an application made pursuant to paragraph
7 (1), the board shall reissue that license in a retired status.

8 (3) The holder of a canceled license that was placed in retired
9 status between January 1, 1994, and January 1, 1999, inclusive,
10 shall not be required to meet the qualifications established pursuant
11 to subdivision (e), but shall be subject to all other requirements of
12 this section.

13 (e) The board shall establish minimum qualifications to place
14 a license in retired status.

15 (f) The board may exempt the holder of a license in a retired
16 status from the renewal requirements described in Section 5070.5.

17 (g) The board shall establish minimum qualifications for the
18 restoration of a license in a retired status to an active status. These
19 minimum qualifications shall include, but are not limited to,
20 continuing education and payment of a fee as provided in
21 subdivision (h) of Section 5134.

22 (h) *The board shall not restore to active or inactive status a*
23 *license that was canceled by operation of law, pursuant to*
24 *subdivision (a) of Section 5070.7, and then placed into retired*
25 *status pursuant to subdivision (d). The individual shall instead*
26 *apply for a new license, as described in subdivision (c) of Section*
27 *5070.7, in order to restore his or her license.*

28 SEC. 2. Section 5087 of the Business and Professions Code is
29 amended to read:

30 5087. (a) The board may issue a certified public accountant
31 license to any applicant who is a holder of a ~~valid and unrevoked~~
32 *current, active, and unrestricted* certified public accountant license
33 issued under the laws of any state, if the board determines that the
34 standards under which the applicant received the license are
35 substantially equivalent to the standards of education, examination,
36 and experience established under this chapter and the applicant
37 has not committed acts or crimes constituting grounds for denial
38 under Section 480. To be authorized to sign reports on attest
39 engagements, the applicant shall meet the requirements of Section
40 5095.

1 (b) The board may in particular cases waive any of the
2 requirements regarding the circumstances in which the various
3 parts of the examination were to be passed for an applicant from
4 another state.

5 SEC. 3. Section 6735 of the Business and Professions Code is
6 amended to read:

7 6735. (a) All civil (including structural and geotechnical)
8 engineering plans, calculations, specifications, and reports
9 (hereinafter referred to as “documents”) shall be prepared by, or
10 under the responsible charge of, a licensed civil engineer and shall
11 include his or her name and license number. Interim documents
12 shall include a notation as to the intended purpose of the document,
13 such as “preliminary,” “not for construction,” “for plan check
14 only,” or “for review only.” All civil engineering plans and
15 specifications that are permitted or that are to be released for
16 construction shall bear the signature and seal or stamp of the
17 licensee and the date of signing and sealing or stamping. All final
18 civil engineering calculations and reports shall bear the signature
19 and seal or stamp of the licensee, and the date of signing and
20 sealing or stamping. If civil engineering plans are required to be
21 signed and sealed or stamped and have multiple sheets, the
22 signature, seal or stamp, and date of signing and sealing or
23 stamping shall appear on each sheet of the plans. If civil
24 engineering specifications, calculations, and reports are required
25 to be signed and sealed or stamped and have multiple pages, the
26 signature, seal or stamp, and date of signing and sealing or
27 stamping shall appear at a minimum on the title sheet, cover sheet,
28 or signature sheet.

29 ~~(b) (1) All civil engineering plans, calculations, specifications,~~
30 ~~and reports for the construction of structures described in paragraph~~
31 ~~(2) shall be prepared by, or under the responsible charge of, a~~
32 ~~licensed architect holding a valid certificate under Chapter 3~~
33 ~~(commencing with Section 5500) or a licensed civil engineer who~~
34 ~~is also licensed as a structural engineer in accordance with Section~~
35 ~~6736.~~

36 ~~(2) All public school structures, as provided under Chapter 3~~
37 ~~(commencing with Section 17251) of Part 10.5 of Division 1 of~~
38 ~~Title 1 of the Education Code.~~

39 ~~(e) (1) All civil engineering plans, calculations, specifications,~~
40 ~~and reports for the construction of the structures described in~~

1 paragraph (2) shall be prepared by, or under the responsible charge
 2 of, a licensed civil engineer who is also licensed as a structural
 3 engineer in accordance with Section 6736.

4 ~~(2) Hospitals and other medical facilities having surgery and~~
 5 ~~emergency treatment areas, as provided under Part 7 (commencing~~
 6 ~~with Section 129675) of Division 107 of the Health and Safety~~
 7 ~~Code.~~

8 ~~(d)~~

9 (b) Notwithstanding subdivision ~~(a) or (b)~~, (a), a licensed civil
 10 engineer who signs civil engineering documents shall not be
 11 responsible for damage caused by subsequent changes to or uses
 12 of those documents, if the subsequent changes or uses, including
 13 changes or uses made by state or local governmental agencies, are
 14 not authorized or approved by the licensed civil engineer who
 15 originally signed the documents, provided that the engineering
 16 service rendered by the civil engineer who signed the documents
 17 was not also a proximate cause of the damage.

18 SEC. 4. Section 7083 of the Business and Professions Code is
 19 amended to read:

20 7083. ~~AH~~(a) *Notwithstanding any other law*, licensees shall
 21 notify the registrar, on a form prescribed by the registrar, in writing
 22 within 90 days of any change to information recorded under this
 23 chapter. This notification requirement shall include, but not be
 24 limited to, changes in business address, personnel, business name,
 25 qualifying individual bond exemption pursuant to Section 7071.9,
 26 or exemption to qualify multiple licenses pursuant to Section
 27 7068.1.

28 ~~Failure~~

29 (b) *Failure* of the licensee to notify the registrar of any change
 30 to information within 90 days shall cause the change to be effective
 31 the date the written notification is received at the board's
 32 headquarters office.

33 ~~Failure~~

34 (c) *Failure* to notify the registrar of the changes within the 90
 35 days is grounds for disciplinary action.

36 SEC. 5. Section 8508 of the Business and Professions Code is
 37 amended to read:

38 8508. "Household" means any structure and its contents ~~which~~
 39 *that* are used for ~~man~~ *persons* and ~~his~~ *their* convenience.

1 SEC. 6. Section 8513 of the Business and Professions Code is
2 amended to read:

3 8513. (a) The board shall prescribe a form entitled “Notice to
4 Owner” that shall describe, in nontechnical language and in a clear
5 and coherent manner using words with common and everyday
6 meaning, the pertinent provisions of this state’s mechanics lien
7 laws and the rights and responsibilities of an owner of property
8 and a registered pest control company thereunder. Each company
9 registered under this chapter, prior to entering into a contract with
10 an owner for work for which a company registration is required,
11 shall give a copy of this “Notice to Owner” to the owner, his or
12 her agent, or the payer.

13 (b) No company that is required to be registered under this
14 chapter shall require or request a waiver of lien rights from any
15 subcontractor, employee, or supplier.

16 (c) Each company registered under this chapter that acts as a
17 subcontractor for another company registered under this chapter
18 shall, within 20 days of commencement of any work for which a
19 company registration is required, give the preliminary notice in
20 accordance with Chapter 2 (commencing with Section 8200) of
21 Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his
22 or her agent, or the payer.

23 (d) Each company registered under this chapter that acts as a
24 prime contractor for work for which a company registration is
25 required shall, prior to accepting payment for the work, furnish to
26 the owner, his or her agent, or the payer a full and unconditional
27 release from any claim of mechanics lien by any subcontractor
28 entitled to enforce a mechanics lien pursuant to Section 8410 of
29 the Civil Code.

30 (e) Each company registered under this chapter that subcontracts
31 to another company registered under this chapter work for which
32 a company registration is required shall furnish to the subcontractor
33 the name of the owner, his or her agent, or the payer.

34 ~~(f) The provisions of this section shall be applicable only to~~
35 ~~those registered companies, as defined in Section 8506.1, operating~~
36 ~~pursuant to a Branch 1 or Branch 3 registration.~~

37 ~~(g)~~

38 (f) A violation of the provisions of this section is a ground for
39 disciplinary action.

1 SEC. 7. Section 8516.5 of the Business and Professions Code
2 is repealed.

3 ~~8516.5. Any registered company that makes an inspection of~~
4 ~~any property relating to the absence or presence of wood destroying~~
5 ~~pests or organisms on such property and makes a report of such~~
6 ~~inspection shall furnish a copy of the report either to the owner of~~
7 ~~the property or to the agent of the owner, within 10 working days~~
8 ~~after the date the inspection is commenced, except an inspection~~
9 ~~report prepared for use by an attorney for litigation is not required~~
10 ~~to be furnished.~~

11 SEC. 8. Section 8552 of the Business and Professions Code is
12 amended to read:

13 8552. It is unlawful for any person to advertise or represent in
14 any manner that any pest control work, in whole or in part, has
15 been done upon any structure, unless the work has been performed
16 by a ~~company registered under~~ *registered company, except as*
17 *otherwise provided in this chapter.*

18 SEC. 9. Section 8611 of the Business and Professions Code is
19 amended to read:

20 8611. (a) Each branch office shall have a branch supervisor
21 designated by the registered company to supervise and assist the
22 company's employees who are located at that branch. The branch
23 supervisor shall be an individual who is licensed by the board as
24 an operator or a field representative *in the branch or branches of*
25 *business being conducted* and his or her license shall be
26 prominently displayed in the branch office.

27 ~~¶~~

28 (b) *If* a branch supervisor ceases for any reason to be connected
29 with a registered company, the company shall notify the registrar
30 in writing within 10 days from that cessation. If this notice is given,
31 the company's branch office registration shall remain in force for
32 a reasonable length of time to be determined by rules of the board,
33 during which period the company shall submit to the registrar in
34 writing the name of another qualified branch supervisor.

35 SEC. 10. Section 17913 of the Business and Professions Code
36 is amended to read:

37 17913. (a) The fictitious business name statement shall contain
38 all of the information required by this subdivision and shall be
39 substantially in the following form:

FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as

* _____
at ** _____:
*** _____

This business is conducted by **** _____

The registrant commenced to transact business under the fictitious business name or names listed above on

***** _____

I declare that all information in this statement is true and correct. (A registrant who declares as true any material matter pursuant to Section 17913 of the Business and Professions Code that the registrant knows to be false is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000).)

Registrant signature _____

Statement filed with the County Clerk of ____ County on _____

NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF SECTION 17920, A FICTITIOUS NAME STATEMENT GENERALLY EXPIRES AT THE END OF FIVE YEARS FROM THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK, EXCEPT, AS PROVIDED IN SUBDIVISION (b) OF SECTION 17920, WHERE IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS SET FORTH IN THE STATEMENT PURSUANT TO SECTION 17913 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THE EXPIRATION.

THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14411 ET SEQ., BUSINESS AND PROFESSIONS CODE).

1 (b) The fictitious business name statement shall contain the
2 following information set forth in the manner indicated in the form
3 provided by subdivision (a):

4 (1) Where the asterisk (*) appears in the form, insert the
5 fictitious business name or names. Only those businesses operated
6 at the same address and under the same ownership may be listed
7 on one fictitious business name statement.

8 (2) Where the two asterisks (**) appear in the form: If the
9 registrant has a place of business in this state, insert the street
10 address, and county, of his or her principal place of business in
11 this state. If the registrant has no place of business in this state,
12 insert the street address, and county, of his or her principal place
13 of business outside this state.

14 (3) Where the three asterisks (***) appear in the form: If the
15 registrant is an individual, insert his or her full name and residence
16 address. If the registrants are a married couple, insert the full name
17 and residence address of both parties to the marriage. If the
18 registrant is a general partnership, copartnership, joint venture, or
19 limited liability partnership, insert the full name and residence
20 address of each general partner. If the registrant is a limited
21 partnership, insert the full name and residence address of each
22 general partner. If the registrant is a limited liability company,
23 insert the name and address of the limited liability company, as
24 set out in its articles of organization on file with the California
25 Secretary of State, and the state of organization. If the registrant
26 is a trust, insert the full name and residence address of each trustee.
27 If the registrant is a corporation, insert the name and address of
28 the corporation, as set out in its articles of incorporation on file
29 with the California Secretary of State, and the state of
30 incorporation. If the registrants are state or local registered
31 domestic partners, insert the full name and residence address of
32 each domestic partner. If the registrant is an unincorporated
33 association other than a partnership, insert the name of each person
34 who is interested in the business of the association and whose
35 liability with respect to the association is substantially the same
36 as that of a general partner.

37 (4) Where the four asterisks (****) appear in the form, insert
38 whichever of the following best describes the nature of the
39 business: (i) “an individual,” (ii) “a general partnership,” (iii) “a
40 limited partnership,” (iv) “a limited liability company,” (v) “an

1 unincorporated association other than a partnership,” (vi) “a
2 corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “ a married
3 couple,” (x) “joint venture,” (xi) “state or local registered domestic
4 partners,” or (xii) “a limited liability partnership.”

5 (5) Where the five asterisks (*****) appear in the form, insert
6 the date on which the registrant first commenced to transact
7 business under the fictitious business name or names listed, if
8 already transacting business under that name or names. If the
9 registrant has not yet commenced to transact business under the
10 fictitious business name or names listed, insert the statement, “Not
11 applicable.”

12 (c) The registrant shall declare that all of the information in the
13 fictitious business statement is true and correct. A registrant who
14 declares as true any material matter pursuant to this section that
15 the registrant knows to be false is guilty of a misdemeanor
16 punishable by a fine not to exceed one thousand dollars (\$1,000).

17 (d) (1) At the time of filing of the fictitious business name
18 statement, the registrant filing on behalf of the registrant shall
19 present personal identification in the form of a California driver’s
20 license or other government identification acceptable to the county
21 clerk to adequately determine the identity of the registrant filing
22 on behalf of the registrant as provided in subdivision (e) and the
23 county clerk may require the registrant to complete and sign an
24 affidavit of identity.

25 (2) In the case of a registrant utilizing an agent for submission
26 of the registrant’s fictitious business name statement for filing, at
27 the time of filing of the fictitious business name statement, the
28 agent filing on behalf of the registrant shall present personal
29 identification in the form of a California driver’s license or other
30 government identification acceptable to the county clerk to
31 adequately determine the identity of the agent filing on behalf of
32 the registrant as provided in subdivision (e). The county clerk may
33 also require the agent to submit a notarized statement signed by
34 the registrant declaring the registrant has authorized the agent to
35 submit the filing on behalf of the registrant.

36 (e) If the registrant is a corporation, a limited liability company,
37 a limited partnership, or a limited liability partnership, the county
38 clerk may require documentary evidence issued by the *California*
39 Secretary of State and deemed acceptable by the county clerk,
40 indicating the current existence and good standing of that business

1 entity to be attached to a completed and notarized affidavit of
2 identity, for purposes of subdivision (d).

3 (f) The county clerk may require a registrant that mails a
4 fictitious business name statement to a county clerk's office for
5 filing to submit a completed and notarized affidavit of identity. A
6 registrant that is a corporation, limited liability company, limited
7 partnership, or limited liability partnership, if required by the
8 county clerk to submit an affidavit of identity, shall also submit
9 documentary evidence issued by the *California* Secretary of State
10 indicating the current existence and good standing of that business
11 entity.

12 (g) A county clerk that chooses to establish procedures pursuant
13 to this section shall prescribe the form of affidavit of identity for
14 filing by a registrant in that county.

15 SEC. 11. Section 13995.40 of the Government Code is amended
16 to read:

17 13995.40. (a) Upon approval of the initial referendum, the
18 office shall establish a nonprofit mutual benefit corporation named
19 the California Travel and Tourism Commission. The commission
20 shall be under the direction of a board of commissioners, which
21 shall function as the board of directors for purposes of the
22 Nonprofit Corporation Law.

23 (b) The board of commissioners shall consist of 37
24 commissioners comprising the following:

25 (1) The director, who shall serve as chairperson.

26 (2) (A) Twelve members, who are professionally active in the
27 tourism industry, and whose primary business, trade, or profession
28 is directly related to the tourism industry, shall be appointed by
29 the Governor. Each appointed commissioner shall represent only
30 one of the 12 tourism regions designated by the office, and the
31 appointed commissioners shall be selected so as to represent, to
32 the greatest extent possible, the diverse elements of the tourism
33 industry. Appointed commissioners are not limited to individuals
34 who are employed by or represent assessed businesses.

35 (B) If an appointed commissioner ceases to be professionally
36 active in the tourism industry or his or her primary business, trade,
37 or profession ceases to be directly related to the tourism industry,
38 he or she shall automatically cease to be an appointed
39 commissioner 90 days following the date on which he or she ceases
40 to meet both of the eligibility criteria specified in subparagraph

1 (A), unless the commissioner becomes eligible again within that
2 90-day period.

3 (3) Twenty-four elected commissioners, including at least one
4 representative of a travel agency or tour operator that is an assessed
5 business.

6 (c) The commission established pursuant to Section 15364.52
7 shall be inoperative so long as the commission established pursuant
8 to this section is in existence.

9 (d) Elected commissioners shall be elected by industry category
10 in a referendum. Regardless of the number of ballots received for
11 a referendum, the nominee for each commissioner slot with the
12 most weighted votes from assessed businesses within that industry
13 category shall be elected commissioner. In the event that an elected
14 commissioner resigns, dies, or is removed from office during his
15 or her term, the commission shall appoint a replacement from the
16 same industry category that the commissioner in question
17 represented, and that commissioner shall fill the remaining term
18 of the commissioner in question. The number of commissioners
19 elected from each industry category shall be determined by the
20 weighted percentage of assessments from that category.

21 (e) The director may remove any elected commissioner
22 following a hearing at which the commissioner is found guilty of
23 abuse of office or moral turpitude.

24 (f) (1) The term of each elected commissioner shall commence
25 July 1 of the year next following his or her election, and shall
26 expire on June 30 of the fourth year following his or her election.
27 If an elected commissioner ceases to be employed by or with an
28 assessed business in the category and segment which he or she
29 was representing, his or her term as an elected commissioner shall
30 automatically terminate 90 days following the date on which he
31 or she ceases to be so employed, unless, within that 90-day period,
32 the commissioner again is employed by or with an assessed
33 business in the same category and segment.

34 (2) Terms of elected commissioners that would otherwise expire
35 effective December 31 of the year during which legislation adding
36 this subdivision is enacted shall automatically be extended until
37 June 30 of the following year.

38 (g) With the exception of the director, no commissioner shall
39 serve for more than two consecutive terms. For purposes of this

1 subdivision, the phrase “two consecutive terms” shall not include
 2 partial terms.

3 (h) Except for the original commissioners, all commissioners
 4 shall serve four-year terms. One-half of the commissioners
 5 originally appointed or elected shall serve a two-year term, while
 6 the remainder shall serve a four-year term. Every two years
 7 thereafter, one-half of the commissioners shall be appointed or
 8 elected by referendum.

9 (i) The selection committee shall determine the initial slate of
 10 candidates for elected commissioners. Thereafter the
 11 commissioners, by adopted resolution, shall nominate a slate of
 12 candidates, and shall include any additional candidates complying
 13 with the procedure described in Section 13995.62.

14 (j) The commissioners shall elect a vice chairperson from the
 15 elected commissioners.

16 (k) The commission may lease space from the office.

17 (l) The commission and the office shall be the official state
 18 representatives of California tourism.

19 ~~(m) A California location shall be available for all commission~~
 20 ~~meetings.~~

21 *(m) (1) All commission meetings shall be held in California.*

22 *(2) Commissioners may participate in meetings by means of*
 23 *conference telephone and other technology, as authorized pursuant*
 24 *to paragraph (6) of subdivision (a) of Section 7211 of the*
 25 *Corporations Code.*

26 (n) No person shall receive compensation for serving as a
 27 commissioner, but each commissioner shall receive reimbursement
 28 for reasonable expenses incurred while on authorized commission
 29 business.

30 (o) Assessed businesses shall vote only for commissioners
 31 representing their industry category.

32 (p) Commissioners shall comply with the requirements of the
 33 Political Reform Act of 1974 (Title 9 (commencing with Section
 34 81000)). The Legislature finds and declares that commissioners
 35 appointed or elected on the basis of membership in a particular
 36 tourism segment are appointed or elected to represent and serve
 37 the economic interests of those tourism segments and that the
 38 economic interests of these members are the same as those of the
 39 public generally.

1 (q) Commission meetings shall be subject to the requirements
2 of the Bagley-Keene Open Meeting Act (Article 9 (commencing
3 with Section 11120) of Chapter 1 of Part 1).

4 (r) The executive director of the commission shall serve as
5 secretary to the commission, a nonvoting position, and shall keep
6 the minutes and records of all commission meetings.

7 SEC. 12. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

O

Supported Legislation

Assembly Bill 177 (Bonilla D)

Professions and vocations: licensing boards: authority: extension.

Last Amendment: 3/3/2015

Status: 3/4/2015-Re-referred to Committee on Business and Professions.

Location: 3/4/2015- Assembly Business and Professions

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Staff Analysis: AB 177

Bill Summary: This bill extends the sunset dates of the Board for Professional Engineers, Land Surveyors, and Geologists, California Architects Board, and Landscape Architects Technical Committee to January 1, 2020. This extension of the sunset dates will allow each program to continue licensing and enforcement operations for an additional four years.

Staff Comment: This is the Board's Sunset Bill.

Board Position: SUPPORT on AB 177

Laws: An act to amend Sections 6700-6799, 7800-7887 and 8700-8805 of the Business and Professions Code, relating to professions and vocations.

AMENDED IN ASSEMBLY MARCH 3, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 177

**Introduced by ~~Committee on Business and Professions~~ (Assembly Members ~~Bonilla (Chair), Bloom, Dodd, Gatto, Holden, Mullin, Ting, and Wood~~) Assembly Member *Bonilla*
(Coauthor: Senator Hill)**

January 26, 2015

An act to amend Sections ~~6710~~ 5510, 5517, 5620, 5621, 5622, 6710, and 6714 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 177, as amended, ~~Committee on Business and Professions~~ *Bonilla*. Professions and vocations: ~~engineers~~. *licensing boards: authority: extension.*

The Professional Engineers Act provides for the licensure and regulation of engineers by the Board for Professional Engineers, Land ~~surveyors~~, *Surveyors*, and Geologists, which consists of 15 members, in the Department of Consumer Affairs. The act requires the board to appoint an executive ~~officer~~ *officer*, as specified. *Existing law provides for the licensure and regulation of architects and landscape architects by the California Architects Board, which consists of 10 members, in the department. Existing law establishes, within the jurisdiction of the board, the Landscape Architects Technical Committee for the purpose of, among other things, assisting the board in the examination of candidates for a landscape architect's license.* Under existing law, these provisions are repealed on January 1, 2016.

This bill would extend the operation of these provisions until January 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 5510 of the Business and Professions*
2 *Code is amended to read:*

3 5510. There is in the Department of Consumer Affairs a
4 California Architects Board which consists of 10 members.

5 Any reference in law to the California Board of Architectural
6 Examiners shall mean the California Architects Board.

7 This section shall remain in effect only until January 1, ~~2016,~~
8 ~~2020,~~ and as of that date is ~~repealed,~~ ~~unless a later enacted statute,~~
9 ~~that is enacted before January 1, 2016, deletes or extends that date~~
10 ~~repealed.~~ Notwithstanding any other ~~provision~~ of law, the repeal
11 of this section renders the board subject to review by the
12 appropriate policy committees of the Legislature.

13 *SEC. 2. Section 5517 of the Business and Professions Code is*
14 *amended to read:*

15 5517. The board may appoint a person exempt from civil
16 service who shall be designated as an executive officer and who
17 shall exercise the powers and perform the duties delegated by the
18 board and vested in him or her by this chapter.

19 This section shall remain in effect only until January 1, ~~2016,~~
20 ~~2020,~~ and as of that date is ~~repealed,~~ ~~unless a later enacted statute,~~
21 ~~that is enacted before January 1, 2016, deletes or extends that date~~
22 ~~repealed.~~

23 *SEC. 3. Section 5620 of the Business and Professions Code is*
24 *amended to read:*

25 5620. The duties, powers, purposes, responsibilities, and
26 jurisdiction of the California State Board of Landscape Architects
27 that were succeeded to and vested with the Department of
28 Consumer Affairs in accordance with Chapter 908 of the Statutes
29 of 1994 are hereby transferred to the California Architects Board.
30 The Legislature finds that the purpose for the transfer of power is
31 to promote and enhance the efficiency of state government and
32 that assumption of the powers and duties by the California
33 Architects Board shall not be viewed or construed as a precedent

1 for the establishment of state regulation over a profession or
2 vocation that was not previously regulated by a board, as defined
3 in Section 477.

4 (a) There is in the Department of Consumer Affairs a California
5 Architects Board as defined in Article 2 (commencing with Section
6 5510) of Chapter 3.

7 Whenever in this chapter “board” is used, it refers to the
8 California Architects Board.

9 (b) Except as provided herein, the board may delegate its
10 authority under this chapter to the Landscape Architects Technical
11 Committee.

12 (c) After review of proposed regulations, the board may direct
13 the examining committee to notice and conduct hearings to adopt,
14 amend, or repeal regulations pursuant to Section 5630, provided
15 that the board itself shall take final action to adopt, amend, or
16 repeal those regulations.

17 (d) The board shall not delegate its authority to discipline a
18 landscape architect or to take action against a person who has
19 violated this chapter.

20 (e) This section shall remain in effect only until January 1, 2016,
21 2020, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, 2016, deletes or extends that date
23 repealed.

24 *SEC. 4. Section 5621 of the Business and Professions Code is*
25 *amended to read:*

26 5621. (a) There is hereby created within the jurisdiction of the
27 board, a Landscape Architects Technical Committee, hereinafter
28 referred to in this chapter as the landscape architects committee.

29 (b) The landscape architects committee shall consist of five
30 members who shall be licensed to practice landscape architecture
31 in this state. The Governor shall appoint three of the members.
32 The Senate Committee on Rules and the Speaker of the Assembly
33 shall appoint one member each.

34 (c) The initial members to be appointed by the Governor are as
35 follows: one member for a term of one year; one member for a
36 term of two years; and one member for a term of three years. The
37 Senate Committee on Rules and the Speaker of the Assembly shall
38 initially each appoint one member for a term of four years.
39 Thereafter, appointments shall be made for four-year terms,
40 expiring on June 1 of the fourth year and until the appointment

1 and qualification of his or her successor or until one year shall
 2 have elapsed, whichever first occurs. Vacancies shall be filled for
 3 the unexpired term.

4 (d) No person shall serve as a member of the landscape
 5 architects committee for more than two consecutive terms.

6 (e) This section shall remain in effect only until January 1, 2016,
 7 2020, and as of that date is repealed, unless a later enacted statute,
 8 that is enacted before January 1, 2016, deletes or extends that date
 9 repealed.

10 *SEC. 5. Section 5622 of the Business and Professions Code is*
 11 *amended to read:*

12 5622. (a) The landscape architects committee may assist the
 13 board in the examination of candidates for a landscape architect’s
 14 license and, after investigation, evaluate and make
 15 recommendations regarding potential violations of this chapter.

16 (b) The landscape architects committee may investigate, assist,
 17 and make recommendations to the board regarding the regulation
 18 of landscape architects in this state.

19 (c) The landscape architects committee may perform duties and
 20 functions that have been delegated to it by the board pursuant to
 21 Section 5620.

22 (d) The landscape architects committee may send a
 23 representative to all meetings of the full board to report on the
 24 committee’s activities.

25 (e) This section shall remain in effect only until January 1, 2016,
 26 2020, and as of that date is repealed, unless a later enacted statute,
 27 that is enacted before January 1, 2016, deletes or extends that date
 28 repealed.

29 **SECTION 1.**

30 *SEC. 6. Section 6710 of the Business and Professions Code is*
 31 *amended to read:*

32 6710. (a) There is in the Department of Consumer Affairs a
 33 Board for Professional Engineers, Land Surveyors, and Geologists,
 34 which consists of 15 members.

35 (b) Any reference in any law or regulation to the Board of
 36 Registration for Professional Engineers and Land Surveyors, or
 37 the Board for Professional Engineers and Land Surveyors, is
 38 deemed to refer to the Board for Professional Engineers, Land
 39 Surveyors, and Geologists.

1 (c) This section shall remain in effect only until January 1, 2020,
2 and as of that date is ~~repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2020, deletes or extends that date.~~
4 *repealed.* Notwithstanding any other law, the repeal of this section
5 renders the board subject to review by the appropriate policy
6 committees of the Legislature.

7 ~~SEC. 2.~~

8 *SEC. 7.* Section 6714 of the Business and Professions Code is
9 amended to read:

10 6714. The board shall appoint an executive officer at a salary
11 to be fixed and determined by the board with the approval of the
12 Director of Finance.

13 This section shall remain in effect only until January 1, 2020,
14 and as of that date is ~~repealed, unless a later enacted statute, that~~
15 ~~is enacted before January 1, 2020, deletes or extends that date.~~
16 *repealed.*

O

IV. Consideration of Rulemaking Proposals

- A. Proposed Amendments to Title 16, California Code of Regulations Sections 416 and 3060 (Substantial Relationship Criteria)

RULEMAKING PROPOSAL

Title 16, California Code of Regulations (CCR) Sections 416 and 3060

SUMMARY:

At the August 28-29, 2013, Board Meeting, the Board made a motion to direct staff to review the Substantial Relationship Criteria regulations of other Department of Consumer Affairs (DCA) Boards and provide a recommendation for changes to Title 16, California Code of Regulations (CCR) Sections 416 and 3060.

At the February 12-13, 2014, Board Meeting, the Board approved proposed language amendments and directed Board staff to begin the rulemaking process.

The Notice of Proposed Changes and the proposed text were publically noticed on May 23, 2014. During the 45-day public comment period, six (6) written comments were received, and a hearing was requested. On July 8, 2014, a Notice of Regulatory Hearing was publically noticed, and a hearing took place on July 18, 2014.

The six (6) public comments and proposed modified text were reviewed at the November 13, 2014, Board Meeting. The Board approved the modified text and directed staff to move forward with the 15-day comment period (Notice of Availability of Modified Text).

The 15-day Notice (Notice of Availability of Modified Text) was publically noticed on December 15, 2014. Seven (7) public comments were received during the comment period. The Board reviewed the comments at the February 9-10, 2015, Board Meeting. The Board expressed concerns regarding the modified language. As a result, new modified language was drafted on the day of the Board Meeting and was presented to the Board. The Board approved the modified language.

CONCERNS:

The initial intent of the proposed rulemaking was to provide better clarity for both applicants and licensees regarding criteria that could be consider “substantially related” under the law for the purposes of denying the issuance of a license or for pursuing disciplinary action against a license; however, the language that the Board approved at the February 9-10, 2015, Board Meeting included additional items only for the denial of a license, and not for disciplinary action against a licensee. Board staff is concerned that the modified language as approved by the Board does not reflect the Board’s original intent in pursuing amendments to these sections.

In addition, the one (1) year deadline for filing the Final Rulemaking package with the Office of Administrative Law (OAL) is May 22, 2015. This is a concern because of the processes that are necessary and required before the package can be filed with the OAL [i.e. additional 15-day public comment period for the modified language; review of the comments by the Board; adoption of the language by the Board; and approval of the Final Rulemaking package by DCA and the Business, Consumer Services and Housing Agency (Agency)].

Included is the language as approved at the February 9-10, 2015 Board meeting and alternate language that Board staff believes better reflects the original intent of the Board. Board staff is requesting that the Board determine which proposal accurately reflects the Board’s current intent in amending these regulations and approve that language for noticed public comment. In addition, staff recommends that the Board formally withdraw the current proposal since it is unlikely that the one-year deadline can be met.

RECOMMENDED MOTION:

Since the deadline for filing the Final Rulemaking package with the OAL does not realistically allow for continuing with the current rulemaking package, it is recommended that the existing rulemaking proposal for Title 16, CCR Sections 416 and 3060 be withdrawn. It is further recommended that the Board direct staff to begin a new rulemaking proposal based on language that supports the intent of the Board.

Language Approved at the February 9-10, 2015 Board Meeting:

Modified Text

Changes to the originally proposed language are shown by **double underline** for new text and **~~double strikeout~~** for deleted text.

(1) Amend Section 416 of Division 5 of Title 16 of the California Code of Regulations to read as follows:

416. Substantial Relationship Criteria.

~~(a) For the purpose of denial, suspension, or revocation of the license of a professional engineer or a professional land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:~~

~~(a) For professional engineers, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;~~

~~(b) For land surveyors, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;~~

~~(c) A conviction of a crime~~ Crimes or acts (1) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying;

~~(d) (2) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;~~

~~(e) (3) Crimes or acts involving physical violence;~~

~~(f) (4) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.~~

(5) For professional engineering applicants, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;

(6) For land surveying applicants, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;

(b) For the purpose of suspension or revocation of the license of a professional engineer or a professional land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(1) For professional engineers, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;

(2) For land surveyors, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;

(3) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying;

Note: Authority cited: Sections 481, 6716 and 8710, Business and Professions Code. Reference: Sections 480, 481, 490, 493, ~~6706.3~~, ~~6710~~, ~~6732~~, 6775, 6779, 8780 and 8783, Business and Professions Code.

(2) Amend Section 3060 of Division 29 of Title 16 of the California Code of Regulations to read as follows:

3060. Substantial Relationship Criteria.

(a) For the purpose of denial, ~~suspension, or revocation~~ of the registration license of a professional geologist, specialty geologist, professional geophysicists, or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional geologist, specialty geologist, professional geophysicists, or specialty geophysicists if, to a substantial degree, it evidences present or potential unfitness of such a professional geologist, specialty geologist, professional geophysicist, or specialty geophysicist to perform the functions authorized by his or her registration license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

~~(a) (1) Any violations of the provisions of Chapter 12.5 of Division 3 of the Business and Professions Code. the Geologist and Geophysicist Act or aiding and abetting any person in such a violation;~~

~~(b) Crimes or acts~~ (2) A conviction of a crime arising from or in connection with the practice of professional geology or geophysics;

~~(c) (3) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;~~

~~(d) (4) Crimes or acts involving physical violence;~~

~~(e) (5) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.~~

(b) For the purpose of suspension or revocation of the license of a professional geologist, specialty geologist, professional geophysicist, or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional geologist, specialty geologist, professional geophysicists, or specialty geophysicists if, to a substantial degree, it evidences present or potential unfitness of a professional geologist, specialty geologist, professional geophysicist, or specialty geophysicist to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(1) Any violations of the provisions of the Geologist and Geophysicist Act or aiding and abetting any person in such a violation;

(2) A conviction of a crime arising from or in connection with the practice of professional geology or geophysics;

Note: Authority cited: Sections 481 and 7818, Business and Professions Code. Reference: Sections 480, 481, 490, and 493, 7860, and 7863, Business and Professions Code.

Alternate Language:

Modified Text

Changes to the originally proposed language are shown by double underline for new text and ~~double strikeout~~ for deleted text.

(3) Amend Section 416 of Division 5 of Title 16 of the California Code of Regulations to read as follows:

416. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of the license of a professional engineer or a professional land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

~~(a) For professional engineers, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;~~

~~(b) For land surveyors, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;~~

~~(c) A conviction of a crime~~ Crimes or acts (1) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying;

~~(d) (2) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;~~

~~(e) (3) Crimes or acts involving physical violence;~~

~~(f) (4) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.~~

(5) For professional engineering applicants, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;

(6) For land surveying applicants, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;

(b) For the purpose of suspension or revocation of the license of a professional engineer or a professional land surveyor pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional engineer or land surveyor if, to a substantial degree, it evidences present or potential unfitness of a professional engineer or land surveyor to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(1) For professional engineers, any violations of the provisions of the Professional Engineers Act or aiding and abetting any person in such a violation;

(2) For civil engineers legally authorized to practice land surveying and land surveyors, any violations of the provisions of the Professional Land Surveyors' Act or aiding and abetting any person in such a violation;

(3) A conviction of a crime arising from or in connection with the practice of professional engineering or land surveying;

(4) A conviction of a crime involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;

(5) A conviction of a crime involving physical violence;

(6) A conviction of a crime that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

Note: Authority cited: Sections 481, 6716 and 8710, Business and Professions Code. Reference: Sections 480, 481, 490, 493, 6706.3, 6710, 6732, 6775, 6779, 8780 and 8783, Business and Professions Code.

(4) Amend Section 3060 of Division 29 of Title 16 of the California Code of Regulations to read as follows:

3060. Substantial Relationship Criteria.

(a) For the purpose of denial, ~~suspension, or revocation~~ of the registration license of a professional geologist, specialty geologist, professional geophysicists, or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional geologist, specialty geologist, professional geophysicists, or specialty geophysicists if, to a substantial degree, it evidences present or potential unfitness of such a professional geologist, specialty geologist, professional geophysicist, or specialty geophysicists to perform the functions authorized by his or her registration license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

~~(a) (1) Any violations of the provisions of Chapter 12.5 of Division 3 of the Business and Professions Code.~~ (1) Any violations of the provisions of Chapter 12.5 of Division 3 of the Business and Professions Code. the Geologist and Geophysicist Act or aiding and abetting any person in such a violation;

~~(b) Crimes or acts~~ (2) A conviction of a crime arising from or in connection with the practice of professional geology or geophysics;

~~(c) (3) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;~~ (3) Crimes or acts involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;

~~(d) (4) Crimes or acts involving physical violence;~~ (4) Crimes or acts involving physical violence;

~~(e) (5) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.~~ (5) Crimes or acts that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

(b) For the purpose of suspension or revocation of the license of a professional geologist, specialty geologist, professional geophysicist, or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a professional geologist, specialty geologist, professional geophysicists, or specialty geophysicists if, to a substantial degree, it evidences present or potential unfitness of a professional geologist, specialty geologist, professional geophysicist, or specialty geophysicist to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

(1) Any violations of the provisions of the Geologist and Geophysicist Act or aiding and abetting any person in such a violation;

(2) A conviction of a crime arising from or in connection with the practice of professional geology or geophysics;

(3) A conviction of a crime involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another;

(4) A conviction of a crime involving physical violence;

(5) A conviction of a crime that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.

Note: Authority cited: Sections 481 and 7818, Business and Professions Code. Reference: Sections 480, 481, 490, and 493, 7860, and 7863, Business and Professions Code.

V. Administration

A. FY 2014/15 Budget Summary

FY 2014/15 Budget Overview:

The information provided below is a summary of the Engineers and Land Surveyors Board fund and the Geologists & Geophysicists Account with scheduled reimbursements. The data is based on approved Governor’s Budget, projected expenditures & revenue, projections to year-end, applications received and renewals processed through February for the current FY 2014/15 and prior year 2013/14.

Engineers and Land Surveyors (PELS) Fund

Fiscal Month 8	FY 14/15	FY 13/14
Expenditures	\$5.34 Million	\$5.53 Million
Revenue	\$6.63 Million	\$7.35 Million
Applications	8,178	8,403
Renewals	41,110	47,789

Budget Allotment	\$9.86 Million
Projection to Year-End	\$7.79 Million
Surplus/Deficit	\$2.07 Million
Revenue (Year-End)	\$7.94 Million

Geologist and Geophysicists (GEO) Fund

Fiscal Month 8	FY 14/15	FY 13/14
Expenditures	\$775 Thousand	\$848 Thousand
Revenue	\$798 Thousand	\$737 Thousand
Applications	356	326
Renewals	2,901	2,898

Budget Allotment	\$ 1.42 Million
Projection to Year-End	\$1.21 Million
Surplus/Deficit	\$204 Thousand
Revenue (Year-End)	\$1.10 Million

Overall, the Board is generating more revenue than allocated expenses and is projected to have a surplus at the end of the year. Please note: Renewals cycles are cyclical depending on the FY. Additionally, the application fluctuations is a result of filing dates.

0770 - Board for Prof. Engineers and Land Surveyors

Analysis of Fund Condition

Prepared 4/6/15

(Dollars in Thousands)

Budget Act and GF Loan Repayments	Budget Act		
	CY 2014-15	BY 2015-16	BY+1 2016-17
NOTE: \$4.5 M GF Loan Outstanding			
BEGINNING BALANCE	\$ 5,830	\$ 6,475	\$ 5,730
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 5,830	\$ 6,475	\$ 5,730
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 93	\$ 104	\$ 104
125700 Other regulatory licenses and permits	\$ 2,425	\$ 2,607	\$ 2,607
125800 Renewal fees	\$ 5,355	\$ 6,071	\$ 6,071
125900 Delinquent fees	\$ 41	\$ 61	\$ 61
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 4	\$ 7	\$ 1
150500 Interest Income from interfund loans	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 4	\$ 9	\$ 9
161400 Miscellaneous revenues	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 7,923	\$ 8,860	\$ 8,854
Transfers from Other Funds			
Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2011	\$ 500		\$ 800
Totals, Revenues and Transfers	\$ 8,423	\$ 8,860	\$ 9,654
Totals, Resources	\$ 14,271	\$ 15,335	\$ 15,384
EXPENDITURES			
Disbursements:			
1110 Program Expenditures (State Operations)	\$ 9,858	\$ 9,587	\$ 9,779
8840 SCO (State Operations)	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 8	\$ 18	\$ -
SURPLUS/(DEFICIT):	\$ (2,070)	\$ -	\$ -
Total Disbursements	\$ 7,796	\$ 9,605	\$ 9,779
FUND BALANCE			
Reserve for economic uncertainties	\$ 6,475	\$ 5,730	\$ 5,605
Months in Reserve	8.1	7.0	6.7

0205 - Geology

Analysis of Fund Condition

Prepared 4/6/15

(Dollars in Thousands)

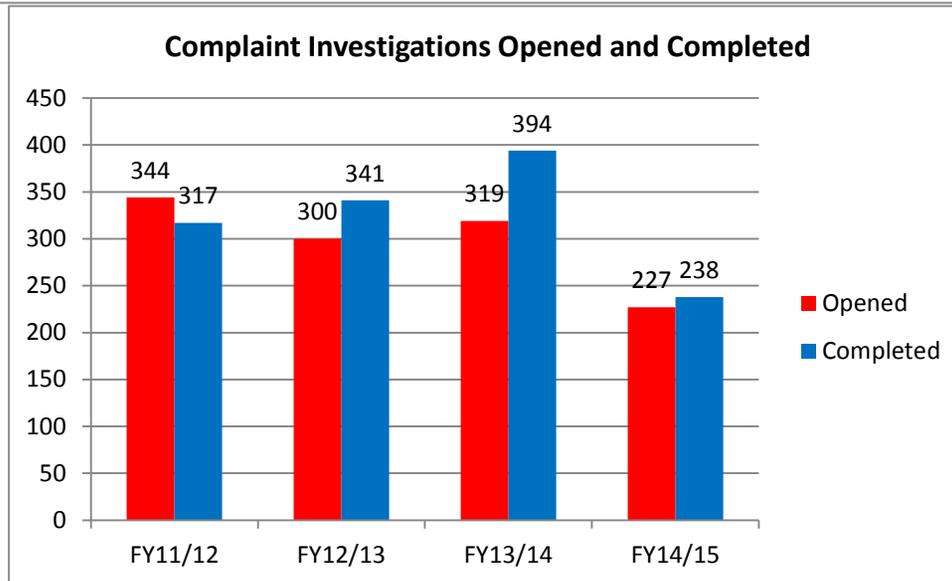
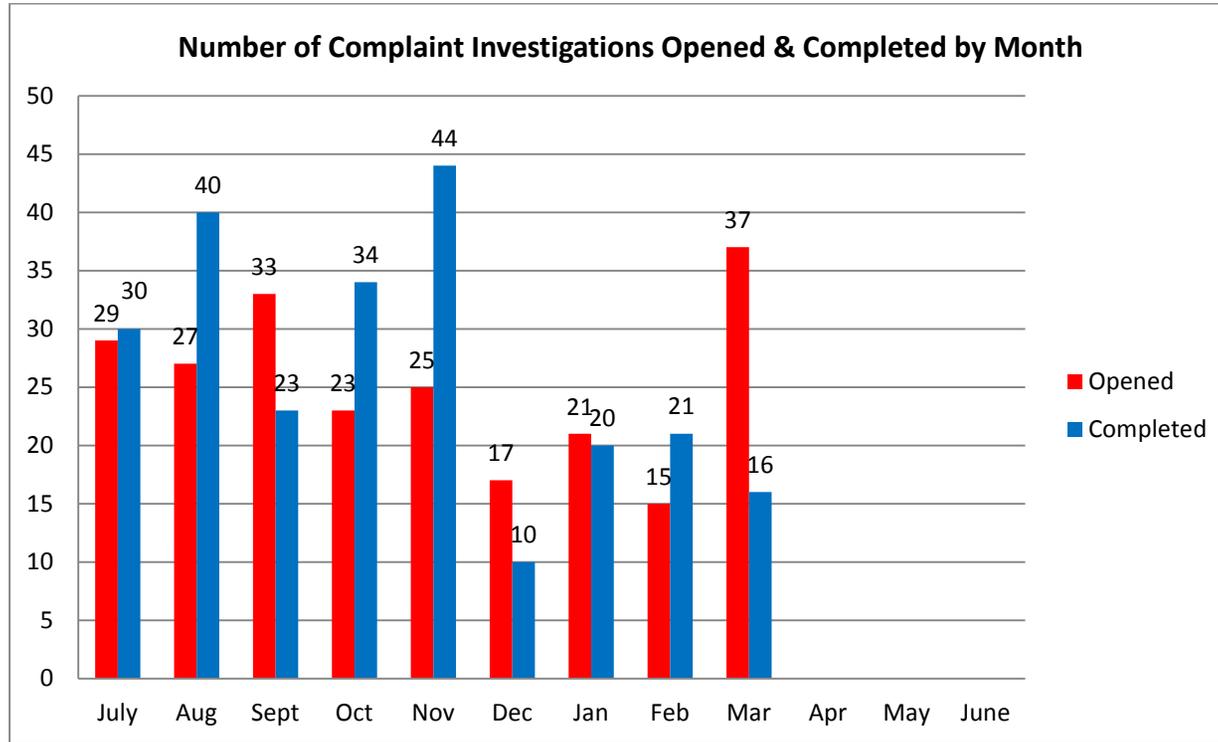
Governor's Budget	BUDGET		
	CY 2014-15	ACT BY 2015-16	BY + 1 2016-17
BEGINNING BALANCE	\$ 989	\$ 841	\$ 435
Prior Year Adjustment	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 989	\$ 841	\$ 435
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	\$ 4	\$ 4	\$ 4
125700 Other regulatory licenses and permits	\$ 230	\$ 240	\$ 240
125800 Renewal fees	\$ 817	\$ 768	\$ 768
125900 Delinquent fees	\$ 12	\$ 12	\$ 12
141200 Sales of documents	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 1	\$ 3	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 1	\$ 1	\$ 1
161400 Miscellaneous revenues	\$ -	\$ -	\$ -
Totals, Revenues	\$ 1,065	\$ 1,028	\$ 1,025
Totals, Revenues and Transfers	\$ 1,065	\$ 1,028	\$ 1,025
Totals, Resources	\$ 2,054	\$ 1,869	\$ 1,460
EXPENDITURES			
Disbursements:			
1110 Program Expenditures (State Operations)	\$ 1,416	\$ 1,431	\$ 1,460
8840 FSCU (State Operations)	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 1	\$ 3	\$ -
SURPLUS/(DEFICIT):	\$ (204)		
Total Disbursements	\$ 1,213	\$ 1,434	\$ 1,460
FUND BALANCE			
Reserve for economic uncertainties	\$ 841	\$ 435	\$ -
Months in Reserve	7.0	3.6	0.0

VI. Enforcement

- A. Enforcement Statistical Reports
- B. Policy on Disclosure of Complaints and Enforcement Actions
- C. Possible Misuse of the Complaint/Investigation Process by Licensees

PELS ENFORCEMENT PROGRAM

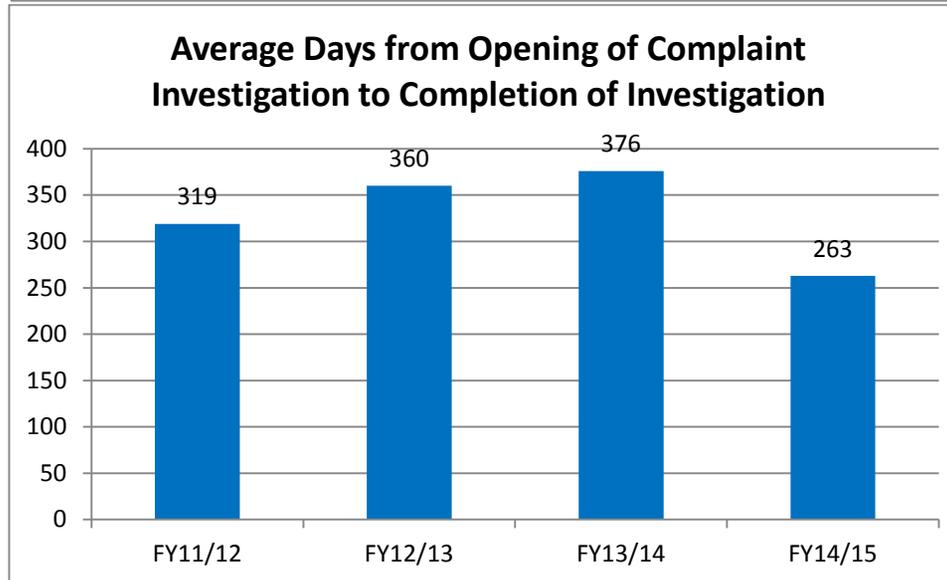
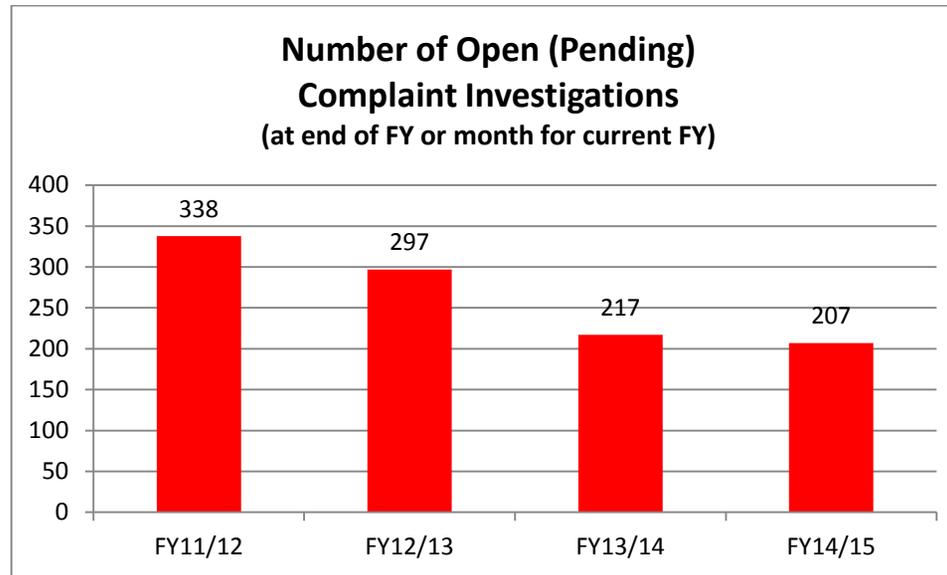
Complaint Investigation Phase



NOTE: FY14/15 statistics are through March 31, 2015

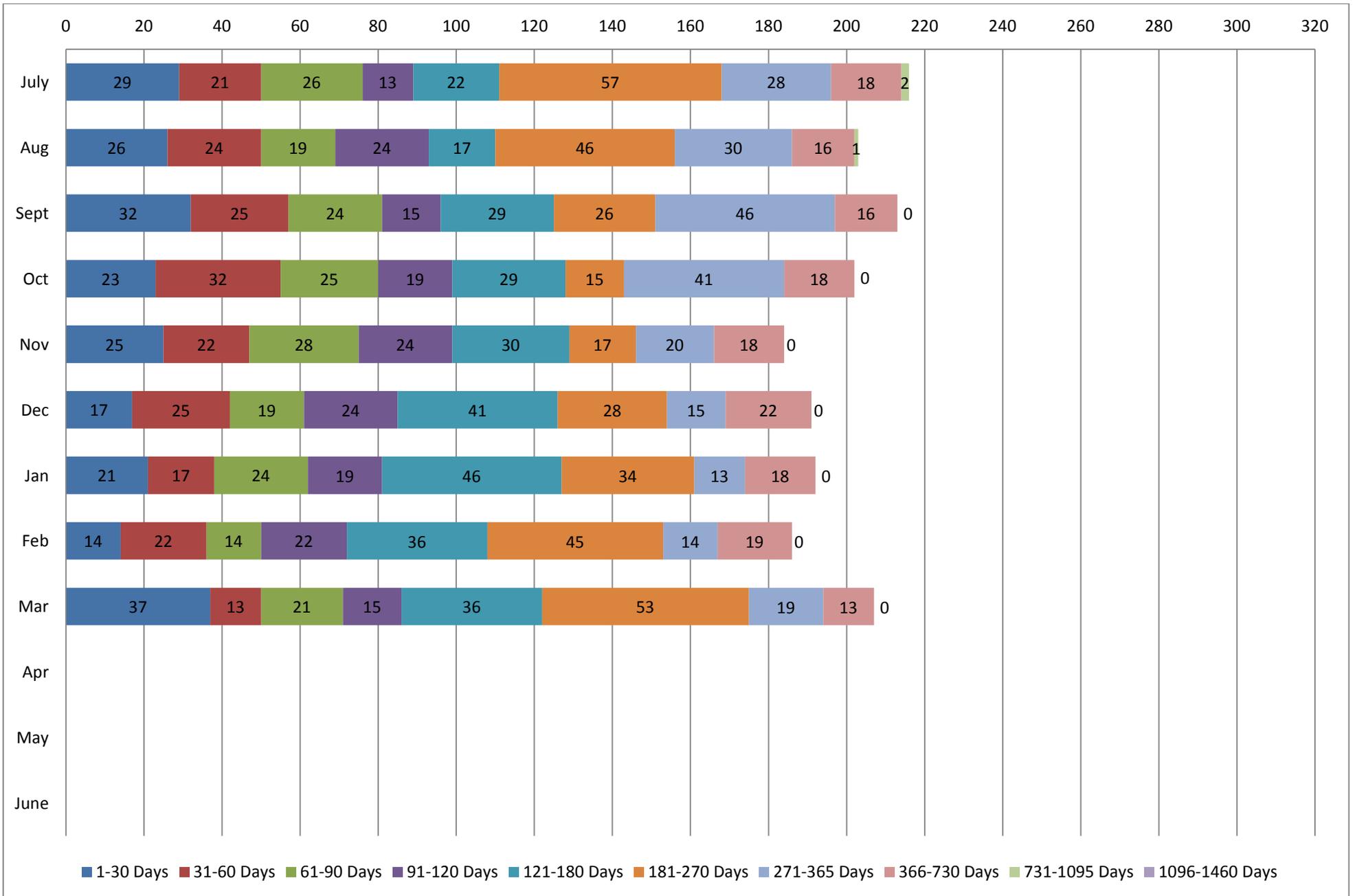
PELS ENFORCEMENT PROGRAM

Complaint Investigation Phase



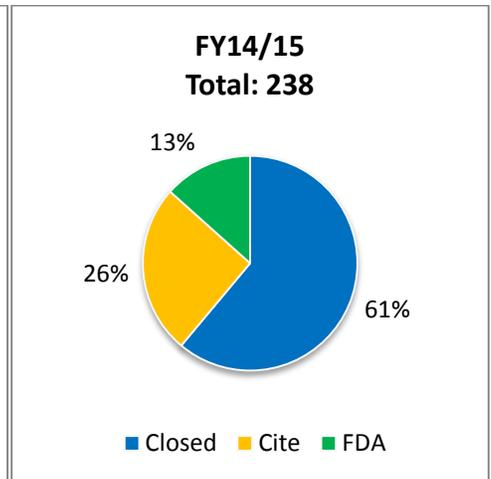
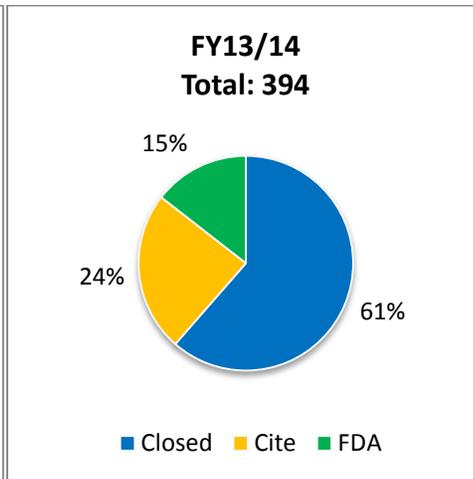
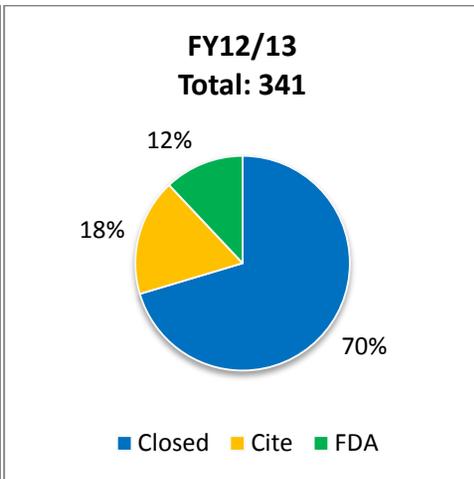
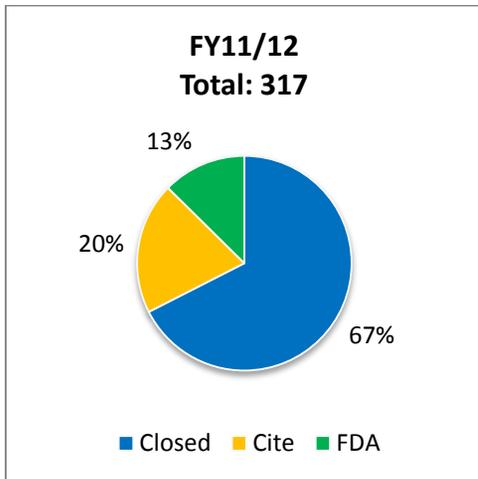
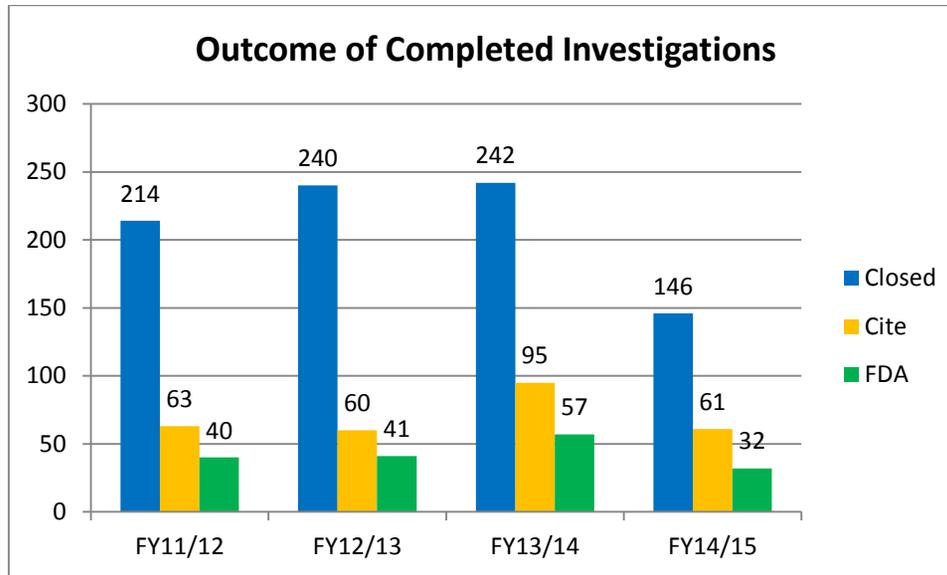
NOTE: FY14/15 statistics are through March 31, 2015

Aging of Open (Pending) Complaint Investigation Cases FY14/15



PELS ENFORCEMENT PROGRAM

Outcome of Completed Investigations



NOTE: FY14/15 statistics are through March 31, 2015

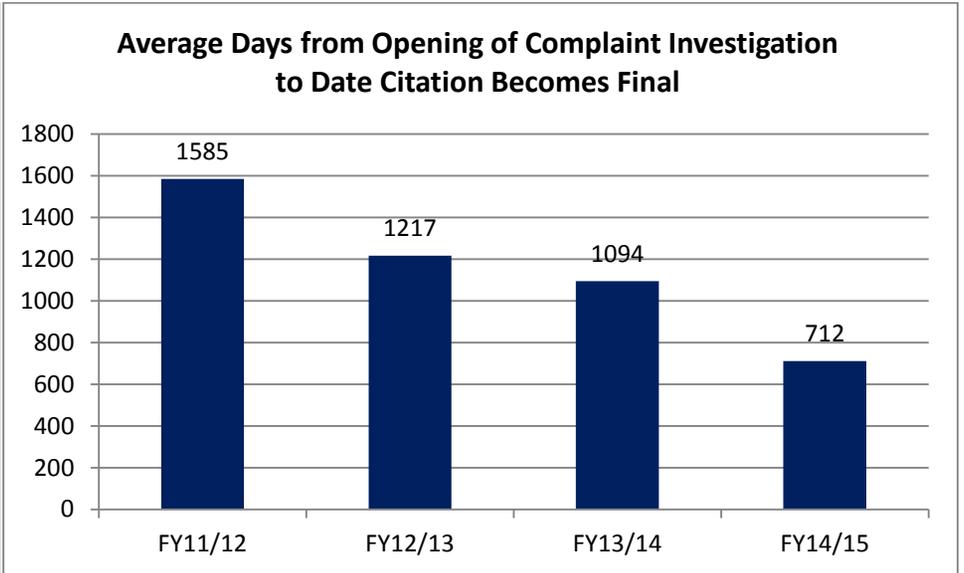
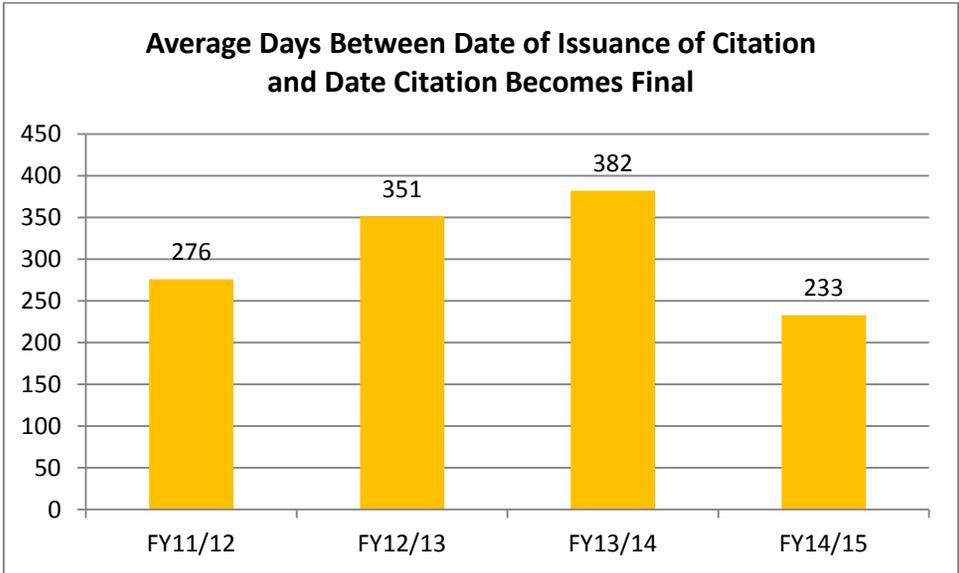
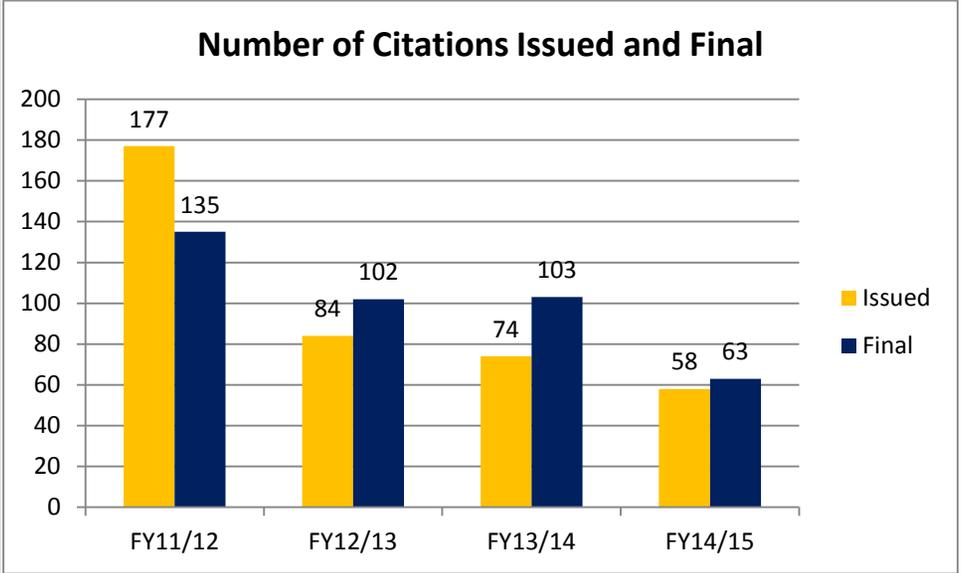
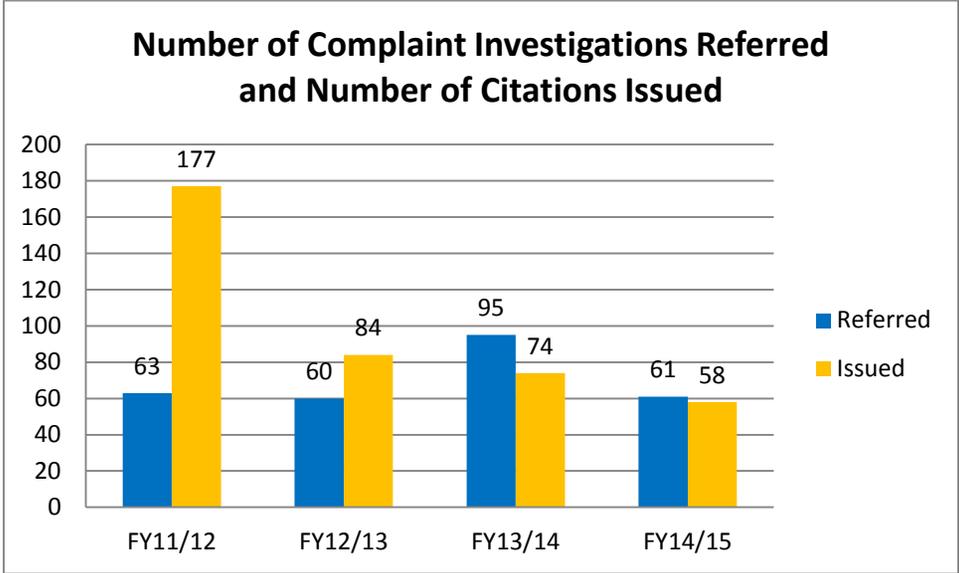
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

FDA = Referred for Formal Disciplinary Action

PELS ENFORCEMENT PROGRAM

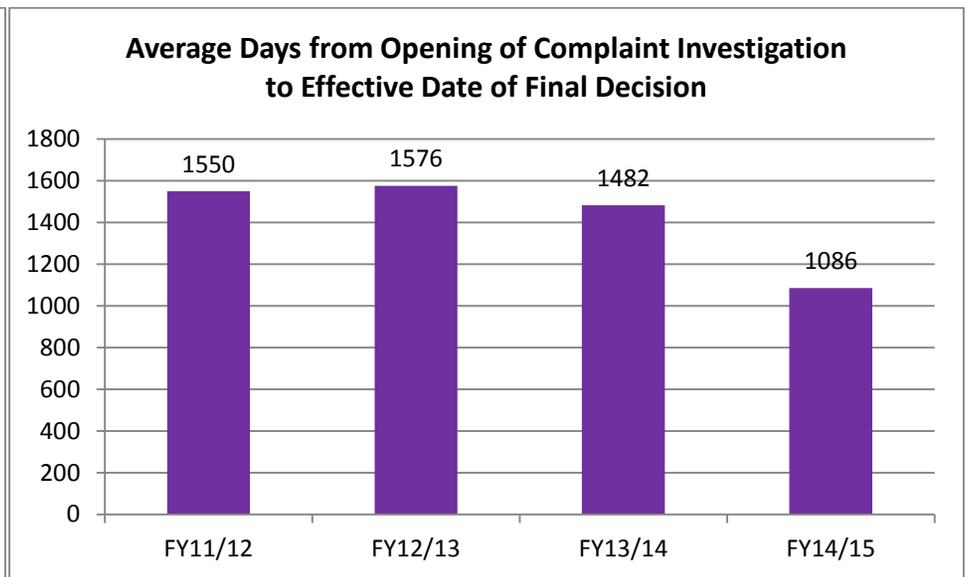
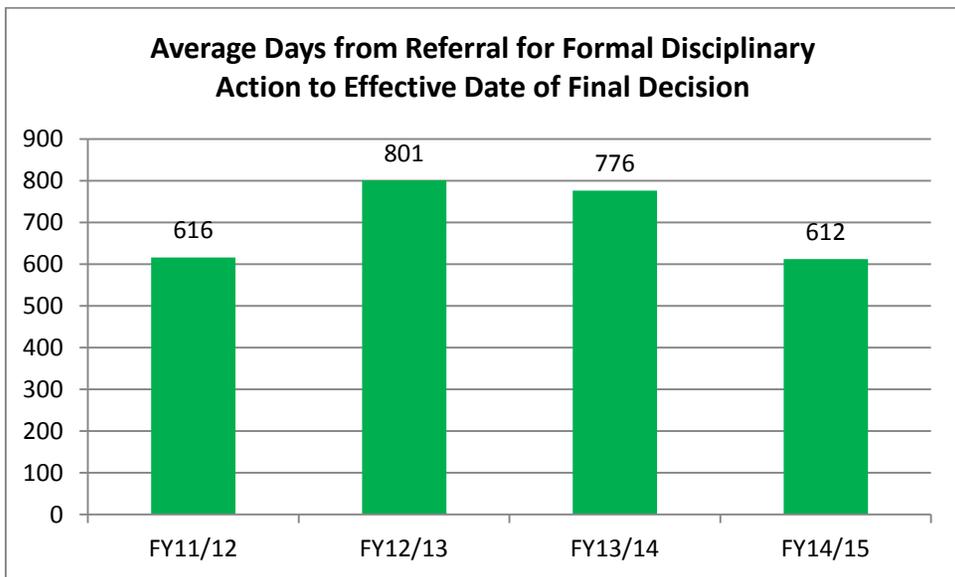
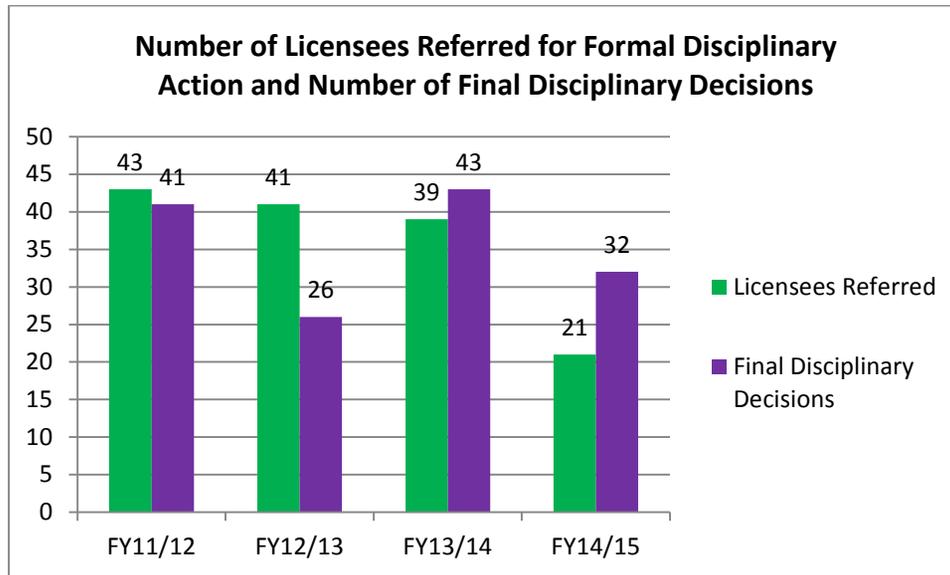
Citations (Informal Enforcement Actions)



NOTE: FY14/15 statistics are through March 31, 2015

PELS ENFORCEMENT PROGRAM

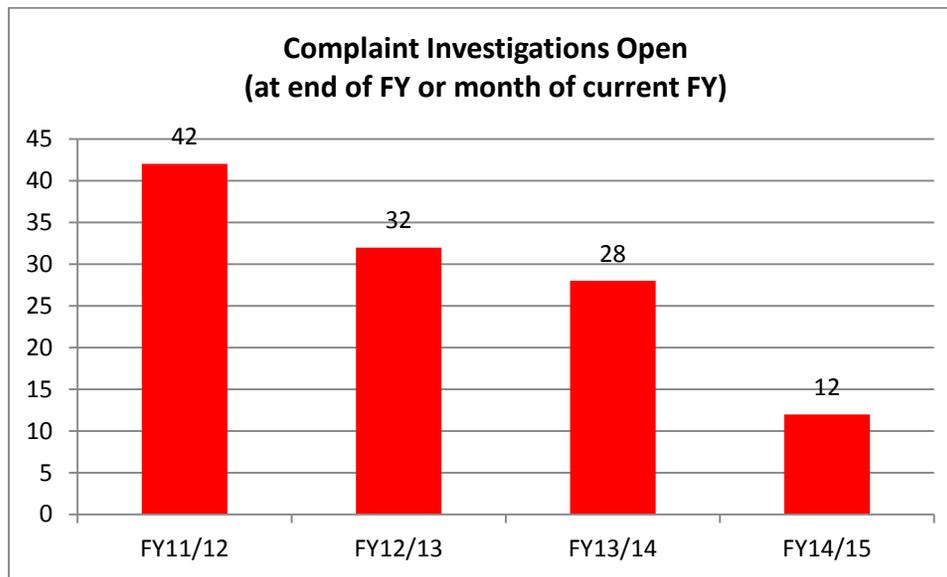
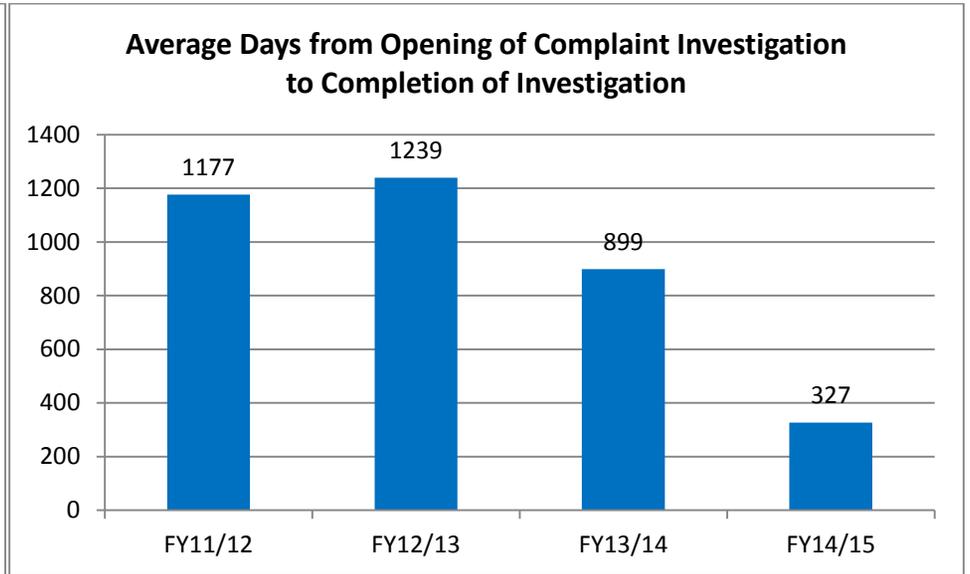
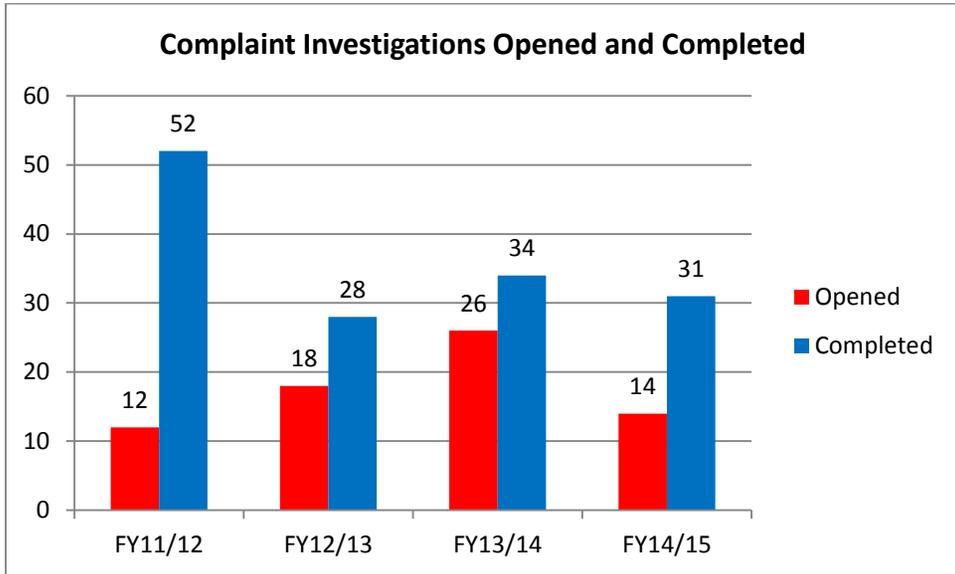
Formal Disciplinary Actions Against Licensees



NOTE: FY14/15 statistics are through March 31, 2015

G&G ENFORCEMENT PROGRAM

Complaint Investigation Phase

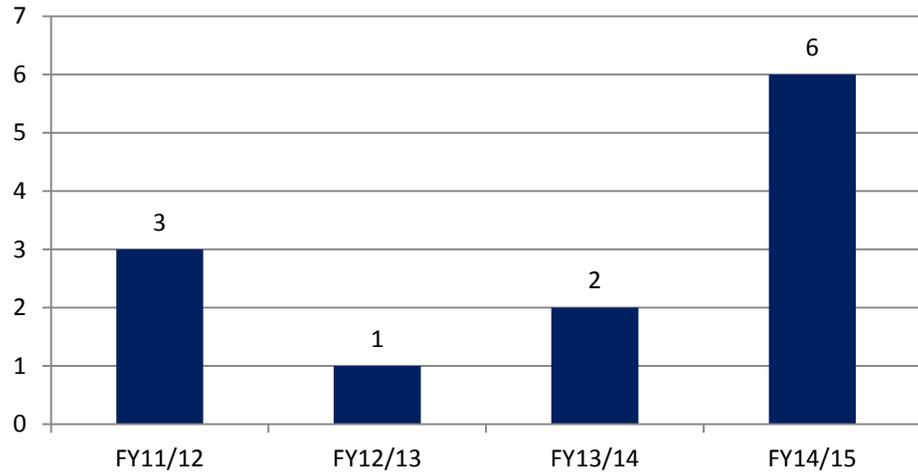


NOTE: FY14/15 statistics are through March 31, 2015

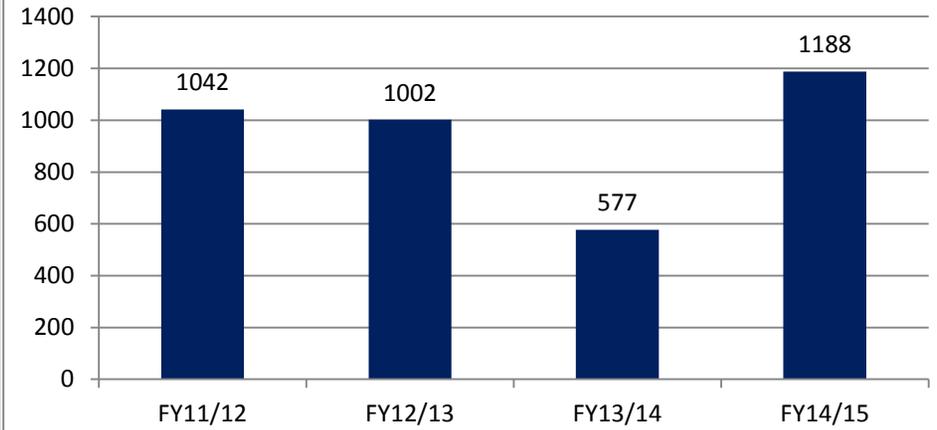
G&G ENFORCEMENT PROGRAM

Citations (Informal Enforcement Actions)

Number of Final Citations



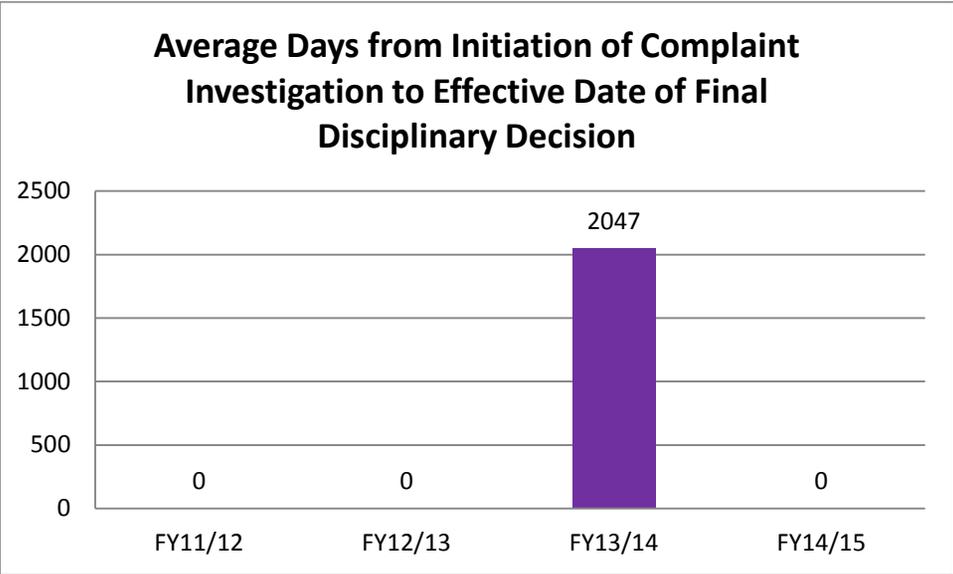
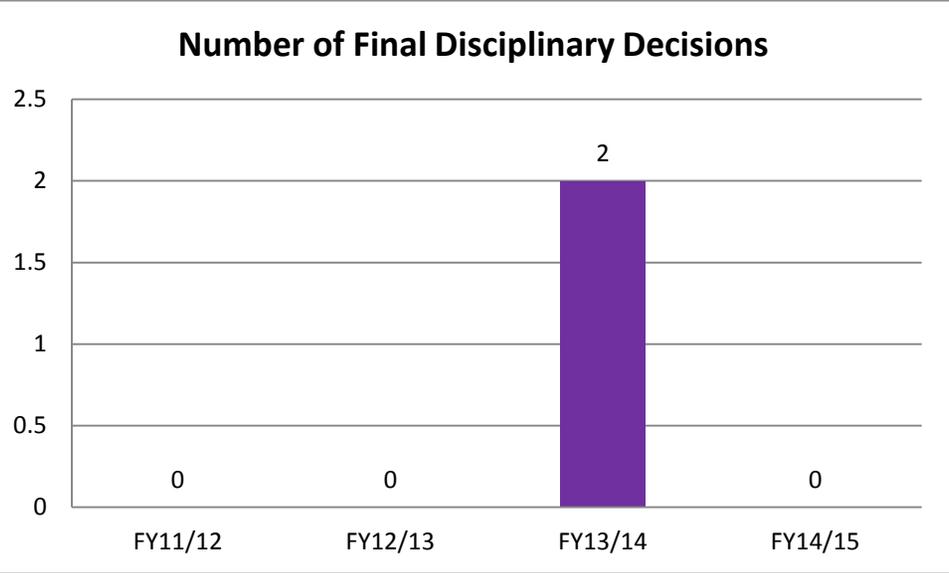
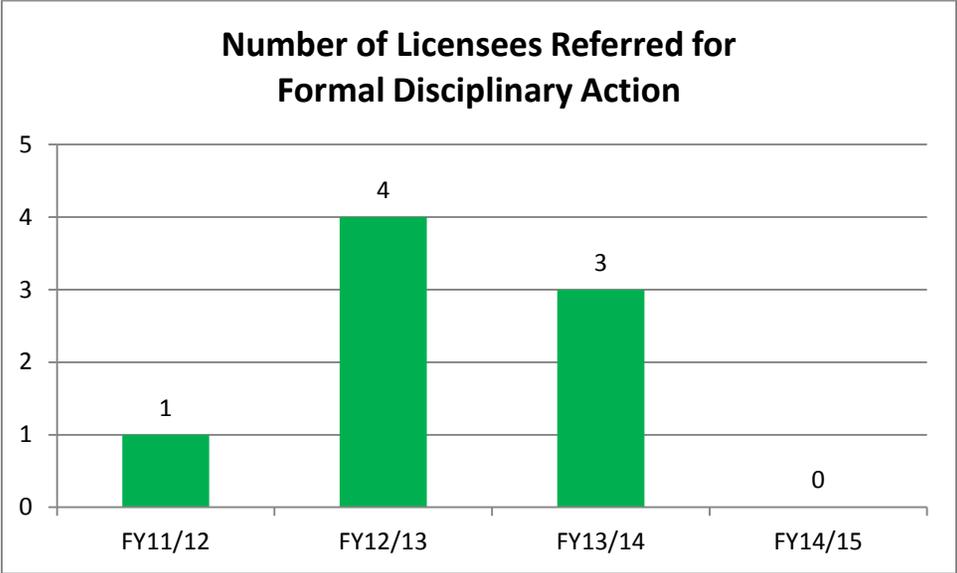
Average Days from Opening of Complaint Investigation to Date Citation Becomes Final



NOTE: FY14/15 statistics are through March 31, 2015

G&G ENFORCEMENT PROGRAM

Formal Disciplinary Actions against Licensees



NOTE: FY14/15 statistics are through March 31, 2015

POLICY OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS ON DISCLOSURE OF COMPLAINTS AND ENFORCEMENT ACTIONS

At the November 2014 meeting, Board Member Patrick Tami requested that an item be included for discussion at the next meeting regarding the disclosure of complaints and enforcement actions, including citations and formal disciplinary actions.

The Board currently has a Policy on Disclosure of Complaints and Disciplinary Actions (hereinafter referred to as the Disclosure Policy”) which was formally adopted by the Board in July 1994, and revised by the Board in May 1997, December 1997, April 1999, September 2002, and March 2011. Prior to formally adopting this Disclosure Policy, the Board had an informal policy that followed the same guidelines and principles expressed in the formal policy adopted in 1994. In developing and revising its Disclosure Policy over the years, the Board has reviewed policies and guidelines put forth by DCA and sought the advice of its attorneys.

The Board’s Disclosure Policy not only addresses when and what information will be disclosed regarding complaints, citations, accusations, final orders/decisions, and criminal actions, but it also indicates that the Board will publish and distribute the information regarding final orders/decisions and criminal actions via its newsletters and website. Whenever a complaint case is closed, a copy of the Disclosure Policy is sent to both the complainant and the subject with the letter advising them that the case has been closed and the reasons for the closure. By sending a copy of the Disclosure Policy with the closing letters, the Board is providing notice to the involved parties about what and when information will be disclosed. Information about the Disclosure Policy is also included in the *Consumer Guide* and on the website.

The last major revisions to the Disclosure Policy were done in 1999. The 2002 modifications simply clarified that the Disclosure Policy is intended to address inquiries from all interested parties and not just consumers, as well as providing more specific information regarding what information is released regarding criminal actions that result from investigations by the Board. The 2011 modifications added references to geology and geophysics and updated the terminology used for enforcement actions and final orders, based on recommendations from Legal Counsel.

The current (March 2011) Disclosure Policy is included for reference.


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.bpelsg.ca.gov



**POLICY OF THE BOARD FOR PROFESSIONAL
ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
ON DISCLOSURE OF COMPLAINTS AND ENFORCEMENT ACTIONS**

It is the policy of the Board for Professional Engineers, Land Surveyors, and Geologists to provide information to all interested parties regarding complaints and enforcement actions resulting from violations of the Professional Engineers Act (Business and Professions Code section 6700, et seq.), the Geologist & Geophysicist Act (Business and Professions Code section 7800, et seq.), the Professional Land Surveyors' Act (Business and Professions Code section 8700, et seq.), the Board Rules and Regulations Relating to the Practices of Engineering and Land Surveying (Division 5 of Title 16 of the California Code of Regulations), and/or the Regulations Relating to the Practices of Geology and Geophysics (Division 29 of Title 16 of the California Code of Regulations).

COMPLAINTS

The Board keeps records for five years of complaints against licensees and non-licensees that do not result in enforcement action (see below) involving violations of the Professional Engineers Act, the Geologist & Geophysicist Act, the Professional Land Surveyors' Act, and the Board Rules and Regulations Relating to the Practices of Engineering, Land Surveying, Geology, and Geophysics.

During the investigation, no information concerning the complaint will be disclosed.

If investigation reveals that there has been no violation of the law, no information concerning the complaint will be disclosed.

If investigation reveals that there has been a probable violation of the law, upon written or oral request, information concerning the complaint shall be disclosed as follows:

1. The number of complaints against a specific Board licensee or non-licensee.
2. The date the complaint was received and the date on which final disposition of the complaint was reached.
3. The disposition of the complaint, as follows:
 - a. Compliance obtained.
 - b. Complaint mediated/resolved.
 - c. Complaint referred for legal and/or disciplinary action (i.e., criminal action, citation issuance, and/or accusation filing).
 - d. Any other action taken, formal or informal.

ENFORCEMENT ACTIONS (CRIMINAL ACTIONS, CITATIONS, ACCUSATIONS, AND FINAL ORDERS)

The Board shall keep records of enforcement actions taken, including criminal convictions, citations, accusations, and final orders, as required by law.

Upon written or oral request, information regarding citations issued and accusations filed shall be disclosed as follows:

Citations: A citation shall be disclosed once it is issued along with its procedural status.

Accusations: An accusation shall be disclosed once it is filed along with its procedural status.

Upon written or oral request, information regarding final orders (final citation orders or final disciplinary decisions/orders on accusations) shall be disclosed as follows:

Final Orders: Final orders shall be disclosed once they become final and effective. Additionally, information shall be provided regarding compliance with the order, as applicable at the time of the request.

In addition to providing the information described above regarding final orders upon request, the Board will publicize such final orders in any manner, consistent with the provisions of the Information Practices Act (Civil Code section 1798, et seq.), the Public Records Act (Government Code section 6250, et seq.), and other applicable laws, that the Board deems appropriate, including, but not limited to, issuing press releases, publishing articles in Board publications and on the Board's Internet site, and providing information to the regulatory agencies for engineering, land surveying, geology, and/or geophysics in other states.

Upon written or oral request, information regarding criminal actions resulting from Board investigations shall be disclosed as follows:

Criminal Actions: The name and address of the appropriate court which has instituted the criminal proceedings regarding criminal actions resulting from Board investigations, along with the pertinent docket or case number, shall be provided once the Board has received such information from the Division of Investigation, the appropriate District or City Attorney's Office, or the appropriate court.

In addition to providing the information described above regarding criminal actions upon request, the Board will publicize criminal actions in any manner, consistent with the provisions of the Information Practices Act (Civil Code section 1798, et seq.), the Public Records Act (Government Code section 6250, et seq.), and other applicable laws, that the Board deems appropriate, including, but not limited to, issuing press releases, publishing articles in Board publications and on the Board's Internet site, and providing information to the regulatory agencies for engineering, land surveying, geology, and/or geophysics in other states.

VII. Executive Officer's Report

- A. Legislation and Regulation Workgroup Summary
- B. Personnel
- C. BreEZe Update
- D. Sunset Review and Response

Legislative and Regulatory Committee

Board Members: Coby King and Bob Stockton

Board Staff: Kara Williams, Tralee Morris, and Billie Baldo

Assignments and Workload: February 9-10, 2015

Legislation

AB 177 An act to amend Sections 6710 and 6714 of the Business and Professions Code extending our Sunset date from January 1, 2016 until January 1, 2020.

Regulations

- Citations (472-473.4/3062-3063.4)
- PG/PGp postpone/appeal (3024)
- Exam Appeals Repeal (443, 444, 3063.1, 3037.1)
- Waiver of Fundamentals Exam (438(a)(2), (b)(2), & (b)(7))
- SE, GE qualifications/experience (426.10/426.14/426.50)
- Corner Record (464(g))
- Substantial Relationship Criteria (416/3060)

Current Assignments and Workload: April 15-16, 2015

Legislation- AB 12, AB 85, AB 103, AB 177, AB 320, AB 1060, SB 69, SB 284, SB 799

Regulations

- Citations (472-473.4/3062-3063.4)
- PG/PGp postpone/appeal (3024)
- Exam Appeals Repeal (443, 444, 3063.1, 3037.1)
- Waiver of Fundamentals Exam (438(a)(2), (b)(2), & (b)(7))
- SE, GE qualifications/experience (426.10/426.14/426.50)
- Corner Record (464(g))
- Substantial Relationship Criteria (416/3060)

Department of Consumer Affairs
BreEZe Costs and Funding FY
2009-10 through FY 2016-17
(amounts in whole \$s)

	FY 2009-10		FY 2010-11		FY 2011-12		FY 2012-13		FY 2013-14		FY 2014-15	FY 2015-16	FY 2016-17
	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Budget	Actual	Proposed*	Proposed*	Proposed*
BreEZe Costs													
Solution Vendor - Accenture LLP		-		-	1,200,000	869,926	4,081,649	387,607	5,029,513	4,478,770	5,375,928	9,732,344	11,750,441
DCA Staff and OE&E	2,080,000	372,732	2,080,000	1,096,247	3,280,829	3,199,363	3,636,888	4,655,450	6,742,294	7,979,320	8,026,062	13,111,845	7,046,014
Data Center Services		-		-	1,101,843	147,645	1,667,899	138,410	136,072	137,472	155,376	156,096	156,096
Other Contracts		44,151		53,169	860,120	645,011	899,600	1,178,588	2,357,360	1,751,269	2,814,819	4,428,850	4,543,800
Oversight		10,168		345,993	537,276	488,034	537,276	393,232	559,920	478,328	563,234	643,512	
Total Costs	2,080,000	427,051	2,080,000	1,495,409	6,980,068	5,349,979	10,823,312	6,753,287	14,825,159	14,825,159	16,935,419	28,072,647	23,496,351
BreEZe Funding Needs													
Total Costs	2,080,000	427,051	2,080,000	1,495,409	6,980,068	5,349,979	10,823,312	6,753,287	14,825,159	14,825,159	16,935,419	28,072,647	23,496,351
Redirected Resources	2,080,000	427,051	2,080,000	1,495,409	4,169,882	3,198,486	4,448,886	4,818,002	5,806,881	5,806,881	7,405,427	7,426,449	2,080,000
Total BreEZe BCP	-	-	-	-	2,810,186	2,151,493	6,374,426	1,935,285	9,018,278	9,018,278	9,529,992	20,646,198	21,416,351

Board / Bureau Name	FY 2009-10		FY 2010-11		FY 2011-12		FY 2012-13		FY 2013-14		FY 2014-15	FY 2015-16	FY 2016-17
	Budget	Actual	Budget	Actuals	Budget	Actuals	Budget	Actuals	Budget	Actuals	Proposed	Proposed	Proposed
Board for Professional Engineers and Land Surveyors	97,173	17,773	97,173	57,139	193,235	167,655	161,173	6,695	333,173	333,173	195,065	478,297	425,817
Geology and Geophysicists	6,325	1,033	6,325	-	12,974	11,212	10,325	2,581	22,325	22,325	13,903	35,828	31,766

* Figures identified in FY 2014-15 through FY 2016-17 are still pending approval

VII. Executive Officer's Report, D. Sunset Review and Response (Possible Action)

ISSUE #6 – THE NEED FOR CONTINUED LICENSURE OF GEOPHYSICISTS IN THE STATE OF CALIFORNIA. *Should the licensing of Geophysicists continue in this state and should the Board still have to provide a State-specific Professional Geophysicist (PGp) Examination to potential applicants for licensure?*

Introduction

This is a carryover topic from the Board's 2010 Sunset process which at that time resulted with a report to the Senate Business, Professions, & Economic Development Committee agreeing that the Board would closely monitor both industry trends and exam development efforts. In 2014, the Sunset Committees asked the board to revisit this issue by providing an update and recommendation on this matter.

As stated during the Board's hearing before the Sunset Committees on March 18, 2015, included on the following pages, in the years since the merger with the former Geology Board, the Board has grown to understand and appreciate the value of the services that geophysicists provide the public. However, given the lack of conscious involvement from the licensed geophysicist community, particularly in regards to concerns associated with ensuring that the examination process is measuring competency appropriately, and the fact that most geophysicists are hired by informed consumers (i.e. other licensed professionals, gas/oil industries, governmental agencies, etc.), we believe that that the geophysicist profession simply does not require the same level of regulatory oversight as other professions.

Staff Recommendation: The Board should support a response to the Sunset Committees recommending that licensing of Professional Geophysicists be deregulated with the Board's Sunset legislation (AB 177).

We would recommend that the deregulation be handled in a similar manner as was done with the quality, corrosion, safety, and manufacturing engineers. When these disciplines were deregulated, language was added to the Professional Engineers Act to indicate that examinations would no longer be given as of a specified date and licenses would no longer be issued, but that anyone who had taken and passed the last-administered examination would still be issued a license even if it was after that specific date. Additionally, language was added to allow anyone licensed in those disciplines who maintained their license through the payment of renewal fees to still be authorized to use the titles "professional engineer" and "licensed engineer" in combination with the specific discipline title. By following this model, anyone currently licensed as a Professional Geophysicist would be able to maintain that license and continue to use the title "Professional Geophysicist." Additionally, anyone who applies for licensure this year would still have the opportunity of taking and passing the examination this fall and being issued a license.

Statement Provided by Board at March 18, 2015 Hearing

The Board believes there would not be a significant increase in the risk to the public if the practice of geophysics is deregulated in California. While we believe geophysical work certainly does provide value, there seems to be little need to provide the level of protection to the public that is obtained through regulation and licensure by the State.

Geophysicists are generally hired by “sophisticated consumers,” not the individual “mom and pop” consumer. They are hired by other licensed professionals, typically geologists, civil engineers, and licensed architects as a part of the overall design and development team, and they are hired by the petroleum, oil, and gas industries to work on projects specific to those companies. Such “sophisticated consumers” do not require the added protection of State regulation in the same way that individual consumers do. The sophisticated consumers in effect create a self-regulated industry in that they will not hire, or rehire, geophysicists who are not able to perform to the appropriate standards, and those geophysicists will soon cease operations. In addition, the sophisticated consumer is more likely to seek the assistance of the civil courts to address financial harm, rather than filing a complaint with the Board.

Eliminating the geophysicist license category would have a minimal negative impact on the Board’s operations in that we receive few inquiries regarding the licensure process. While we receive very few applications each year, we must contract with an independent expert geophysicist to review any of those applications for licensure that we receive in order to determine if the applicant meets the qualifying experience requirements.

Furthermore, it would have a positive impact on the Board’s workload for exam development in that we would no longer have to expend the resources necessary to develop an examination that must be administered once a year when we have an average of five candidates each year taking the exam. In preparation for each exam development meeting, Board staff sends letters to all of the licensed geophysicists with addresses of record in California (approximately 100) seeking their assistance in participating in the exam development process. Few responses are received, so staff then attempts to make personal contact via direct phone calls to recruit individuals to serve as experts. Even when a sufficient number have agreed to serve as experts, many times they will cancel at the last minute or simply not show up for the meeting with no prior notice. When this happens, the exam development meeting often has to be rescheduled, creating a drain on resources, both staff time and financially. Additionally, any delays in exam development and scoring process can cause delays in our ability to issue licenses to the individuals who may have passed the exam. This happened with the 2013 exam administration; we were delayed by nearly six months in releasing the results of the examination because we could not secure commitments from a sufficient number of experts to develop a legally-defensible passing score.

Approximately 1/3 of the 168 currently licensed geophysicists are located outside the state of California. If the Professional Geophysicist license is discontinued, the individuals who are currently licensed and maintain that license through the payment of the required renewal fees should be allowed to continue to use the restricted titles of Professional Geophysicist or Licensed Geophysicist or any abbreviation of those titles (such as “PGp”). In this way, there will be less impact on the current licensees.

In last four fiscal years (FY10/11 through FY13/14), there has been ONE complaint against a licensed geophysicist. This is out of a total of 16 complaints relating to geophysics, which represents 19% of the complaints relating to geology and geophysics filed during that time frame. The other 15 cases relate to allegations of unlicensed activity; 2 were against professional geologists; one was against a civil engineer; and the remaining 12 were against unlicensed individuals; many of those are complaints were submitted by licensed geophysicists and related to companies offering, through websites or other advertisements, services that in California constitute the practice of geophysics. The complaint against the license geophysicist was opened as a result of evidence obtained during investigation of an unlicensed person for signing a geophysical report; the complaint against the unlicensed person had been filed by a licensed geophysicist. The licensee was cited for negligence (based on errors in report), failing to sign the report initially, and failing to exercise proper oversight and direction over the unlicensed subordinate.

By eliminating the geophysicist license, the Board would have approximately \$20,000 to \$25,000 additional money to spend on other operational needs.

Excerpt from the Background Paper for the Board for Professional Engineers, Land Surveyors, and Geologists as Prepared by the Staff of the Assembly Business and Professions Committee

LICENSING ISSUES

ISSUE #6: THE NEED FOR CONTINUED LICENSURE OF GEOPHYSICISTS IN THE STATE OF CALIFORNIA. *Should the licensing of Geophysicists continue in this State and should the Board still have to provide a State-specific Professional Geophysicist (PGp) Examination to potential applicants for licensure?*

Background: The 2011 Sunset Review noted several concerns the Board had with the development and administration of the geophysicist examination. Some concerns, at the time, included the difficulty in the recruitment of in-state experts to assist with developing and constructing the examination, the cost of developing the examination, and the level of protection of the public that licensure actually provides.

During the last review, the Committee instructed the Board to conduct a public hearing in an effort to receive input regarding the continued regulation of the practice of geophysics and the continued licensure of geophysicists in California. The Board also created a subcommittee for closer analysis. A hearing was held on May 12, 2011. Based on the testimony received at the hearing, the Board’s initial recommendation was to continue to license geophysicists but to closely monitor the long term trends associated with the geophysics profession and how it related to licensing protection for the general public. Since the Board knew little of the profession, more time was needed to make an educated and appropriate decision before making any recommendations regarding the continued licensure of geophysicists and the continue regulation of the practice of geophysics in California. Since that time, the Board has monitored the applicant and licensee populations, as well as the interest in the profession to assist in exam development for future licensure examinations. The chart below lists the application and examination totals for the last four years.

Professional Geophysicist Applicant Population				
Examination Cycle	Number of New Examinees	Number of Refile Examinees	Number of Examinees Passed	Pass Rate
2010	1	1	1	50%
2011	4	2	3	50%
2012	1	3	3	75%
2013	7	1	5	63%

Note: This table was taken from the BPELSG 2014 Sunset Review Report.

Below is a list of the total population of the Professional Geophysicists (PGp) in California as of the end of FY 2013/14.

Licensee Population		FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
PROFESSIONAL GEOPHYSICIST LICENSE	Active	157	160	163	168
	Out-of-State	60	61	64	66
	Out-of-Country	5	5	5	5
	Delinquent	51	51	51	51

Note: This table was taken from the BPELSG 2014 Sunset Review Report.



Mr. Richard B. Moore
Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capital Oaks Drive, Suite 300
Sacramento, CA 95833

March 31, 2015

Subject: Licensure of Professional Geophysicists

Dear Mr. Moore:

On March 28, 2014, I received news from a fellow colleague that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is in the process of abolishing the Professional Geophysicist (PGP) licensure. Before this date, I had never heard or been notified about this impending action. I would like to begin by introducing myself. I am currently the principal and sole proprietor of Terra Geosciences, a southern California consulting firm that provides geophysical services to a variety of entities which include, but are not limited to, private land owners, engineering, architectural, and geotechnical consulting firms, city and county agencies, contractors, and law enforcement agencies. I have been working professionally as a licensed geologist since 1987 and a licensed geophysicist since 1995 and as such feel that I am qualified to comment upon whether the services we offer to these entities do have a direct impact on the safety and welfare of the public.

I have reviewed Issue #6 (The need for continued licensure of Geophysicists in the State of California) from the "Background Paper" dated March 18, 2015, which I viewed on the Board's website. Of particular interest to me was the staff recommendation about the Board explaining whether abolishing this licensure would place the public at risk. Since the time of my licensure in 1995, I have performed over 1,200 geophysical surveys ranging considerably in both technical expertise and complexity. In particular, I would like to take this opportunity to summarize some of these project types with regard to public safety, which appears to be of q major concern for the Board.

- **Detection of Post-Tension (PT) Cables-** I have been called upon numerous times to locate PT cables prior to a contractor coring building and parking floor slabs typically by using ground-penetrating radar (GPR). In the event that a PT cable is severed, the sudden release of energy could cause serious injury to the workers and/or the slab. This is an instance where using the correct technology and understanding the raw field data visible on the screen will ensure public safety.

Consulting Engineering Geology & Geophysics

P.O. Box 1090, Loma Linda, CA 92354 • 909-796-4667

State of California PGP Licensure

Page 2

- **Sinkhole/Pavement Studies-** There have been many instances where both City and county agencies have called upon me to investigate the potential for sinkholes within public roads, whether related to visible deformed surface roads and/or related to water/sewer pipeline breaks. We have successfully found such cavities (some very large) wherein the public agency closed the road for repairs. In the event that proper equipment and evaluation was not performed, serious injury to the public could have occurred as a result of breaching the road surface.
- **Utility Clearance-** Typically before contractors, private landowners, geotechnical consulting firms, etc., perform subsurface trenching or drilling, they call USA dig alert to locate utilities; however, USA does not mark on private land (and commonly miss lines within public right-of-ways), which can result in disaster. If a worker severs an electrical or gas line, sever injury or death could occur. The use of trained personnel with proper equipment is paramount to this type of survey.
- **Grave/Burial Locating-** I have been contacted many times by public agencies (city and county cemeteries), archaeologists (dig sites), and Native American tribes (ancestral burial grounds) to locate grave sites. Although not a detriment to public safety, it does offer a very important and sensitive matter to those concerned. This also includes providing services to law enforcement agencies where I have located underground Meth labs, and have been called upon to locate buried contraband, and even cold-case burials.
- **Shear-Wave Surveys-** There has been dozens of projects where both structural and geotechnical engineers needed a site-specific shear-wave (SW) survey to be performed prior to site construction/building design. In the event that improper testing and/or analysis is performed with respect to generating the SW values for site design, then ultimately the building has a potential for more severe damage and/or collapse to occur during a large earthquake. There is only one chance to provide proper site-specific SW values for site design.

Although these are just a few instances where public safety can be compromised without professionally trained and licensed geophysical personnel, there are others that do not surfcially appear to impact public safety directly, but when integrated into the overall project design, they do indeed provide measures for public safety.

The intent of the "Geologist and Geophysicist Act" (Business and Professions Code §§ 7800 – 7887) is for the protection of the public. Any project or survey that involves the use of geophysical instruments, and specifically the interpretation of such geophysical data, requires that it be performed by or supervised by a Profession Geophysicist licensed in the State of California. Currently, the cost of geophysical instruments is becoming more affordable, resulting in an increase of unlicensed people obtaining them. Although anyone can eventually learn to operate and collect data, the true art of our profession is the interpretation of the data, specifically knowing how these data are

TERRA GEOSCIENCES

State of California PGP Licensure

Page 3

generated, influences from the surroundings, and the variables from anomalous signals. This interpretation expertise comes from a learned background (college education), apprentice years, collaboration with other professionals, continuing education, and lastly experience. These attributes cannot be taught to unlicensed persons or companies looking to increase the services they offer.

I have personal knowledge of "horror" stories from clients and others that have used such unlicensed people. If the Board does abolish the geophysical license, then public safety will certainly be at risk, such as discussed above. Just one school bus falling into a sinkhole or a building collapse would cause significant injuries and/or deaths and can be avoided by keeping the licensure in place to insure these potential catastrophes are properly analyzed.

I understand that funding is the key issue here. Unfortunately as a scientist I cannot comment on this issue, but I can say that I would be willing to pay an increase in fees (even yearly, if need be) and suggest that the PGP test possibly be offered every other year which should then reduce examination costs by 50 percent.

I appreciate you taking the time to read this letter regarding the Geophysical License sunset review. I would be more than happy to discuss this matter with you personally. Please contact me at your earliest convenience.

Respectfully submitted,
TERRA GEOSCIENCES



Donn C. Schwartzkopf
Principal Geophysicist
PGP 1002

TERRA GEOSCIENCES



March 31, 2015

Mr. Richard B. Moore
Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capital Oaks Drive, Suite 300
Sacramento, CA 95833

Subject: Licensure of Professional Geophysicists

Dear Mr. Moore:

It has recently come to our attention that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is in the process of abolishing the Professional Geophysicist (PGp) licensure. We were surprised to hear of this since we were never contacted or notified about this recent action, yet we were contacted about this very issue in the 2011 Sunset Review. We certainly hope that it is not too late to convince the Board to reconsider. The purpose of this letter is to try and persuade the Board to continue the administration of the PGp program.

Southwest Geophysics, Inc. is a certified small business that provides full service geophysical consulting services. The company is comprised of seven staff geophysicists, two of which are registered and two that will be applying for registration in this year. We provide services to both the private and public sectors, including State agencies (i.e., Caltrans, CalRecycle, etc.), architects, engineers, lending institutions, contractors, environmental scientists, geologists, home owners, developers, Law Enforcement, and the Department of Defense. Typical projects include fault hazard studies, delineation of landslides, underground storage tank (UST) surveys, unexploded ordnance (UXO) detection, groundwater studies, rippability surveys, resistivity surveys, developing seismic design parameters, hazardous waste delineation, void detection, rebar and post tension cable locating, utility/pipe locating, and vibration monitoring.

All our projects are performed or overseen by a PGp to ensure the highest quality service to our clients. Our reputation for providing quality degreed and registered individuals has enabled us to sustain financial growth despite the recent economic challenges. Many clients rely on our tech-

Professional Licensure of Geophysicists
State of California

March 31, 2015

nical expertise to assist them in solving problems or formulate design parameters. Although most of our clients realize the significance of hiring a professional firm with registered geophysicists, others often retain unlicensed consultants that report to possess the necessary skills to conduct geophysical surveys. Unfortunately, the actions of unlicensed firms/individuals create a risk to the client and/or general public. For example, the inaccurate delineation or missed detection of landfill waste, USTs, voids, utilities/pipes, post tension cables, or the incorrect assessment of fault zones and the derivation of seismic parameters can have devastating effects. Applying appropriate geophysical methods, utilizing proper equipment, accurately interpreting results, and preparing technical reports are essential to ensure sound solutions and public safety. Without a licensing program in place, surely more unqualified individuals will practice geophysics, especially since some of the geophysical instrumentation has become more user friendly.

We have on several occasions witnessed improperly performed surveys, where geophysical means and methods were incorrectly applied, data were misinterpreted, and inexperienced or uneducated personnel were conducting the surveys. A particular situation was where a company with no registered geophysicists was conducting an underground storage tank (UST) survey at a former gasoline station site. The only instrument used was a ground penetrating radar (GPR). They reported no tanks on site. During the redevelopment of the property the grading contractor encountered a 10,000-gallon UST on site. The tank was metallic and buried a few feet below the ground surface and still contained some product. Fortunately no one was hurt. Our firm was called in and we determined that the UST was indeed detectable using electromagnetic and magnetic methods. In fact we found an additional 10,000-gallon UST adjacent to the one exposed by the contractor. Of course we brought this matter to the attention of the Board.

It should be noted that the facts presented in the Background Paper for the Board for Professional Engineers, Land Surveyors, and Geologists (Paper) is not entirely correct. The Paper states that "Geophysicists rarely interact directly with the public." The majority of our work is for the public directly and indirectly, just as much as a Geologist or Hydrogeologist would be in contact with the public. Also, as we stated above we have witnessed many inadequate and potential unsafe work in California. Many small companies have recently started providing (not just advertising) geophysical services and most do not even have college educated field technicians conducting the surveys. Lastly, we also provide Geophysical Consulting Services in other states. Although they do not have a geophysical licensure, they often acknowledge, respect and appreciate our Registration in California.

Professional Licensure of Geophysicists
State of California

March 31, 2015

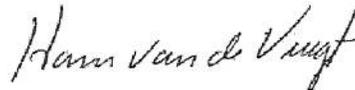
We realize that managing the PGp licensure program is costly, but perhaps there are cost reductions that can be employed. For example, offering the PGp exam every two years, rather than annually may reduce spending. The number of subject matter workshops will be less; furthermore this will provide more opportunities for licensees to participate. Also, scheduling the workshops during winter months will likely increase attendance since this typically is a less busy time of year in the geophysical profession. Lastly, increasing the cost of the license and exam should also be considered.

We certainly understand and appreciate the economic challenges that face the Board. However, we feel that eliminating the PGp registration will have long term effects that will be detrimental to the public and professionals alike. Therefore, we believe that it is imperative that alternatives be considered. To this end, we commit ourselves to support the Board any way possible, including future attendance to subject matter workshops, review committees, etc.

Respectfully submitted,
SOUTHWEST GEOPHYSICS, INC.



Patrick F. Lehrmann, P.G., P.Gp.
Principal Geologist/Geophysicist



Hans van de Vrugt, C.E.G., P.Gp.
Principal Geologist/Geophysicist

HV/PFL/hv

Distribution: Addressee (facsimile)



April 3, 2015

Mr. Richard B. Moore

PLS Executive Officer

Board for Professional Engineers, Land Surveyors, and Geologists

2535 Capital Oaks Drive, #300

Scaramento, CA 95833

Reference: Professional Geophysicist (PGp) Licensure

Dear Mr. Moore,

It has recently come to our attention that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is in the process of abolishing the Professional Geophysicist (PGp) licensure. We certainly hope that it is not too late to convince the Board to reconsider. The purpose of this letter is to try and persuade the Board to continue the administration of the PGp program.

Stantec is an environmental consulting company. We provide services to both the private and public sectors, including State agencies. We utilize geophysical companies to conduct, underground storage tank (UST) surveys, groundwater studies, hazardous waste delineation, and utility/pipe locating.

We choose our geophysical consultants based on technical experience. We know that if we choose registered personnel, we can count on the quality of the product. Unfortunately, the actions of unlicensed firms/individuals create a risk to our company and our clients and/or general public. Inaccurate delineation or missed detection of landfill waste, USTs, utilities/pipes can have devastating effects. Applying appropriate geophysical methods, utilizing proper equipment, accurately interpreting results, and preparing technical reports are essential to ensure sound solutions and public safety. Without a licensing program in place, surely more unqualified individuals will practice geophysics.

We certainly understand and appreciate the economic challenges that face the Board. However, we feel that eliminating the PGp registration will have long term effects that will be detrimental to the public and professionals alike. Therefore, we believe that it is imperative that alternatives be considered.



April 3, 2015
Mr. Richard B. Moore

Reference: Professional Geophysicist (PGP) Licensure

Sincerely,

STANTEC CONSULTING SERVICES INC.

A handwritten signature in black ink, appearing to read 'Kathleen Kelly'.

Kathleen Kelly
Geologic Project Specialist
Stantec Consulting Services Inc.
9179 Aero Drive
San Diego CA 92123-2411
Ph: (619) 296-6195 x292
Kathleen.Kelly@stantec.com

A handwritten signature in black ink, appearing to read 'John Johnson'.

John Johnson
Project Manager
Stantec Consulting Services, Inc.
9179 Aero Drive
San Diego, CA 92123-2411
Ph: (619) 296-6195 x298
John.Johnson@stantec.com

April 3, 2015

Mr. Richard B. Moore
Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capital Oaks Drive, Suite 300
Sacramento, CA 95833

RE: Professional Geophysical Licensure

Mr. Richard Moore,

I have been made aware that there is a current attempt to remove the Professional Geophysics Licensure (P.Gp.) as stated on page 25, 26 and 27 of the Background Paper for the Joint Oversight Committee on March 18th, 2015 that was posted on www.bpelsg.ca.gov on March 27th, 2015. I have also been made aware that a meeting will occur on April 15th, 2015 to review this attempt as stated by The Official Notice and Agenda under section VII, D as the Sunset Review and Response as posted on April 3rd, 2105. I am distressed that this attempt to abolish the P.Gp. has been hidden in such a manner and no contact was made to current holders of the P.Gp about this current action. I am also distressed that these course of actions are to occur within such a short time frame, as this limits the ability of our community to respond. Geophysics, and especially my specialty of consulting geophysics, is a field intensive discipline. We routinely spend weeks, if not months, in the field collecting and interpreting geophysical data. Less than 20 days is an exceedingly short amount of time to defend our profession.

I am relatively new and current P.Gp. holder and have been routinely using my license to provide work and reports that pertain to the health and safety of the general public. Even before I was licensed I worked directly under those who were licensed to perform this work for a total of about 10 years. I have used my license to collect and interpret geophysical data to be used in construction, development and preplanning for various industries and sectors. Notably, for Nuclear Power Plant expansion, construction and remediation under the regulations of the NRC that required I be qualified with a P.Gp. for projects not only in my state of California by other states, such as Florida, Pennsylvania, Alabama, etc. that I have been a part of. I have also used my license for projects performed at military bases, such as Edwards Air Force Base and other government run facilities such as Stringfellows that fall under the CERLA for agencies such as the DTSC. I have done projects for domestic firms and

directly for homeowners. Most of these projects directly affect the safety of life and property.

Page 25, 26 and 27 of the Background Paper for the Joint Oversight Committee incorrectly implies that unlicensed geophysics is not a threat to public safety. Reports that are done by unlicensed geophysics fall under client confidentiality and are not available for licensed geophysicists to use to inform the Board about dangerous work. Most unlicensed work is done without any documentation as well, so when a problem does occur, there is less legal obligation for those involved. There are many areas a P.Gp. is needed to ensure safety of the general public. These include but are not limited to:

- Abandoned Oil Well Searches - If an oil well is not correctly identified as present or absent from a site and building occurs at the location, then leaking wells will pose health risks to the occupants as well as fire risks. Most projects involving oil well location are for the development of new housing tracts or other structures that people occupy. I have been informed too many times by clients (homeowners and firms) that unlicensed work performed on the site, using inadequate procedures and equipment, have resulted in mislocated or missed wells.
- UXO - Unexploded ordinance detection. Missed ordination (explosive bearing materials or hazardous materials) poses a significant risk to the remediation teams, the construction teams and the occupants of the site.
- Vs30 - Seismic Hazard Analysis. This work is performed to determine the soil stiffness of the upper 30 m to determine site classification for building codes. A wrong site classification results in improper building design, and a significant seismic hazard during an event. I have seen reports and work performed by unqualified groups that end in erroneous results that affect site classification and therefore the safety of the structure to be built.
- Subsurface geologic mapping - Typically done for construction and hazard mitigation. Basins, historic channels, faults, rock depths are all used for proper safe construction of buildings as well as determine where contamination and other hazardous conditions are present beneath the ground. Future occupants of these site are directly affected if improper interpretations are made that result in missed contamination or other hazardous conditions.

Yes, we are a small community. A small and busy community. Our work is needed in numerous areas and stretches us very thin. I understand that P.Gp's feel they are too busy to attend all that is needed to write and grade a sufficient exam. I also understand that not many people take the exam every year. To increase numbers for both aspects, the test should be offered at most, every 2 years rather than every

year. There was also an unofficial increase in experience time needed to be allowed to take the exam when the Board was absorbed, delays in new geophysicists taking the exam should have been expected. When the Board was absorbed the requirement for 5 years of experience for a B.S. degree was unofficially increased when the new Board declared only 80% of our time would count. I was personally delayed 2 years to take the exam. We have another geophysicist waiting to take the exam due to this requirement as well. I will be sure to make myself available to help write, grade and evaluate the exam. I did not feel that I should have been doing any other steps so soon after taking the exam myself, but I will put aside those reservations to help the process.

All in all, it is a mistake to remove the P.Gp. This action will result in more unqualified groups and persons to perform work that does have a direct bearing on safety. Other states do not have our unique set of geologic hazards that require our expertise to perform correctly with future safety in mind. And therefore, comparing our state to others is the wrong way to go about this.

Regards,



William Dalrymple, P.Gp. 1072
GEOVision Geophysical Services, Inc.
1124 Olympic Drive
Corona, California 92881
951-549-1234
wdalrymple@geovision.com



Leighton Consulting, Inc.

A LEIGHTON GROUP COMPANY

April 3, 2015

Mr. Richard B. Moore, PLS
Executive Officer, Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capitol Oaks Drive, #300
Sacramento, California 95833
VIA FACSIMILE: (916) 263-2246

Subject: **California Geophysicist Registration**

Dear Mr. Moore:

It has recently come to our attention that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is in the process of abolishing the Professional Geophysicist (PGp) licensure. We certainly hope that it is not too late to convince the Board to reconsider. The purpose of this letter is to try and persuade the Board to continue the administration of the PGp program.

Leighton Consulting, Inc., is a geotechnical, environmental, materials testing and inspection consulting company. We provide services to both the private and public sectors, including State agencies (i.e., Caltrans, etc.), architects, engineers, lending institutions, contractors, environmental scientists, geologists, home owners, developers, Law Enforcement, and the Department of Defense. We utilize geophysical companies to conduct fault hazard studies, delineation of landslides, underground storage tank (UST) surveys, unexploded ordnance (UXO) detection, groundwater studies, rippability surveys, resistivity surveys, developing seismic design parameters, hazardous waste delineation, void detection, rebar and post tension cable locating, utility/pipe locating, and vibration monitoring.

We choose our geophysical consultants based on technical experience. We know that if we choose registered personnel, we can count on the quality of the product. Unfortunately, the actions of unlicensed firms/individuals create a risk to our company and our clients and/or general public. Inaccurate delineation or missed detection of landfill waste, USTs, voids, utilities/pipes, post tension cables, or the incorrect assessment of fault zones and the derivation of seismic parameters can have devastating effects. Applying appropriate geophysical methods, utilizing proper equipment, accurately interpreting results, and preparing technical reports are essential to ensure sound solutions and public safety. Without a licensing program in place, surely more unqualified individuals will practice geophysics.

We certainly understand and appreciate the economic challenges that face the Board. However, we feel that eliminating the PGp registration will have long term effects that will be detrimental to the public and professionals alike. Therefore, we believe that it is imperative that alternatives be considered.

Respectfully submitted,

LEIGHTON CONSULTING, INC.



Mark Withrow, PE 83229
Project Engineer
(949) 681-4211 (direct)
(949) 250-1114 (fax)
mwithrow@leightongroup.com (email)





Leighton and Associates, Inc.

A LEIGHTON GROUP COMPANY

April 4, 2015

Mr. Richard B. Moore, PLS Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capitol Oaks Drive, #300
Sacramento, CA 95833

It has come to my attention that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is in the process of abolishing the Professional Geophysicist (PGp) licensure. I hope that the Board will reconsider this action. The purpose of this letter is present my use of licensed and qualified Geophysicist in my line of work and urge the Board to continue the administration of the PGp program.

I am a licensed Senior Principal Geologist at Leighton and Associates Inc. is a Geotechnical and Geo-Environmental consulting company. We provide services to both the private and public sectors, including State agencies (i.e., Caltrans, CWMB, etc.), architects, engineers, lending institutions, contractors, environmental scientists, geologists, home owners, and developers. We utilize geophysical companies with licensed geophysicists to assist in fault hazard studies, delineation of landslides, underground storage tank (UST) surveys, unexploded ordnance (UXO) detection, groundwater studies, rippability surveys, resistivity surveys, developing seismic design parameters, hazardous waste delineation, void detection, rebar and post tension cable locating, utility/pipe locating, and vibration monitoring.

We choose our geophysical consultants based on technical experience. We know that if we choose California registered personnel, we can count on the quality of the product. Unfortunately, the actions of unlicensed firms/individuals create a risk to our company and our clients and/or general public. Inaccurate delineation or missed detection of landfill waste, USTs, voids, utilities/pipes, post tension cables, or the incorrect assessment of fault zones and the derivation of seismic parameters can have devastating effects. Applying appropriate geophysical methods, utilizing proper equipment, accurately interpreting results, and preparing technical reports are essential to ensure sound solutions and public safety. Without a licensing program in place, surely more unqualified individuals will practice geophysics.

We certainly understand and appreciate the economic challenges that face the Board. However, we feel that eliminating the PGp registration will have long term effects that will be detrimental to the public and professionals alike. Therefore, we believe that it is imperative that alternatives be considered.

Respectfully submitted,

Robert F. Riha, CEG 1921
Senior Vice President
Leighton and Associates Inc.



Leighton Consulting, Inc.

A LEIGHTON GROUP COMPANY

April 6, 2015

Mr. Richard B. Moore, PLS
Executive Officer, Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capitol Oaks Drive, #300
Sacramento, California 95833
VIA FACSIMILE: (916) 263-2246

Subject: **California Geophysicist Registration**

Dear Mr. Moore:

It has recently come to our attention that the Board for Professional Engineers, Land Surveyors, and Geologists (Board) is in the process of abolishing the Professional Geophysicist (PGp) licensure. We certainly hope that it is not too late to convince the Board to reconsider. The purpose of this letter is to try and persuade the Board to continue the administration of the PGp program.

Leighton Consulting, Inc., is a geotechnical, environmental, materials testing and inspection consulting company. We provide services to both the private and public sectors, including State agencies (i.e., Caltrans, etc.), architects, engineers, lending institutions, contractors, environmental scientists, geologists, home owners, developers, Law Enforcement, and the Department of Defense. We utilize geophysical companies to conduct fault hazard studies, delineation of landslides, underground storage tank (UST) surveys, unexploded ordnance (UXO) detection, groundwater studies, rippability surveys, resistivity surveys, developing seismic design parameters, hazardous waste delineation, void detection, rebar and post tension cable locating, utility/pipe locating, and vibration monitoring.

We choose our geophysical consultants based on technical experience. We know that if we choose registered personnel, we can count on the quality of the product. Unfortunately, the actions of unlicensed firms/individuals create a risk to our company and our clients and/or general public. Inaccurate delineation or missed detection of landfill waste, USTs, voids, utilities/pipes, post tension cables, or the incorrect assessment of fault zones and the derivation of seismic parameters can have devastating effects. Applying appropriate geophysical methods, utilizing proper equipment, accurately interpreting results, and preparing technical reports are essential to ensure sound solutions and public safety. Without a licensing program in place, surely more unqualified individuals will practice geophysics.

We certainly understand and appreciate the economic challenges that face the Board. However, we feel that eliminating the PGp registration will have long term effects that will be detrimental to the public and professionals alike. Therefore, we believe that it is imperative that alternatives be considered.

Respectfully submitted,

LEIGHTON CONSULTING, INC.



Brynn McCulloch, PG 8798
Sr. Project Geologist
(949) 681-4287 (direct)
(949) 250-1114 (fax)
bmcculloch@leightongroup.com (email)



Chuck Carter, PGp 1051
9000 E. Fairview Ave. #110
San Gabriel, CA 91775
(626) 560-3423
Cgc1971@gmail.com
April 3, 2015

Richard B. Moore
PLS Executive Officer,
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capitol Oaks Drive, #300
Sacramento, CA 95833

Dear Richard B. Moore:

It has come to my attention that the Board for Professional Engineers, Land Surveyors, and Geologists would like to eliminate the Geophysics registration. I really feel that this is a bad choice for California. During the last ten years most of the geophysics projects I have worked on have been in support of a geotechnical investigations for critical structures like power plants, reservoirs, tunnels, buildings or bridges. There is a very significant seismic hazard in California and therefore geophysical surveys should be conducted and supervised by licensed geophysicists. I have seen recently that in the environmental and construction fields people with no geophysical experience are getting hired to do work they really are not qualified to do because they are cheap and probably good sales people. I have had to relocate oil wells and underground storage tanks simply because the previous contractor did not use the correct equipment. If the standards are lowered for geophysics work it is just a matter of time before someone decides to cut corners. I have even seen it happen at a nuclear plant out of state. The geophysical contractor sent some junior staff to acquire downhole data and they got tube waves. They were not able to obtain the shear wave velocities they were hired to obtain, and believe me they didn't admit their mistake and go re-acquire the data.

In California the population density, the number of critical structures coupled with the seismic hazard and concern for our environment make geophysics registration worth it in my opinion. I hope the Board will take this into account before abolishing the Geophysics registration.

Sincerely,



Chuck Carter, PGp 1051

**TETRA TECH**

1230 Columbia Street, Suite 1000, San Diego, CA 92101
Tel 619.525.7188 Fax 619.525.7186
www.tetrattech.com

TO: Mr. Richard B. Moore
Executive Officer
Board for Professional Engineers, Land Surveyors, and Geologists
2535 Capital Oaks Drive, Suite 300
Sacramento, CA 95833

SUBJECT: California Professional Geophysicist Licensure

DATE: April 3, 2015

Dear Mr. Moore:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) appears to be in the process of abolishing the California Professional Geophysicist (PGp) licensure according to the Background Paper for the Joint Oversight Hearing on March 18, 2015 posted on the website (<http://www.bpelsg.ca.gov/>). Many California PGps I know were unaware of this decision or were not contacted by the Board to provide input regarding the decision. I recently received my California PGp in May of 2014 and understood the delay in receiving the exam results as a result of Board's current challenges. However, I also understand the overarching importance of the PGp licensure and the responsibility of maintaining standards in California for the geophysical industry given geophysics directly impacts health and safety of the public and the environment. Therefore, the purpose of this letter is to convince the Board and plea that the PGp licensure be continued to ensure adequate standards for the practice of geophysics in California for the protection of the health and safety of the public and the environment.

Throughout my career I have performed and managed numerous geophysical investigations for unexploded ordnance (UXO), underground utilities, faults, water resources, hazardous waste, landfill, landslide, engineering, construction, earthquake, geologic, hydrogeologic, and forensic investigations. I have performed geophysics in California for the public; Department of Defense (Navy, Army, and Marines); home owners; developers; hospitals; lawyers; ports and harbors; environmental, engineering, construction, and design firms; state regulatory agencies; transportation and airport authorities; and more under the direct supervision of a PGp and now under my own PGp license. These projects require critical decisions to ensure the health and safety of the public and site workers is protected and provide a foundation for proper environmental hazard mitigation, engineering design, and resource management. Geophysical results and recommendations also impact important decisions made throughout the life of these projects.

It is apparent that some information in the Background paper on the Board's website (<http://www.bpelsg.ca.gov/>) is untrue. The Background Paper states, "Geophysicists rarely interact directly with the public" which is not entirely true. For environmental and UXO projects in California, myself and other geophysicists often have to present and describe proposed geophysical investigations,

geophysical results, and how geophysics was used to make critical decisions throughout the course of the project to the public, city councils, and regulatory agencies during public meetings (e.g., Restoration Advisory Board Meetings and public notification meetings).

I have heard of several small and large companies that have recently started providing geophysical services in California with incompetent personnel (“technicians”) that have no college degree or PGp supervision. I have also heard there have been several complaints and cases against these firms. Therefore, abolishing the PGp licensure will obviously allow such firms to put public safety at risk by increasing malpractice of geophysics, which can give geophysics a bad reputation in California. The PGp exam and associated qualifications are currently designed to test and require minimum competency. If persons performing geophysical work are not adequately educated, trained, and experienced in geophysics (minimally competent) and attempt to design or implement geophysical surveys or interpret geophysical data and make recommendations without proper oversight, then significant repercussions can result. Such adverse results can include:

- Undetected underground utility lines could be struck during drilling and excavation (e.g., live electric; high pressure gas, water, and airlines; product lines; and waste lines)
- Underground storage tanks (USTs), faults (seismic hazards/groundwater conduits or barriers), hazardous waste disposal areas, groundwater resources, voids, and landslides could be inadequately investigated, misinterpreted, or missed
- Buildings and other engineered structures (e.g., bridges, freeway overpasses, and dams) could be compromised if designed based on incorrect seismic parameters
- UXO (acute hazards) could be missed or accidentally detonated at former munitions sites during excavation or gardening when it should have been detected during a geophysical survey that was performed
- Sources of chemical contamination could be missed at the beginning phases of environmental site investigation resulting in inadequate or unnecessary additional investigation using the state taxpayers money

The above are only a few example instances that can result in unnecessary fatalities; injuries; fires; loss and damage of property; mismanagement of natural resources (including water and environment); increase in liability; and additional cost for California from abolishment of the PGp licensure.

California is highly populated, one of the most seismically active states in the United States, and is experiencing severe drought. Geophysics is and always has been instrumental in optimizing evaluation, mitigation, and management of these hazards and resources cost effectively. Geophysics is also being used in California more than before and will be used even more in the future for the health and financial benefit of California and standards must be maintained. In fact, the California Department of Toxic Substance Control (DTSC), which provides regulatory oversight of environmental and hazardous waste sites in California, currently requires PGp oversight for environmental geophysical investigations. The California Department of Transportation (Cal Trans) also currently requires PGp oversight for geophysical investigations for the protection of transportation infrastructure. Additionally, several large environmental contracts (e.g., Army Corps of Engineers, Navy, and National Guard contracts) require a PGp to ensure adequate quality of geophysical work (even for contract work out of state), especially

because these contracts often require geophysics as direct means for ensuring UXO detection and remediation.

It is understood that some PGp licensed individuals do not utilize their license (e.g., geophysicists in oil and gas industry, no longer practicing geophysics in California, and changing careers). However, there are still many PGps including myself performing environmental and engineering geophysics in California that directly affect public safety and frequently use their license.

According to the Background Paper posted on the website (<http://www.bpelsg.ca.gov/>):

"The Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) is charged with safeguarding the life, health, property, and public welfare by regulating the practices of professional engineering, land surveying, geology, and geophysics. The BPELSG provides this public service by qualifying and licensing individuals, establishing regulations, enforcing laws and regulations, and providing information so that consumers can make informed decisions.

The regulation of professional engineers, land surveyors, geologists, and geophysicists protects the public from incompetent, negligent, and unscrupulous individuals who would offer such services without having to demonstrate they are properly qualified."

Therefore, abolishment of the PGp licensure would be a great disservice to California public safety and is in conflict with BPELSG's mission which clearly acknowledges the importance and relevance of the practice of geophysics. Abolishment of the PGp licensure would compromise safeguarding the life, health, property, and public welfare, especially given California's current challenges. There appears to be no good reason for having California professional engineering, land surveyor, and geologist licensure but no geophysicist licensure. Therefore, I respectfully request that the Board reconsider the decision to abolish the PGp licensure and am willing to support the Board, PGp exam review committee, and PGp workshops in any way to keep the licensure.

Please feel free to contact me if you have any questions or would like to discuss further at (949) 412-4557.

Respectfully,



Jeffrey D. Eddo, PGp (GP #1080)
Senior Geophysicist/Geologist

DEPARTMENT OF TRANSPORTATION

DIVISION OF ENGINEERING SERVICES

GEOTECHNICAL SERVICES - MS #5

5900 FOLSOM BLVD.

SACRAMENTO, CA 95819-4612

PHONE (916) 227-7000

*Serious Drought
Help Save Water*

April 6, 2015

Richard B. Moore, P.L.S.

Board for Professional Engineers, Land Surveyors, and Geologists

2535 Capitol Oaks Drive, Suite 300

Sacramento, CA 95833-2944

Dear Mr. Moore,

On March 18, 2015, in its testimony at the Joint Oversight Hearing before the Assembly Business and Professions Committee and the Senate Business, Professions & Economic Development Committee, the California Board for Professional Engineers, Land surveyors and Geologists formally recommended eliminating the Professional Geophysicist license in California. Please allow me to provide some observations from the Department of Transportation regarding the State's need for professional licensure in this specialized field.

The Department is charged with construction, maintenance and operation of over 12,500 structures, 58,000 lane miles comprising the State Highway System, countless retaining walls, MSE walls and sign structures. The Department provides support with landslide mitigation, pavement management and bridge scour monitoring throughout the state. We also provide assistance to local agencies that administer county and special authority roads, including 12,000 additional structures.

Our mission requires input from many experts, including transportation planners, engineers and geoscientists. As a consumer of geophysical services, the Department relies on the Professional Geophysicist license requirements to assure that providers of those services meet minimum acceptable standards of practice. The Department requires licensure for geophysicists as a minimum qualification when contracting for geophysical support services. Additionally, the Department also relies on its own internal geophysics personnel who perform work under the direction of a Professional Geophysicist.

The Professional Geophysicist license is also one requirement for advancement within State service. The State of California requires licensure and accepts either the Professional Geophysicist or Professional Geologist license for the following job classifications utilized by the Department: Engineering Geologist (Range D), Senior Engineering Geologist and Supervising Engineering Geologist. Other State departments that utilize related geoscientist classifications have similar requirements.

Mr. Richard Moore

April 6, 2015

Page 2

The Board's mandate to protect the public is clear: where the results of geophysical services affect the public, those services are required to be performed under the responsible charge of a Professional Geophysicist. Not assuring this responsible charge increases the risk of substandard work. One clear example that directly affected the Department and the public occurred in 2012, when a ground penetrating radar survey (GPR) was performed on Interstate 5 in San Joaquin County, in an effort to address an immediate threat to public safety from pavement subsidence related to tunneling operations beneath the right of way. In this instance, the tunneling contractor hired an unlicensed consultant to perform the work. The consultant failed to recognize signatures on their GPR data associated with voids, and misstated the depth of investigation that they achieved with their GPR equipment. That unlicensed and substandard geophysical work was documented in a complaint submitted to the Board in 2012. The Department followed up with their own investigation under the responsible charge of a Professional Geophysicist. That work successfully mapped the top of the distressed area, and subsequent emergency excavation and repair revealed a void beneath the interstate that was several feet deep. Without immediate repair, the overlying pavement would have collapsed, exposing drivers to serious injury and property damage.

Further concern focuses on the expanding field of Subsurface Utility Engineering. Unknown underground utilities are the largest source of risk to project construction, in terms of both cost and safety. The introduction of geophysical methods for Quality Level B utility designation has introduced elements of geophysical interpretation that require the application of scientific knowledge, principles, individual initiative and judgment. Those skills are currently lacking in many of the companies that advertise subsurface utility locating services. Maintaining and enforcing the licensing for geophysical practice will help ensure that those practitioners improve their standard of practice and maintain appropriate levels of competency for protection of public safety.

Elimination of Geophysicist licensure carries a real risk of long-term consequences to public safety. Loss of licensure will reduce the Department's ability to gauge minimal qualifications for geophysical work and increase the risk of substandard work. With elimination of licensure, the Department anticipates increased oversight costs and greater probability of increased project costs due to rework. Most importantly, elimination of licensure carries increased risk of undiscovered substandard geophysical work being incorporated into project design, resulting in roadways and structures at increased risk of failure. I urge that the Board carefully weigh those risks against the proposed action.

Mr. Richard Moore
April 6, 2015
Page 3

Thank you for your consideration. Please do not hesitate to contact me for further assistance.

Sincerely,

A handwritten signature in black ink that reads "Will Owen". The signature is written in a cursive style and is contained within a thin black rectangular border.

William Owen, PGP, PG, CEG
Chief, Geophysics and Geology Branch

Cc: President: Kathy Jones Irish
Vice President: Robert Stockton, P.E.

Public Members:

Asha Malikh Brooks
Diane Hamwi
Coby King
Philip Quartararo
Hong Beom Rhee, Ph.D.
Ray Satorre
William "Jerry" Silva

Professional Members:

Elizabeth Mathieson, C.E.G.
Natalie Alavi, P.E.
Eric Johnson, P.E.
Mohammad Qureshi, P.E.
Karen E. Roberts, P.E.
Robert Stockton, P.E.
Patrick J. Tami, PLS

WO/BPELSG_4.doc

VII. Executive Officer's Report, D. Sunset Review and Response (Possible Action)

ISSUE #9 – EXAMINATION OF CALIFORNIA LAWS AND REGULATIONS. *Should the Board institute a required take-home examination relating to California laws and regulations as part of the licensee's renewal application?*

Introduction

This issue addresses two distinctly different applications of what the Board presented in its 2014 Sunset Report. First, being that current laws (Professional Engineers Act and Professional Land Surveyors' Act) mandate that all engineering and land surveying applicants must pass an examination on the applicable laws and regulations, the Board would like to implement this authorization to include those individuals licensed under the Geology & Geophysicists Act. Second, the Board would like to implement legislation to require that each licensee pass a laws and regulations examination upon renewal of the license.

For quite some time, the Board has observed that a large percentage of licensees fail to maintain knowledge and compliance with the laws and regulations that guide the application of their respective discipline when providing professional services to the public. These observations have occurred during outreach discussions with professional groups, responses to board inquiries, and most importantly during the investigative processes for enforcement action. In addition, it has been noted that when revisions to laws or regulations occur, it can take quite a few years for an adequate number of practicing licensees to recognize and implement the changes. This is very reflective in the results of the Board's enforcement investigations. During preparations for the 2014 Sunset Report, it became apparent that over a three-year period, of the cases against licensees in which violations were found which did not rise to the level of warranting formal disciplinary action, approximately 45% involved violations relating to non-practice related laws, such as failing to include all required elements in a written contract, failing to execute a written contract, failing to sign and seal professional documents in the manner required by law, failing to submit reports of civil judgments or settlements, and failing to file Organization Record forms.

In the Background Paper prepared by the Sunset Committees, the Committee staff stated that *"The Board should inform the Committees on the process; the cost; and the feasibility of operationalizing this requirement. The Board should discuss whether this process involves hand-scoring or whether a computer-based technology is a more efficient approach."* The Board implemented a transition to computer-based technology several years ago for state specific examinations and included within the current phase of that transition is the evaluation/implementation of an internet-based solution for the delivery of the current laws and regulations examinations for engineering and land surveying applicants. Given that the Board is already moving forward with implementing this technology and has developed content, providing those same exams on a continuous basis for those licensed under the Geologists & Geophysicists Act and upon regular license renewal cycles for the approximate 50,000 licensees that renew on an annual basis would be easily adoptable.

Committee staff additionally offered what they perceived as a more efficient alternative, that *“...the Board should consider whether requiring renewal licensees to sign an attestation as part of the renewal application that he or she has reviewed the current legislation and regulations relating to the particular license.”*

It should be noted that whether the Board moves forward with the original idea or the Committee staff’s alternative approach, legislation would be required to support the Board’s request to make any necessary changes to the renewal notification and processing procedures. This is due to the current DCA-wide freeze on changes to the department’s legacy systems and the impact that BreEZe implementation has on IT resources.

Staff Recommendation: That the Board support a response to the Sunset Committees recommending:

1. Expansion of the Board’s current authority to require passage of a laws and regulations examination for those applying for licensure under the Geologists & Geophysicists Act.
2. That the passing of a laws and regulations examination for all licensees be required upon renewal of any license.

Board staff is recommending this approach over the alternative approach, as suggested by the Committee staff, because it is believed that the alternative approach would produce negligible impact at best in terms of realizing that licensees are becoming more aware of any changes to the laws and regulations that govern their practice(s) and thereby ensuring that the public is receiving professional services in the manner in which the laws and regulations are meant to protect them.

It is anticipated that these legislative changes will allow the renewal candidate to renew their license in much the same manner as it is currently processed with the additional requirement that the laws and regulations examination must be completed and passed within a reasonable timeframe of the licensee’s scheduled renewal date. Additionally, the examination would be implemented using internet-based technology such that the renewal candidate can take the examination wherever and whenever internet access is available with an instantaneous result so that if the renewal candidate fails to achieve a passing score, another attempt can be initiated as soon as the candidate is ready. The primary intent behind this requirement is to provide an environment in which the Board can efficiently increase awareness of the laws and regulations directly affecting the licensee’s practice while providing an effective and more instantaneous communication model for educating the licensees in addition to typical outreach efforts.

Excerpt from the Background Paper for the Board for Professional Engineers, Land Surveyors, and Geologists as Prepared by the Staff of the Assembly Business and Professions Committee

LICENSING ISSUES

ISSUE #9: EXAMINATION OF CALIFORNIA LAWS AND REGULATIONS. *Should the Board institute a required take-home examination relating to California laws and regulations as part of the licensee's renewal application?*

Background: The Board has recently researched common violations committed by licensees discovered during complaint investigations that are not necessarily standard of practice issues. The laws and regulations of the Board are readily available to its licensees on the Board's website. While it is expected that licensees will familiarize themselves of the laws governing their practice, it is apparent that many licensees do not review them on a regular basis or even when significant changes are made.

For instance, for many years following the requirement of written contracts for licensees, AB 2696 (Cox, Chapter 976, Statutes of 2000), numerous complaints were received alleging that a written contract was not executed. In several cases, it became apparent during the Board's investigation that compliance with the written contract statute was not fulfilled. The response from many licensees was that they were unaware of the new law, even though the Board had publicized it several times in its newsletter, on its website, and through in-person outreach opportunities.

Over a three-year period, of the cases against licensees in which violations were found which did not rise to the level of warranting formal disciplinary action, approximately 45% involved violations relating to non-practice related laws, such as failing to include all of the required elements in a written contract, failing to execute a written contract, failing to sign and seal professional documents in the manner required by law, failing to submit reports of civil judgments or settlements, and failing to file Organization Record forms.

To ensure adequate public protection and curtail unnecessary complaint investigations, the Board believes licensees should be required to periodically demonstrate their knowledge of the state laws and the Board's rules regulating their areas of practice. The most effective way to accomplish this would be to require licensees, at the time of renewal, to pass a short, multiple-choice open-book examination, which they would complete at home, that would include questions regarding state laws and the Board's rules and regulations regulating their practices. This examination would be modeled after the examination currently required for professional engineers and land surveyors at the time of initial licensure. If licensees were required to demonstrate their knowledge of the laws at the time of renewal, they would have an incentive to ensure they stay current on those laws and changes to them.

Additionally, the Board believes that applicants for licensure as a professional geologist or geophysicist (provided this field continues licensure) should be required to demonstrate their understanding of the state laws and the Board's rules and regulations regulating their practices, just as applicants for licensure as a professional engineer or land surveyor are already required to

do (BPC §§ 6755.1 and 8741.1). This will ensure that, prior to obtaining licensure, the applicant is aware of the laws and regulations of the profession. This will benefit consumers since the licensees will be demonstrating competency of the laws through successful completion of the required examination. This requirement in addition to the proposed renewal examination will further harmonize the licensure standards between the G&G and PELS sections of the Board.

Based on the Board's experience, licensees fail to adequately and independently stay abreast of critical legal and regulatory updates. The Board proposes this renewal examination requirement in an effort to curb unnecessary practice violations and to assure the public that its licensees are well versed in current applicable law.

Staff Recommendation: *The Board should inform the Committees on the process; the cost; and the feasibility of operationalizing this requirement. The Board should discuss whether this process involves hand-scoring or whether a computer-based technology is a more efficient approach. As a more efficient alternative, the Board should consider whether requiring renewal licensees to sign an attestation as part of the renewal application that he or she has reviewed the current legislation and regulations relating to the particular license.*

Excerpt from the Background Paper for the Board for Professional Engineers, Land Surveyors, and Geologists as Prepared by the Staff of the Assembly Business and Professions Committee

TECHNOLOGY ISSUES

ISSUE #16: WEBCASTING. *Should the Board be required to webcast its meetings?*

Background: An important function of all the boards and bureaus under the DCA is to assure that the public has access to meetings. While the posting of the minutes memorializes the information from the meeting, the delay in posting minutes is not ideal compared to real-time access. Additionally, attendance at the meetings is not always feasible or practical for the public. The technology is readily available and is currently being used by several governmental entities and will undeniably improve public outreach, comment, and availability.

Staff Recommendation: *The Board should explain to the Committees why its meetings are not being webcast and what, if any, barriers exist to implementing a webcasting system?*

BOARD STAFF RECOMMENDED RESPONSE

As the Board indicated in its Sunset Report, the Board has considered webcasting its meetings in the past. However, the Board believes that providing opportunities for the public to participate in the discussions at Board meetings is of prime importance, and webcasting does not allow for public participation. A webcast is simply a static video recording; it is not a video conference that allows for interaction between the individuals physically present at the meeting location and those viewing it remotely. As stated in the DCA Background Paper that was prepared by Senate staff, “Even more important than webcasting may be the ability for the public to participate in meetings remotely.”

The Board has conducted meetings via teleconference (telephone call-in) in the past, and members of the public have attended at the remote locations and been able to participate in the discussions at the Board meeting. Until video conferencing that allows for the public to participate from remote locations is logistically available, the Board is not inclined to webcast its meetings because doing so does not enhance the public’s opportunities to interact with the Board.

With regard to the comment that the delay in posting the minutes from the meetings is “not ideal” in providing the public with information regarding what occurred at the meeting, the Board provides copies of the audio recording of the meeting upon request. This audio recording provides the same information as would a video recording (webcast) of the meeting. The Board typically receives one or two requests after each meeting for a copy of the audio recording.

VIII. Exams/Licensing

- A. Spring 2015 Examination Update
- B. Approval of Oregon State Specific Engineering Geology and Hydrogeology Examinations for Comity Licensure

APPROVAL OF OREGON STATE-SPECIFIC ENGINEERING GEOLOGY EXAMINATION FOR COMITY LICENSURE (POSSIBLE ACTION)

At the Board Meeting held on February 9-10, 2015, the Board approved acceptance of the Washington Geology Licensing Board's (WGLB) State-Specific Engineering Geology and Hydrogeology examinations as equivalent to the California Certified Engineering Geology and Certified Hydrogeology examinations for the purposes of certification by comity. It was brought to our attention in the days following that February Board meeting that the Oregon State Board of Geologist Examiners (OSBGE) co-develops and co-administers the Engineering Geologist examination along with the WGLB under a formal agreement and with a joint Engineering Geology Examination Committee. Since the examination is the same for applicants in both Washington and Oregon, the OSBGE has requested that we also accept the Engineering Geology examination for Oregon licensees applying for licensure in California by comity.

In reviewing the education and work experience required by the OSBGE to qualify for their Engineering Geology examination, they are similar to the requirements of the California Board. Both California and Oregon require either three years of experience under the responsible charge of an engineering geologist or five years of experience being in responsible charge of engineering geological projects. In addition, the OSBGE requires that an applicant for the Engineering Geology certification be a licensed geologist first, similar to both WGLB and California.

Recommendation:

It is recommended that the Board accept the Oregon State-Specific Engineering Geology examination as equivalent to the California examination for the purpose of licensure by comity.

It should be noted that the applicant would still have to meet all other requirements for licensure, including being licensed as a Professional Geologist in California (which would include passing the CSE exam) and meeting all of the education and experience requirements for licensure as a CEG in California.

It is recognized that a re-evaluation of this agreement would be required each time either state makes changes to the test plan specifications, laws and/or regulations, and licensing requirements.

IX. Discussion of California Department of Water Resources Urban Water Management Plan Preparation as It Relates to Civil Engineering and Geology

IX. Discussion of California Department of Water Resources Urban Water Management Plan Preparation as It Relates to Civil Engineering and Geology (Possible Action)

Neal Colwell (Civil Engineering TAC) and Hugh Robertson (Geology and Geophysicist TAC) volunteered to serve on a TAC sub-committee that will monitor and work with the California Department of Water Resources (DWR) committee formed to update the Urban Water Management Plan (UWMP) Guidebook. Susan Christ, Senior Registrar is staff liaison to the TAC sub-committee.

The DWR UWMP committee has been communicating on a monthly basis to update the 2010 Guidebook for 2015. The DWR committee will continue working on the development with a planned publication date of June 2015. 2015 UWMP's are due in 2016 as the reports include 2015 water use data which is collected at years end.

Susan Christ contacted DWR staff in January to request the new guidebook include a statement that clarifies that all engineering and geology work must be performed by or under the responsible charge of an appropriately-licensed individual. DWR has indicated they will review and consider this request, however they have not yet responded to the request.

RECOMMENDED MOTION:

The Board submit a formal request to the Department of Water Resources that the 2015 UWMP Guidebook include the recommended language regarding licensed individuals.

Here is an example of the suggested statements:

"All civil, electrical, and mechanical engineering work shall be performed by a California licensed professional in compliance with the requirements of the Professional Engineers Act, Business and Professions Code sections 6700-6799."

"All geology work shall be performed by a California licensed professional in compliance with the requirements of the Geologist and Geophysicist Act (Business and Professions Code sections 7800 – 7887.)"

X. Approval of Delinquent Reinstatments

APPROVAL OF DELINQUENT REINSTATEMENTS

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

CIVIL

Tod Polson

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.

XI. Technical Advisory Committees (TACs)

- A. Board Assignments to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs

**Appointment to the Geologists and Geophysicists
Technical Advisory Committee**

Recommended Motion: Appoint Dr. June Oberdorfer (PG, CHG) to a first term expiring June 30, 2017.

Background: The GEO-TAC appointment of Dr. June Oberdorfer was originally recommended to past Board Member Erik Zinn, PG, CEG by Dr. John Williams, PG, CEG, and CHG of San Jose State University where Dr. Oberdorfer has been employed since August 1983. New Professional Geologist Board Member, Elizabeth Mathieson, is recommending this appointment to the Geologists and Geophysicists TAC. Dr. Oberdorfer has been a licensed Professional Geologist since February of 1995 and a Certified Hydrogeologist since July of 1995 (all in good standing); she has also served as an expert consultant working on the certified engineering geologist occupational analysis in 1998 and 1999. The appointment of this candidate will help ensure the continuance and enhancement of the geological and geophysical expertise needed to meet the Board's dedication to protection of the public.

XII. Liaison Reports

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

XIII. President's Report/Board member Activities

XIV. Approval of Consent Items

- A. Approval of the Minutes of the February 9-10, 2015, Board Meeting

DRAFT

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

2535 Capitol Oaks Drive, Third Floor Conference Room
Sacramento, CA 95833

February 9-10, 2015

**Monday, February 9, beginning at 9:00 a.m. and continuing on
Tuesday, February 10, beginning at 9:00 a.m., if necessary**

Monday, February 9, 2015

Board Members Present:	Kathy Jones Irish, President; Robert Stockton, Vice President; Natalie Alavi; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; Patrick Tami; and Erik Zinn
Board Members Absent:	Philip Quartararo; Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Administrative Manager); Larry Kereszt (Examinations Manager); Michael Donelson (Registrar); Michael Santiago (Legal Counsel); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

President Jones Irish called the meeting to order at 9:02 a.m. Roll call was taken, and a quorum was established. Mr. Moore updated Board Members and staff on the new requirements of recording votes in accordance with the Bagley-Keene Open Meeting Act.

II. Public Comment

Mr. Copelan, representing PECG, commented on the proposed regulatory changes eliminating the waiver of the fundamentals examination. He requested more information on the proposed changes.

III. Legislation

A. Legislative Calendar

Mr. Alameida reviewed the legislative calendar from February through April, calling attention to February 27, 2015 which is the last day for bills to be introduced. He added that it is the beginning of a two year session.

Mr. Satorre arrived at 9:07

B. Discussion of Legislation for 2015: AB 177

Mr. Alameida reported that this bill is the Sunset Bill that extends the Board's Sunset date out until January 1, 2020. He proposed a

recommendation to support AB 177. Ms. Eissler indicated that the Assembly is aware that the Professional Land Surveyors' Act section was omitted, and it will definitely be added.

MOTION:	Mr. King and Mr. Stockton moved to support
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

C. Proposal from SEAOC regarding Significant Structures

Mr. Moore explained that the Board asked the Structural TAC to review this issue over a year ago when the Structural Engineers Association of California (SEAOC) first approached the Board regarding their proposal. Members of SEAOC provided a presentation during two TAC meetings. This is also one of the new issues to be addressed during the Board's Sunset Review.

Don Schinske and Ryan Kersting representing SEAOC reported that the language included in the meeting agenda packet is the language they are proposing. Their effort is focused on including this language in the Board's Sunset legislation. Mr. Schinske clarified that they believe that over time there is a public benefit to having the extra expertise, extra testing, and experience that would be demonstrated by requiring the structural engineer license. Mr. Kersting indicated that the motivation is public safety and in direct response to the changes in practice. Dr. Brandow explained that this is a minimum standard for structural engineers; it is not raising the bar, just meeting the minimum standards. Mr. Copelan, representing PECG, expressed PECG's support for the portion of the proposal that would allow currently licensed civil engineers to continue to perform structural engineering for significant structures. Several of the Board members expressed concerns with the specific items listed in the proposed definition of significant structures. Mr. Kersting advised that SEAOC would be willing

to work with the Board on changes to the language. Ms. Eissler advised that the Assembly and Senate Business and Professions Committees have asked if the Board has considered SEAOC’s proposal, and that it is likely to be an item that will be addressed through Sunset. She explained that, at this point, the Board would need to decide if the Board is absolutely opposed to this idea or if they are willing to work with SEAOC with the understanding that there is always a possibility that the Board could decide to oppose it in the future.

MOTION:	Ms. Alavi and Ms. Brooks moved to continue to work with SEAOC on this proposal.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

IV. Consideration of Rulemaking Proposals

- A. Request from CalGeo to Amend Title 16, California Code of Regulations section 461 (Testing Laboratory Reports)
 Mr. Moore reported that a Joint TAC meeting between the Civil Engineer, Structural Engineer, and Geologist & Geophysicist TACs was held to discuss CalGEO’s proposal to revise Board Rule 461. The understanding was there was some much needed outreach to educate current licensees where their responsibility needed to be and clearly define where there may be unlicensed practice issues. There were two TAC members appointed to write an article on testing laboratories for the Board bulletin. Until there is proposed language from CalGeo, the Board will continue to monitor the education efforts.

- B. Adoption of Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)
 Ms. LaPerle provided some background and reported that at the August 2013 Board meeting, the Board made a motion to direct staff to generate

language to change the two regulations. In February 2014, the Board approved the proposed language to begin the rulemaking process. During the initial public comment period, there were six comments submitted, and a public hearing was held in July 2014. The six public comments and proposed modified text were reviewed at the November 2014 Board meeting, and the Board approved the modified text to amend Sections 416(c) and 3060(b) and directed staff to move forward with the 15-day public comment period. During that comment period, seven comments were received. However, none of those comments were specific to the modified text as noticed as they all commented on language and issues the Board had already discussed at its November meeting.

Mr. King expressed his concerns in that it seemed there are different standards in statute. Mr. Duke stated that Mr. King is correct in the sense that Section 490 in the Business and Professions Code, which refers to licensees, specifically refers to a conviction of a crime. There are acts that do not rise to the level where there would be a conviction of a crime which is why Section 480, which refers to applicants, refers to “crimes or acts” and does not use the word “conviction”. Mr. King believes the language needs to be revised and suggested splitting the regulation into two sections so that one would address applicants and the other licensees. Ms. Eissler suggested that the Board could direct staff to amend the language for review and consideration at the next Board meeting. After further discussion, the Board directed staff to draft language to present to the Board later during the meeting in order to avoid further delays in the process.

Mr. Greenlaw expressed various concerns with the proposal.

Mr. Burfield provided his opinion on the subject.

MOTION:	Mr. King and Mr. Stockton moved to table the item until such time as staff presents a new draft.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				

William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

C. Proposal to Amend Title 16, California Code of Regulations section 438 (Waiver of Fundamentals Examination)

Mrs. Williams reviewed the proposal outlining the removal of the language identifying “eight-hour” from the regulation related to the Fundamental examinations. She indicated that the Fundamental examinations are no longer eight hours and are identified by the criteria within the exam versus the actual time. Secondly, Business and Professions Code Section 8741 was amended in 2013 to remove the provision that allowed an Engineer-in-Training to waive the Fundamentals of Land Surveying exam.

MOTION:	Mr. Tami and Mr. King moved to approve the proposed amendment to Board Rule 438 and direct staff to begin the formal rulemaking process to adopt the regulations.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

D. Update on Title 16, California Code of Regulations section 3003(b) and (e) (Definitions of Engineering Geology and Professional Geophysical Work)

Mr. LaPerle provided an update indicating that the regulation change was approved by the Office of Administrative Law and endorsed by the Secretary of State’s Office on November 13, 2014, and became effective on January 1, 2015.

VII. Executive Officer's Report

A. Strategic Plan

Ms. Calderone reported that based on the goals and objectives the Board established, staff met and determined that the objectives outlined in the Board meeting materials should be the Board's year-one goals.

Mr. Silva would like it noted that the items outlined are for the 2015 calendar year.

Mr. Satorre suggested receiving updates via e-mail. Mr. Moore indicated that he would send an update via e-mail on a monthly basis, and any Board member could request that a specific item be included on the agenda for discussion at future Board meetings.

B. Legislation and Regulation Workgroup Summary

Mr. Alameida reported that the workgroup is comprised of three staff members; Kara Williams, Tralee Morris, and Billie Baldo; and two Board members; Coby King and Bob Stockton. Their roles are to track regulations and proposed legislation. The committee was formed to take on the workload, and the formation coincides with one of the Strategic Plan objectives.

Mr. King and Mr. Stockton would like to be kept apprised of the approach being taken by receiving any written materials provided during staff briefings.

C. Sunset Report

Mr. Moore introduced Christian Jagusch, representing the Assembly Business and Professions Committee staff. Ms. Eissler explained that the Committee staff are currently preparing the background paper which will outline the issues that the Board will need to address at its Sunset hearing. At this time, the hearing date may either be March 18 or March 23, 2015.

Ms. Eissler reported that the meeting with the Assembly Business and Professions Committee staff was very positive, and they were receptive to the Board's proposals and understanding of the Board's goals with enforcement and focusing on internal challenges to decrease the aging of cases while recognizing that help is necessary to address outside influences. They also expressed interest in the merging of the two funds. She felt it was beneficial to speak to them during the process of preparing the background paper.

D. Personnel

Mr. Moore reported that the fingerprinting position currently occupied by Jennifer Mueller is moving to the Enforcement Unit. He introduced Tiffany Criswell as the new Enforcement Manager; Carmen Jimenez is now an Office Assistant, (Permanent Intermittent); Brandon Smith replaced Kate Tibbitts as an Evaluator; and Nicole Ochoa and My Pham have been hired

as seasonal employees to aid in the licensing workload. Interviews are currently being conducted for the Program Technician II (Permanent Intermittent), an evaluator position, and an AGPA position in the Licensing Unit. Staff is working with CalHR, the State Personnel Board, and DCA for the Senior Registrar Position for the Geology program.

E. BreEZe Update

Mr. Moore indicated that he is waiting on the finalization of the audit and that the contract is being restructured.

IX. Approval of Delinquent Reinstatements

MOTION:	Mr. King and Ms. Alavi moved to approve.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

XI. Liaison Reports

A. ASBOG

Mr. Zinn reported that he attended the Council of Examiners Meeting and the delegate meeting for ASBOG. The Executive Officer of ASBOG has stepped down, and the position is currently being filled by an Interim Executive Officer. There will be a teleconference for delegate votes in which the Board will be able to participate. Mr. Zinn reported there are more candidates taking the Fundamentals of Geology than there are taking the practice examinations which overall indicates that candidates are not moving on to licensure. It has been a long term issue, and he believes it is an outreach issue.

B. ABET

Mr. Johnson participated as an ABET observer. He indicated that there is a definite need for outreach, and Mr. Donelson reported he participated at another school as an ABET observer as well.

C. NCEES

2. Board Presidents Assembly Report

President Jones Irish reported that she attended the very informative Board Presidents Assembly meeting. She indicated the descriptions provided by NCEES relating to their structure, mission, and vision relating to licensure was very informative, adding that the presentation itself was concise and helpful. Mr. Moore noted that travel to the Board Presidents Assembly was approved. President Jones Irish expressed the importance of the Board's presence and the opportunity to provide input. It demonstrated to stakeholders that participation is welcomed and extremely essential.

D. Technical and Professional Societies

Bob DeWitt, representing ACEC, expressed interest in participating in the upcoming Sunset hearing.

IV. Consideration of Rulemaking Proposals (Continued)

B. Adoption of Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)

Mr. Duke presented modified proposed text in response to suggestions made by the Board.

MOTION:	Mr. King and Mr. Stockton moved to approve modified text as amended and move forward with the rulemaking process.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn	X				

VIII. Exams/Licensing

A. Fall 2014 Examination Results

Mr. Kereszt reviewed the Fall 2014 Professional Engineer, Land Surveyor, and Geologist examination statistics. He added that the Geotechnical Engineer exam is omitted from the statistics as it is now a continuous exam. He reported that over the course of one month, there were 15 candidates for the geotechnical examination. He will provide statistics for the geotechnical exam at the next Board meeting.

B. FE/FS 2014 Examination Results

Mr. Phayer presented the Board with an outreach package to aid in the promotion of the Fundamentals Examinations. President Jones Irish appointed Board Members Diane Hamwi and Asha Brooks to assist in outreach efforts.

C. Fingerprinting Update

Mr. Kereszt reported that the Board has been legally mandated to require fingerprints from all applicants prior to licensure. He introduced Jennifer Mueller, Billie Baldo, and Patty Smith, who make up the fingerprinting team. It was recently determined that the Board had the capability and DCA had properly fixed the legacy system to receive the fingerprinting information. The target date is set for July 1, 2015. Anyone in receipt of a license after this date is required to be fingerprinted. The cost is the responsibility of the applicant. The motivation behind the requirement was the Board was one of the few boards not receiving the criminal history of its applicants. There was a concern with people who had criminal convictions obtaining licenses and their potential harm to the public. Through the Board's last Sunset Review, the language was added to the laws to require fingerprints from the applicants for the purposes of checking their criminal history for convictions. If there is a conviction, it would be determined whether or not the person has been rehabilitated sufficiently to become licensed. If a candidate is denied licensure or certification because of a conviction, they have appeal rights. There are regulations in place that describe the criteria for rehabilitation that the Board must consider.

D. Approval of Washington State Specific Engineering Geology and Hydrogeology Examinations for Comity Licensure.

MOTION:	Mr. Zinn and Dr. Qureshi moved to accept the Washington State Specific Engineering Geology and Hydrogeology examinations as equivalent to the California examinations for the purposes of licensure by comity.
VOTE:	All Aye; Motion passed

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				

Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Philip Quartararo				X	
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

XI. Liaison Reports (Continued)

C. NCEES

1. Liaison Report for 2015 Western Zone Interim Meeting

The upcoming May 14-16, 2015 Southern/Western Zone agenda was distributed and discussed. The Board selected Dr. Qureshi and Ms. Eissler to attend the meeting as the funded delegates.

V. Administration

A. FY 2014/15 Budget Summary

Mrs. Williams reviewed the 2014/15 PELS Projected Revenue. This information is based on historical data and current year revenue. She noted that most of the revenue comes from the renewal fees. She continued with reviewing the 2014/15 PELS Projected Expenditures in which personnel services is where the Board expends most.

She explained the new financial statement that was added to the report which outlines last year's revenue and expenses in comparison to current year's data.

Most of the revenue from the Geology fund comes from renewal fees, and examinations topped the expenditures. She also reviewed the financial statement for the Geology program.

B. Governor's Proposed FY 2015/16 State Budget

Ms. Williams reported on the allocated funds designated by the Governor for Fiscal Year 2015/16. She indicated the Geology fund was allocated \$1.4 million, and the PELS fund was allocated \$9.6 million.

VI. Enforcement

A. Enforcement Statistical Report

Ms. Eissler reported that, as decided by the Board at its previous meeting, the basic statistical reports would be provided at every meeting and the full reports would be provided at the end of the fiscal year. She expressed concern with the aging of the cases with the Division of Investigation as that builds into the aging of the Board's investigations. Ms. Criswell is working with the Chief and Deputy Chief of the Division of Investigation to coordinate a meeting along with Mr. Moore to discuss the Board's concerns.

B. Policy on Disclosure of Complaints and Enforcement Actions

Ms. Eissler explained the Disclosure Policy pertaining to what information is disclosed regarding complaints and enforcement actions. The March 2011 revisions added geology and geophysicists and updated the language regarding enforcement actions.

Mr. King suggested that more research should be done on the current statutory provisions that may affect the current disclosure policy and what it should be. Ms. Eissler indicated that they should have something for the next Board meeting.

XII. President's Report/Board Member Activities

President Jones Irish attended the Riverside/San Bernardino CLSA chapter meeting.

Rob McMillan, representing CLSA, indicated that the Sacramento Chapter meetings are conducted the first Thursday of the month and extended an invitation for Board members to attend.

XIII. Approval of Consent Items

A. Approval of the Minutes of the November 13, 2014, Board Meeting

MOTION:	Mr. King and Ms. Alavi moved to approve.	
VOTE:	Motion passed	Absent: Mr. Quartararo and Dr. Rhee Abstentions: Vice-President Stockton; Mr. Johnson; Mr. King; and Mr. Zinn

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton			X		
Natalie Alavi	X				
Asha Brooks	X				
Diane Hamwi	X				
Eric Johnson			X		
Coby King			X		
Philip Quartararo				X	
Mohammad Qureshi	X				

Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				
Erik Zinn			X		

XIV. Other Items Not Requiring Board Action

Discussion of the March 26-27, 2015 Board meeting took place in relation to the Sunset Hearing. It was proposed to change the date one to two weeks later. Mr. Moore noted that additional proposed dates would be provided.

The Board recessed at 4:50p.m.

DRAFT

Tuesday, February 10, 2015

Board Members Present:	Robert Stockton, Vice President; Natalie Alavi; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; Patrick Tami and Erik Zinn
Board Members Absent:	Kathy Jones Irish, President; Philip Quartararo; Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Susan Christ (Registrar); Michael Santiago (Legal Counsel); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

Vice-President Stockton called the meeting to order at 9:02 a.m. Roll call was taken, and a quorum was established.

II. Public Comment

No public comment

X. Technical Advisory Committees (TACs)

A. Board Assignments to TACs

No report given

B. Appointment of TAC Members

No report given

C. Reports from the TACs

Ms. Christ reported that the Civil Engineer and Geologist & Geophysicist TACs are working with the Department of Water Resources to include a statement in the new guidebook that clarifies that all engineering and geology work must be performed by or under the responsible charge of an appropriately licensed individual.

Dr. Qureshi followed up on an item brought up at the last TAC meeting regarding the traffic vs. civil discussion. He explained that there was some areas of overlap, although not clear, which needed to be better defined and perhaps put into regulation. It was decided to create a special committee to further discuss.

XV. 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)]

A. Civil Litigation

1. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361
2. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
3. Ruvyn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145675
4. Ruvyn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145796
5. Sassan Salehipour v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles County Superior Court Case No. BS146185
6. Paul Christopher Ehe v. Board for Professional Engineers, Land Surveyors, and Geologists (San Bernardino Superior Court, Case No. CIVDS1413253)

XVI. Open Session to Announce the Results of Closed Session

Mr. Duke reported that during Closed Session the Board discussed litigation as noticed, adopted two proposed decisions, and remanded one decision back to the Administrative Law Judge for further clarification. Ms. Eissler reported that the Board took action on six stipulations and one default decision.

XVII. Adjourn

The meeting adjourned at 10:24 a.m.

PUBLIC PRESENT

Gregg Brandow
 Curt Burfield, CalTrans
 Craig Copelan
 Talia Cortese, CPIL
 Bob DeWitt, ACEC
 Charles O. Greenlaw, S.E.
 Steve Hao, CalTrans
 Roger Hanlin, CLSA
 Christian Jagusch, Assembly Business and Professions Committee
 Ryan Kersting, SEAOC
 Betsy Mathieson
 Rob McMillan, CLSA
 Neil Moore, NMA
 Don Schinske, SEAOC
 Carl Josephson, SEAOC

XV. Other Items Not Requiring Board Action

XVI. 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)]

A. Civil Litigation

1. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361
2. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
3. Sassan Salehipour v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles County Superior Court Case No. BS146185
4. Paul Christopher Ehe v. Board for Professional Engineers, Land Surveyors, and Geologists (San Bernardino Superior Court, Case No. CIVDS1413253)

XVII. Open Session to Announce the Results of Closed Session

XVII. Adjourn
