Board for Professional Engineers, Land Surveyors, and Geologists

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

Governor Edmund G. Brown

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

September 10-11, 2015

Thursday, September 10, beginning at 9:00 a.m. and continuing on Friday, September 11, beginning at 9:00 a.m., if necessary

Caltrans Building
1657 Riverside Drive
Redding, CA 96001

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LAND SURVEYORS, AND GEOLOGISTS

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CALTRANS BUILDING
1657 RIVERSIDE DRIVE
REDDING, CA 96001

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

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I. Roll Call to Establish a Quorum

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.

III. Legislation

A. Discussion of Legislation for 2015: AB 12, AB 85, AB 177, AB 320, AB 507, SB 209, SB 284, Senate Business, Professions, and Economic Development Committee 2015 Omnibus Bill (formerly SB 799) (Possible Action)

B. Legislative Proposals for 2016

Opposed Legislation

Assembly Bill 320 (Wood D)
Environmental Engineer

Status: 8/27/2015-In committee: Held under Submission.
Location: 8/27/2015- Senate Appropriations.
Last Amendment: 7/8/2015

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

Updated 9/3/15
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: Introducing an "Environmental Engineer" Title Act will not regulate the practice of environmental engineering; 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 provision in 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. AB 320 would require the Board to adopt through the regulatory process a definition of "environmental engineering." The Board believes that the resulting definition would be so narrow in scope due to need to prevent overlap with regulated practices, such as civil engineering and geology, that it would preclude people from having the required experience needed to qualify for licensure.

Board Position: Oppose - as amended 7/8/2015.

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

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August 11, 2015

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

Re: Assembly Bill 320 (Wood) – **Oppose**

Dear Chairman Lara:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted to **OPPOSE** Assembly Bill 320, as amended July 8th, 2015, which is scheduled to be heard in the Appropriations Committee on August 17, 2015.

Assembly Bill 320 would add the title "Environmental Engineer" as a Title Act license. The legislative intent provision in 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. AB 320 will not prevent a person from practicing environmental engineering; it will only prevent a person from using the title "Environmental Engineer."

AB 320 would require the Board to adopt through the regulatory process a definition of "environmental engineering." It has been estimated that it will cost the Board between $60,000 and $150,000 to perform the occupational analysis to develop the definition. Once the definition is adopted, the Board will then be able to decide if the national environmental engineering examination will be appropriate for licensure in California, or if it will need to develop its own examination. If it were to be determined that the national examination is not appropriate and the Board had to develop its own examination, the costs incurred by the Board could range from $100,000 to $200,000.

If you have any questions or concerns please contact Kara Williams, Legislative Analyst, at 916.263.5438.

Sincerely,

RICHARD B. MOORE, PLS
Executive Officer

cc Members, Senate Appropriations Committee
Brendan McCarthy Consultant, Senate Appropriations Committee

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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 permit a licensed civil, electrical, or mechanical engineer to use the title "environmental engineer" without obtaining additional qualifications.* 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.

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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:

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

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

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

(c) 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 protect and safeguard the public.

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

(e) In the early 1970s, the BPELSG created title acts in the branches of agriculture, control system, corrosion, fire protection, manufacturing, nuclear, quality, safety, and traffic. At that time,

the BPELSG did not approve a petition to add an environmental engineer title act. In 1986, the authority to establish new title registration branches returned to the Legislature.

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

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

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

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

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

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

6732. *(a)* It is unlawful for anyone other than a professional engineer licensed under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a professional engineer, or in any manner, use the title

"professional engineer," "licensed engineer," "registered engineer," or "consulting engineer," or any of the following branch titles: "agricultural engineer," "chemical engineer," "civil engineer," "control system engineer," "electrical engineer," "environmental engineer," "fire protection engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "nuclear engineer," "petroleum engineer," or "traffic engineer," or any combination of these words and phrases or abbreviations thereof unless licensed under this chapter.

(b) Notwithstanding subdivision (a), a professional engineer licensed as a civil, electrical, or mechanical engineer, may use the title "environmental engineer" without obtaining additional qualifications.

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

O

Opposed Legislation

Assembly Bill 85 (Wilk R)
Open meetings.

Status: 8/31/2015- In Assembly. Ordered to Engrossing and Enrolling.
Location: 8/31/2015- Enrollment
Last Amendment: 4/15/2015

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

Updated 9/3/15 Staff
Analysis: AB 85

Bill Summary: This bill would, under the Bagley-Keene Open Meeting Act, 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 contains other related provisions.

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.

Board Position: Oppose-as amended 4/15/2015.

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

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August 11, 2015

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

Re: Assembly Bill 85 (Wilk). – **Oppose**

Dear Senator Lara:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted to **OPPOSE** Assembly Bill 85, as amended April 15, 2015, which is scheduled to be heard in the Appropriations Committee on August 17, 2015.

Assembly Bill 85 proposes to amend the Bagley-Keene Open Meeting Act, specifically Government Code section 11121, relating to what constitutes a "state body" for purposes of compliance with the Act to conduct meetings in an open forum to allow for the public to participate. The author has indicated that the purpose of this bill is to clarify the Bagley-Keene Open Meeting Act regarding what constitutes a "state body" under its provisions. According to the author, there is an ambiguity in the current law regarding whether standing committees composed of fewer than three members must comply with the Act. The author contends that some state agencies interpret the law to allow standing committees that contain fewer than three members and do not vote on action items to hold meetings that are closed to the public. The author indicates that the amendment proposed by AB 85 is intended to clarify that standing committees, including advisory committees composed of less than three members, are subject to the Act and must allow for public participation at their meetings.

The Board respectfully disagrees that there is an ambiguity in the current law and believes that the proposed amendment would, in fact, create an ambiguity regarding what constitutes an advisory body that does not have authority to act on its own. As Governor Brown said in his veto message of AB 2058 (Wilk), 2013-2014 Legislative Session, advisory committees do not have the authority to act on their own. They must present any findings or recommendations to the overall state body before formal action can be taken, and that state body must conduct its meetings in an open public forum and allow for public input before any action can be taken.

The Board strongly believes in complying with the Bagley-Keene Open Meeting Act because of the importance of public participation and encourages members of the public to attend its meetings and address the Board. However, the Board cannot support AB 85 in its current form due to the ambiguity created by this proposed amendment.

If you wish to discuss the Board's concerns with AB 85 further, please feel free to contact Kara Williams, Legislative Analyst, at Kara.Williams@dca.ca.gov or (916) 263-5438.

Sincerely,

RICHARD B. MOORE, PLS
Executive Officer

cc Members, Senate Appropriations Committee
Mark McKenzie Staff Director, Senate Appropriations Committee

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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.~~

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

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

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

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

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

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

~~SEC. 2.~~

SECTION 1. Section 11121 of the Government Code is amended to read:

11121. As used in this article, "state body" means each of the following:

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

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

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory

body so created consists of three or more persons, except as in subdivision (d).

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section 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.

~~SEC. 3.~~

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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

O

Watched Legislation

Assembly Bill 12 (Cooley D)
State government: administrative regulations: review

Status: 8/28/2015- Faild deadline Rule 61 (a) (11).
Location: 8/28/2015- Senate Appropriations. -2 Year
Last Amend: 8/19/2015

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

Updated 9/3/15
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. Non-significant technical amendments where made 8/19/15.

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.

Board Position: Watch -as amended 4/22/2015.

Staff Recommendation: Board staff recommends the Board take a **watch** position on the bill as amended 8/19/2015.

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.

AMENDED IN SENATE AUGUST 19, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 12

Introduced by Assembly Member Cooley
(Coauthors: Assembly Members Chang, Daly, and Wilk)
(Coauthor: Senator Huff)

December 1, 2014

An act 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 amended, Cooley. State government: administrative regulations: review.

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, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified.

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

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

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

Chapter 3.6. Regulatory Reform

Article 1. Findings and Declarations

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

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

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

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

Article 2. Definitions

11366.1. For the purposes of this chapter, the following definitions shall apply:

(a) "State agency" means a state agency, as defined in Section 11000, except those state agencies or activities described in Section 11340.9.

(b) "Regulation" has the same meaning as provided in Section 11342.600.

Article 3. State Agency Duties

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

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

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

(c) Adopt, amend, or repeal regulations to reconcile or eliminate any duplication, overlap, inconsistencies, or out-of-date provisions, and shall comply with the process specified in Article 5 (commencing with Section 11346) of Chapter 3.5, unless the addition, revision, or deletion is without regulatory effect and may be done pursuant to Section 100 of Title 1 of the California Code of Regulations.

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

(e) Notify the appropriate policy and fiscal committees of each house of the Legislature of the revisions to regulations that the state agency proposes to make at least 30 days prior to initiating the process under Article 5 (commencing with Section 11346) of Chapter 3.5 or Section 100 of Title 1 of the California Code of Regulations.

(g) (1) Report to the Governor and the Legislature on the state agency's compliance with this chapter, including the number and content of regulations the state agency identifies as duplicative, overlapping, inconsistent, or out of date, and the state agency's actions to address those regulations.

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

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

adopted by another department, board, or other unit within that agency.

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

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

11366.45. This chapter shall not be construed to weaken or undermine in any manner any human health, public or worker rights, public welfare, environmental, or other protection established under statute. This chapter shall not be construed to affect the authority or requirement for an agency to adopt regulations as provided by statute. Rather, it is the intent of the Legislature to ensure that state agencies focus more efficiently and directly on their duties as prescribed by law so as to use scarce public dollars more efficiently to implement the law, while achieving equal or improved economic and public benefits.

Article 4. Chapter Repeal

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

O

Watched Legislation

Assembly Bill 507 (Olsen R)
Department of Consumer Affairs: BreEZe system: annual report.

Status: 8/17/2015-In committee: Set, first hearing. Hearing canceled at the request of author.
Location: 7/13/2015 - Senate Business, Professions and Economic Development
Last Amendment: 7/9/2015

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

Updated 8/26/15
Staff Analysis: AB 507

Bill Summary: AB 507 would, on or before March 1, 2016, require the Department of Consumer Affairs 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 departments' 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation. This bill contains other related provisions.

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. We are one of the Boards which have not yet transitioned into the BreEZe system.

Board Position: Watch – as amended 7/9/15.

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

AMENDED IN ASSEMBLY JUNE 1, 2015

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)
(Coauthors: Assembly Members Chang and Dodd)
(Coauthor: Senator Bates)

February 23, 2015

An act to add Section 210.5 to the Business and Professions Code, relating to the Department of Consumer ~~Affairs.~~ *Affairs, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 507, as amended, Olsen. Department of Consumer 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,~~ *October 1, 2015,* 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.

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

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

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

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

210.5. (a) On and after ~~January 31, 2016,~~ *October 1, 2015,* the department shall submit an annual report to the Legislature and the Department of Finance that includes all of the following:

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

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

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

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

(c) For purposes of this section, "the regulatory entities in the department's third phase of the implementation project" includes all of the following:

(1) Acupuncture Board.

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

(3) Bureau of Automotive Repair.

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

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

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because of the circumstances surrounding the implementation of the BreEZe system, and in order to ensure that healing arts and other professionals are licensed in a timely and efficient manner, it is necessary that this act take effect immediately.

O

Watched Legislation

Senate Bill 209 (Pavley D)
Surface mining: inspections: financial assurances: reclamation plans.

Status: 9/2/2015- Second Reading.
Location: 9/2/2015-Assembly floor.
Last Amendment: 9/2/2015

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

Updated 9/3/15
Staff Analysis: SB 209

Bill Summary: This bill would require the Department of Conservation to offer continuing educational opportunities for lead agency employees to become certified, as appropriate, by the department to inspect surface mining operations. The bill would prohibit a lead agency that operates a surface mining operation from having an inspection performed by a lead agency employee, as specified, unless that employee has become certified as a surface mining operation inspector within the previous 2 years. This bill would revise the proof of financial assurances to be submitted with the annual report. The bill would define "financial assurances" to be the combination of an approved current financial assurance cost estimate and a financial assurance mechanism, as specified. The bill would require the inspections be conducted by a state licensed geologist, state licensed civil engineer, or state licensed geophysicist, as specified.

Staff Comment: According to the coalition headed by the sponsor, The Sierra Fund, the state has a strong interest in ensuring the mine operations in the state are operated in compliance with its locally issued permit which protects the state's water and air from contamination, and to ensure that when the mine ceases operation that it is remediated to be ready for a beneficial end use. The coalition is participating in the ongoing stakeholder process and recognizes Governor Brown's call to reform SMARA "top to bottom."

Board Position: Watch - as amended 7/7/2015.

Staff Recommendation: Board staff recommends the Board take a **support** position on the bill as amended 9/2/2015. SB 209's language of concern has been amended to reflect the Boards requested changes. Board Licensees are now referred to as "appropriately licensed California-licensed professional". The amended language clearly identifies those who are legally authorized to practice in the State of California.

Laws: An act to amend Section 607, 2006.5, 2207, 2772, 2773.1, and 2774 of the Public Resources Code, relating to surface mining

AMENDED IN ASSEMBLY SEPTEMBER 2, 2015

AMENDED IN ASSEMBLY AUGUST 17, 2015

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE MAY 12, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL No. 209

Introduced by Senator Pavley

February 11, 2015

An act to amend Sections 607, 2207, 2714, 2733, 2770, 2772, 2773.1, 2774, 2774.1, 2774.4, and 2776 of, and to add Sections 2006.5, 2736, 2772.1, and 2773.4 to, the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 209, as amended, Pavley. Surface mining: inspections: financial assurances: reclamation plans.

(1) Existing law establishes the Office of Mine Reclamation within the Department of Conservation. Existing law requires the State Mining and Geology Board to impose, by regulation, an annual reporting fee on the operators of all active and idle mining operations. Existing law requires the maximum amount of the annual fee imposed on each mining operation to not exceed $4,000. Existing law limits the maximum amount of the total revenue generated from the reporting fee to no more than $3,500,000, as specified.

This bill would instead establish the Division of Mines within the department under the direction of the Supervisor of Mines and Reclamation. The bill also would raise the maximum amount of the annual reporting fee to $10,000 per mining operation, except as specified. The bill would raise the maximum amount of the total revenue generated from the reporting fee to $8,000,000, as specified.

(2) The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation.

This bill would revise and recast provisions of the act related to the approval of reclamation plans and, among other things, would require a reclamation plan filed by an operator of a surface mining operation with a lead agency to include specified reclamation maps; require a lead agency, when submitting a proposed final reclamation plan to the Director of Conservation, to incorporate specified items of information and documents in the submitted reclamation plan within certain timeframes; and require the director to take certain actions upon receiving a proposed final reclamation plan. By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.

This bill also would require a lead agency or the board to conduct a specified public hearing if the lead agency has evidence that an operator is financially incapable of performing reclamation in accordance with its approved reclamation plan or that the operator has abandoned a surface mining operation without completing reclamation and to take appropriate actions to seize the operator's financial assurances.

This bill would revise and recast provisions of the act related to the proof of financial assurances, as defined, and, among other things, would require an operator to establish an appropriate financial assurance mechanism within 30 days of a sale or transfer of a surface mining operation; require a lead agency to submit a surface mining operation's proposed financial assurance cost estimate with a specified report to the director for review, as specified; and require the director to take certain actions upon receiving a financial assurance cost estimate from a lead agency. By adding to the duties of a local government acting as a lead agency under the act, this bill would impose a state-mandated local program.

This bill would require the Department of Conservation and the board, in consultation with the Board for Professional Engineers, Land Surveyors, and Geologists, to adopt regulations that set forth the minimum qualifications for a person conducting an inspection of a surface mining operation, as specified. The bill also would require the department to establish, no later than July 1, 2016, a training program for all surface mine inspectors, as specified.

(3) 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.

(4) This bill would make its operation contingent on the enactment of Assembly Bill 1142 of the 2015–16 Regular Session.

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 607 of the Public Resources Code is
2 amended to read:
3 607. The work of the department shall be divided into at least
4 the following:
5 (a) California Geological Survey.
6 (b) Division of Oil, Gas, and Geothermal Resources.
7 (c) Division of Land Resource Protection.
8 (d) Division of Mines.
9 SEC. 2. Section 2006.5 is added to the Public Resources Code,
10 to read:
11 2006.5. "Supervisor of Mines and Reclamation" means the
12 individual directing the Division of Mines established pursuant to
13 subdivision (d) of Section 607.
14 SEC. 3. Section 2207 of the Public Resources Code is amended
15 to read:
16 2207. (a) The owner or the operator of a mining operation
17 within the state shall forward to the director annually, not later
18 than a date established by the director, upon forms approved by
19 the board from time to time, a report that identifies all of the
20 following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Division of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency.

(9) Proof of the most recently approved financial cost estimate and the approved financial assurance cost mechanism.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) (1) Every year, not later than the date established by the director, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms furnished by the

board, a report that provides all of the information specified in subdivision (a).

(2) The owner or operator of a mining operation shall allow access to the property to any governmental agency or the agent of any company providing financial assurances in connection with the reclamation plan in order that the reclamation can be carried out by the entity or company, in accordance with the provisions of the reclamation plan.

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b) or (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The director shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Division of Mines, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised report to the director and the lead agency. Any person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed ten thousand dollars ($10,000) annually and may not be less than one hundred dollars ($100) annually, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, except that the maximum fee for any single mining operation shall not exceed six thousand dollars ($6,000)

in the 2016–17 fiscal year and eight thousand dollars ($8,000) in the 2017–18 fiscal year.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's proposed Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars ($8,000,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2016–17 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and

complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars ($5) per ounce of gold and ten cents ($0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars ($100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only,

"mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

(h) The approval of a form by the board pursuant to this section is not the adoption of a regulation for purposes of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and is not subject to that act.

SEC. 4. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading of lands conducted for farming.

(b) Onsite excavation and onsite earthmoving activities that are integral and necessary for the construction of structures and that

are undertaken to prepare a site for the construction of those structures, including landscaping or other land improvements associated with those structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction and any associated landscaping or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for or the extraction of minerals for commercial purposes where the removal of overburden or mineral product

totals less than 1,000 cubic yards in any one location and the total surface area disturbed is less than one acre.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board determines to be of an infrequent nature and that involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the department, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the department by the date specified by the department on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Central Valley Flood Protection Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Central Valley Flood Protection Board on lands other than those owned or leased, or upon which easements or rights-of-way have

been obtained, by the Department of Water Resources or the Central Valley Flood Protection Board, is otherwise not in compliance with this chapter.

(j) (1) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes.

(2) This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the Department of Forestry and Fire Protection.

(k) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to and necessary for ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(1) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(2) The operations are consistent with any general plan or zoning applicable to the site.

(3) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(4) No excavated materials are sold for commercial purposes.

(*l*) (1) The immediate excavation or grading of lands affected by a natural disaster for the purpose of restoring those lands to their prior condition.

(2) The immediate removal of material deposited by a flood onto lands being farmed for the purpose of restoring those lands to their prior condition.

SEC. 5. Section 2733 of the Public Resources Code is amended to read:

2733. "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition that is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, slope stabilization, or other measures.

SEC. 6. Section 2736 is added to the Public Resources Code, to read:

2736. "Financial assurance" means an approved current financial assurance cost estimate and a financial assurance mechanism that is at least equal to the current approved financial assurance cost estimate.

SEC. 7. Section 2770 of the Public Resources Code is amended to read:

2770. (a) Except as provided in this section, a person shall not conduct surface mining operations unless a permit is obtained from, a reclamation plan has been submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation pursuant to this article.

(b) A person with an existing surface mining operation who has vested rights pursuant to Section 2776 and who does not have an approved reclamation plan shall submit a reclamation plan to the lead agency not later than March 31, 1988. If a reclamation plan application is not on file by March 31, 1988, the continuation of the surface mining operation is prohibited until a reclamation plan is submitted to the lead agency.

(c) [Reserved]

(d) [Reserved]

(e) A person who, based on the evidence of the record, can substantiate that a lead agency has either (1) failed to act according to due process or has relied on considerations not related to the specific applicable requirements of Sections 2772, 2773, and 2773.1, and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774, in reaching a decision to deny approval of a reclamation plan or financial assurances for reclamation, or (2) failed to act within a reasonable time of receipt

of a completed application, may appeal that action or inaction to the board.

(f) The board may decline to hear an appeal if it determines that the appeal raises no substantial issues related to the lead agency's review pursuant to this section.

(g) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing within 45 days of the filing of the appeal or a longer period as may be mutually agreed upon by the board and the person filing the appeal. In hearing an appeal, the board shall only determine whether the reclamation plan or the financial assurances meet the applicable requirements of Sections 2772, 2773, and 2773.1 and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of Section 2774. A reclamation plan or financial assurances determined to meet these requirements shall be approved. A reclamation plan or financial assurances determined not to meet these requirements shall be returned to the person filing the appeal with a notice of deficiencies, who shall be granted once only a period of 30 days, or a longer period mutually agreed upon by the operator and the board, to correct the noted deficiencies and submit the revised reclamation plan or the revised financial assurances to the lead agency for review and approval.

(h) (1) Within 90 days of a surface mining operation becoming idle, as defined in Section 2727.1, the operator shall submit to the lead agency for review and approval an interim management plan. The review and approval of an interim management plan shall not be considered a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)). The approved interim management plan shall be considered an amendment to the surface mining operation's approved reclamation plan for purposes of this chapter. The interim management plan shall provide measures the operator will implement to maintain the site in compliance with this chapter, including, but not limited to, all permit conditions.

(2) Except for an interim management plan for a borrow pit surface mining ~~operation,~~ *operation* owned or operated by the lead agency solely for use by the lead ~~agency,~~ *agency* an interim management plan may remain in effect for a period not to exceed five years, at which time the lead agency shall do one of the following:

(A) Renew the interim management plan for an additional period not to exceed five years, which may be renewed for one additional five-year renewal period at the expiration of the first five-year renewal period, if the lead agency finds that the surface mining operator has complied fully with the interim management plan.

(B) Require the operator to commence reclamation in accordance with its approved reclamation plan.

(3) The financial assurances required by Section 2773.1 shall remain in effect during the period that the surface mining operation is idle. If the surface mining operation is still idle after the expiration of its interim management plan, the surface mining operation shall commence reclamation in accordance with its approved reclamation plan.

(4) Within 60 days of the receipt of the interim management plan or a longer period mutually agreed upon by the lead agency and the operator, the lead agency shall review and approve the plan in accordance with its ordinance adopted pursuant to subdivision (a) of Section 2774, so long as the plan satisfies the requirements of this subdivision, and so notify the operator in writing. Otherwise, the lead agency shall notify the operator in writing of any deficiencies in the plan. The operator shall have 30 days, or a longer period mutually agreed upon by the operator and the lead agency, to submit a revised plan.

(5) The lead agency shall approve or deny approval of the revised interim management plan within 60 days of receipt. If the lead agency denies approval of the revised interim management plan, the operator may appeal that action to the lead agency's governing body, which shall schedule a public hearing within 45 days of the filing of the appeal or a longer period mutually agreed upon by the operator and the governing body.

(6) Unless review of an interim management plan is pending before the lead agency or an appeal is pending before the lead agency's governing body, a surface mining operation that remains idle for over one year after becoming idle, as defined in Section 2727.1, without obtaining approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(i) An enforcement action that may be brought against a surface mining operation for operating without an approved reclamation

plan, financial assurance, or interim management plan shall be held in abeyance pending review pursuant to subdivision (b) or (h), or the resolution of an appeal filed with the board pursuant to subdivision (e), or with a lead agency governing body pursuant to subdivision (h).

(j) Notwithstanding paragraph (1) of subdivision (b) of Section 2774, a lead agency may conduct an inspection of a borrow pit surface mining ~~operation,~~ *operation* owned or operated by the lead agency solely for use by the lead ~~agency,~~ *agency* once every two calendar years during a period when the borrow pit surface mining operation is idle.

SEC. 8. Section 2772 of the Public Resources Code is amended to read:

2772. (a) The reclamation plan shall be filed with the lead agency, on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all or any portion of any mined lands and who plans to conduct surface mining operations on the lands.

(b) ~~A~~ *In addition to the other requirements for a reclamation plan, a* reclamation plan for a borrow pit surface mining ~~operation,~~ *operation* owned or operated by the lead agency solely for use by the lead ~~agency,~~ *agency* shall~~, in addition to the other requirements of a reclamation plan,~~ include an interim management plan that shall maintain the site in compliance with this chapter during a period when the borrow pit surface mining operation is idle.

(c) The reclamation plan shall include all of the following information and documents:

(1) The name and address of the surface mining operator and the names and addresses of any persons designated by the operator as an agent for the service of process.

(2) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(3) The proposed dates for the initiation of mining operations and the completion of mining and reclamation of the surface mining operation.

(4) The maximum anticipated depth of the surface mining operation.

(5) A reclamation plan map or maps that shall include all of the following:

(A) Size and legal description of the lands that will be affected by the surface mining operation and the names and addresses of the owners of all surface interests and mineral interests in the lands.

(B) Clearly defined and accurately drawn property lines, setbacks, easements, and the reclamation plan boundary.

(C) Existing topography and final topography depicted with contour lines drawn at appropriate intervals for the site's conditions.

(D) Detailed geologic description of the area of the surface mining operation.

(E) Location of railroads, utility facilities, access roads, temporary roads to be reclaimed, and any roads remaining for the approved end use.

(F) All maps, diagrams, or calculations that require preparation in accordance with the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code), the Geologist and Geophysicist Act (Chapter 12.5 (commencing with Section 7800) of Division 3 of the Business and Professions Code), or the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) shall be prepared by an appropriately licensed California-licensed professional, shall include his or her license number and name, and shall bear the signature and seal of the licensee.

(6) A description of and a plan for the type of surface mining to be employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

(7) A description of the proposed use or potential uses of the mined lands after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(8) A description of the manner in which reclamation, adequate for the proposed use or potential uses, will be accomplished, including both of the following:

(A) A description of the manner in which known contaminants will be controlled and mining waste will be disposed.

(B) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition that minimizes erosion and sedimentation.

(9) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(10) A statement that the person submitting the reclamation plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

(11) Any other information that the lead agency may require by ordinance.

(d) An item of information or a document required pursuant to this chapter, including subdivision (c), that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)), or required as a condition of approval, shall be included in the reclamation plan. Regulatory aspects that are solely of a local concern shall not be included in the reclamation plan. To the extent the information or document referenced in the reclamation plan is used to meet the requirements of this chapter, including subdivision (c), the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this chapter.

(e) This section does not limit or expand the Supervisor of Mines and Reclamation's authority or responsibility to review a document in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 9. Section 2772.1 is added to the Public Resources Code, to read:

2772.1. (a) (1) Prior to approving a surface mining operation's reclamation plan or plan amendments, the lead agency shall submit the proposed final reclamation plan or amendments to the director for review. All documentation for the submission shall be submitted to the director at one time.

(2) An item of information or a document required pursuant to this chapter, including subdivision (c) of Section 2772, that has been prepared as part of a permit application for the surface mining operation, not including aspects that are solely of a local concern, or as part of an environmental document prepared for the project pursuant to the California Environmental Quality Act (Division

13 (commencing with Section 21000)) shall be incorporated into the proposed final reclamation plan. An item of information or a document that is incorporated shall be inserted into the corresponding section of the proposed final reclamation plan or attached to the proposed final reclamation plan with a specific reference in the corresponding section of the proposed final reclamation plan. Any information or document incorporated into the proposed final reclamation plan shall become part of the approved reclamation plan and shall be subject to all other requirements of this article.

(3) The lead agency shall certify to the director that the proposed final reclamation plan is a complete submission and is in compliance with all of the following:

(A) The applicable requirements of this chapter, including subdivision (c) of Section 2772.

(B) Article 1 (commencing with Section 3500) of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations.

(C) The lead agency's surface mining ordinance in effect at the time that the proposed final reclamation plan is submitted to the director for review.

(b) (1) The director shall have 30 days from the date of receipt of a proposed final reclamation plan or plan amendments submitted pursuant to subdivision (a) to prepare written comments if the director chooses.

(2) If the director determines that the lead agency's submission pursuant to subdivision (a) is incomplete or that the submission includes maps, diagrams, or calculations that require preparation by an appropriately licensed California-licensed professional, the director shall return the submission to the lead agency. The director shall identify the incomplete components or those maps, diagrams, or calculations that require completion by an appropriately licensed California-licensed professional. The review by the director pursuant to paragraph (1) shall not begin until the director receives a complete submission, including maps, diagrams, or calculations prepared by an appropriately licensed California-licensed professional.

(3) (A) The lead agency shall review and evaluate and prepare a written response to the director's comments received pursuant to paragraph (1) describing the disposition of the major issues raised by the comments. The lead agency shall submit the lead

agency's response to the director at least 30 days prior to the intended approval of the proposed final reclamation plan or plan amendment. The lead agency's response shall include either of the following:

(i) A description of how the lead agency proposes to adopt the director's comments to the proposed final reclamation plan or plan amendment.

(ii) A detailed description of the reasons why the lead agency proposes not to adopt the director's comments.

(B) Copies of any written comments received and responses prepared by the lead agency pursuant to subparagraph (A) shall be forwarded to the operator.

(C) (i) The lead agency shall give the director at least 30 days' notice of the time, place, and date of the hearing at which the proposed final reclamation plan or plan amendment is scheduled to be approved by the lead agency.

(ii) If no hearing is required by this chapter, the local ordinance, or other state law, the lead agency shall provide 30 days' notice to the director that the lead agency intends to approve the proposed final reclamation plan or plan amendment.

(D) Within 30 days following approval of the reclamation plan, the lead agency shall provide the director notice of the approval and a statement that identifies any additional conditions or other permit requirements imposed upon the surface mining operation. During that time, the department shall retain all of its powers, duties, and authorities pursuant to this chapter. The lead agency shall provide, as soon as practicable, but no later than 60 days after approval of the reclamation plan, both of the following:

(i) Certified copies of all maps, diagrams, or calculations signed and sealed by an appropriately licensed California-licensed professional.

(ii) A certified copy of the approved reclamation plan incorporating all approved modifications to the proposed final reclamation plan.

(4) To the extent there is a conflict between the comments of a trustee agency or a responsible agency that are based on that agency's statutory or regulatory authority and the comments of other commenting agencies that are received by the lead agency pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) regarding a reclamation

plan or plan amendments, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(c) A lead agency shall notify the director of the filing of an application for a permit to conduct surface mining operations within 30 days of an application being filed with the lead agency. By July 1, 1991, each lead agency shall submit to the director for every active or idle mining operation within its jurisdiction, a copy of the mining permit required pursuant to Section 2774, and any conditions or amendments to those permits. By July 1 of each subsequent year, the lead agency shall submit to the director for each active or idle mining operation a copy of any permit or reclamation plan amendments, as applicable, or a statement that there have been no changes during the previous year. Failure to file with the director the information required pursuant to this section shall be a cause for action under Section 2774.4.

(d) This section does not limit or expand the Supervisor of Mines and Reclamation's authority or responsibility to review a document in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 10. Section 2773.1 of the Public Resources Code is amended to read:

2773.1. (a) Lead agencies shall require financial assurances of each surface mining operation to ensure reclamation is performed in accordance with the surface mining operation's approved reclamation plan, as follows:

(1) Financial assurance mechanisms may take the form of surety bonds executed by an admitted surety insurer, as defined in subdivision (a) of Section 995.120 of the Code of Civil Procedure, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the board pursuant to subdivision (e) that are at least equal to the annual financial assurance cost estimate that the lead agency reasonably determines are adequate to perform reclamation in accordance with the surface mining operation's approved reclamation plan.

(2) The financial assurances shall remain in effect for the duration of the surface mining operation and any additional period until reclamation is completed.

(3) The amount of financial assurances required of a surface mining operation for any one year shall be adjusted annually to account for new lands disturbed by surface mining operations,

inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

(4) Each financial assurance mechanism shall be made payable to the lead agency and the department. A financial assurance mechanism shall not be released without the written consent of the lead agency and the department. Financial assurance mechanisms that were approved by the lead agency prior to January 1, 1993, and were made payable to the State Geologist shall be considered payable to the department for purposes of this chapter. However, if a surface mining operation has received approval of its financial assurances from a public agency other than the lead agency, the lead agency shall deem those financial assurances adequate for purposes of this section, or shall credit them toward fulfillment of the financial assurances required by this section, if they are made payable to the public agency, the lead agency, and the department and otherwise meet the requirements of this section. In any event, if a lead agency and one or more public agencies exercise jurisdiction over a surface mining operation, the total amount of financial assurances required by the lead agency and the public agencies for any one year shall not exceed that amount which is necessary to perform reclamation of lands remaining disturbed. For purposes of this paragraph, a "public agency" may include a federal agency.

(b) (1) If the lead agency has evidence that an operator is financially incapable of performing reclamation in accordance with its approved reclamation land or that the operator has abandoned the surface mining operation without completing reclamation, the lead agency or the board shall conduct a public hearing with notice of the hearing provided to the operator and the department at least 30 days prior to the hearing.

(2) If the lead agency or the board, following the public hearing, determines that the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without completing reclamation, either the lead agency or the director shall do all of the following:

(A) Notify the operator by personal service or certified mail that the lead agency or the director intends to take appropriate action to seize the financial assurances and specify the reasons for so doing.

(B) (i) Proceed to take appropriate action to seize the financial assurances and use the proceeds from the financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan.

(ii) If the surface mining operation cannot be reclaimed in accordance with its approved reclamation plan or the financial assurances are inadequate to reclaim in accordance with the approved reclamation plan, the lead agency or the director may use the proceeds of the financial assurances to reclaim or remediate mining disturbances as appropriate for the site conditions, as determined by the lead agency and the director. The proceeds of the financial assurances shall not be used for any other purpose.

(iii) The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan or a remediation plan developed pursuant to this section, as determined to be appropriate by the lead agency and director, that are in excess of the proceeds of the financial assurances.

(c) Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written concurrence by the lead agency and the director, which shall be forwarded to the operator, that reclamation has been completed in accordance with the approved reclamation plan. If a surface mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency and the director until new financial assurances are secured from the new owner and have been approved by the lead agency in accordance with Sections 2770 and 2773.1. Within 30 days of the sale or transfer of the surface mining operation, the new operator shall establish an appropriate financial assurance mechanism and sign a new statement pursuant to paragraph (10) of subdivision (c) of Section 2772.

(d) The lead agency shall have primary responsibility to seize financial assurances and to reclaim mine sites under subdivision (b). However, in cases where the board is not the lead agency pursuant to Section 2774.4, the director may act to seize financial assurances and reclaim mine sites pursuant to subdivision (b) only if both of the following occur:

(1) The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the director.

(2) The lead agency has been notified in writing by the director of the financial incapability of the operator or the abandonment of the mining operation for at least 15 days, the lead agency has not taken appropriate measures to seize the financial assurances and reclaim the mine site, and one of the following has occurred:

(A) The lead agency has been notified in writing by the director that failure to take appropriate measures to seize the financial assurances or to reclaim the mine site shall result in actions being taken against the lead agency under Section 2774.4.

(B) The director determines that there is a violation that amounts to an imminent and substantial endangerment to the public health, safety, or to the environment.

(C) The lead agency notifies the director in writing that its good faith attempts to seize the financial assurances have not been successful.

The director shall comply with subdivision (b) in seizing the financial assurances and reclaiming mine sites.

(e) The board may adopt regulations specifying financial assurance mechanisms other than surety bonds, irrevocable letters of credit, and trust funds that the board determines are reasonably available and adequate to ensure reclamation pursuant to this chapter, but these mechanisms shall not include solely financial tests or surety bonds executed by one or more personal sureties. These mechanisms may include reclamation bond pool programs or corporate financial tests, as described in subdivision (f), combined with additional financial assurance mechanisms, as identified in this section, that together ensure the completion of reclamation in accordance with the approved reclamation plan.

(f) (1) Corporate financial tests shall provide for no more than 75 percent of the financial assurance cost estimate approved within the last year. Use of a financial test shall meet all of the following requirements:

(A) Be annually approved by both the lead agency and the director and may be disallowed by either the lead agency or the director.

(B) Include an assessment from an independent certified public accountant using generally accepted accounting principles in the United States.

(2) Corporate financial tests shall only be allowed after the board adopts a regulation that establishes a comprehensive analysis of a

corporation's financial status that includes financial net worth; income; liabilities, including other environmental assurances; and assets located within the United States. The regulation shall include additional measures to provide the lead agency or the director with the recovery of costs associated with the full collection and satisfaction of the financial assurance mechanisms.

(3) A surface mining operation shall have at least 25 percent of the financial assurance cost estimate or four million dollars ($4,000,000), whichever is greater, in an acceptable financial assurance mechanism other than a corporate financial test.

(4) Subject to the requirements of this subdivision, an operator of multiple surface mining operations may use a corporate financial test that combines the financial assurance cost estimates of each surface mining operation.

(g) On or before March 1, 1993, the board shall adopt guidelines to implement this section. The guidelines are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and are not subject to review by the Office of Administrative Law.

SEC. 11. Section 2773.4 is added to the Public Resources Code, to read:

2773.4. (a) (1) Prior to approving the financial assurances of a surface mining operation pursuant to Sections 2770 and 2773.1, the lead agency shall submit the proposed financial assurance cost estimate, with a statement that it is adequate to reclaim the surface mining operation in accordance with the approved reclamation plan, to the director for review. All documentation for that submission shall be complete and submitted to the director at one time.

(2) If the director determines that the lead agency's submission pursuant to paragraph (1) is incomplete, the director shall return the submission to the lead agency, specifically noting those elements of the cost estimate that are incomplete. The review by the director pursuant to subdivision (b) shall not begin until the director receives a complete submission.

(b) The director shall have 45 days from the date of receipt of a complete financial assurance cost estimate pursuant to subdivision (a) to prepare written comments or request a reassessment if the director chooses.

(c) (1) (A) If the director can demonstrate that the proposed financial assurance cost estimate is inadequate to reclaim the surface mining operation in accordance with the approved reclamation plan, the director may request a reassessment by the lead agency.

(B) If the director requests a reassessment of a financial assurance cost estimate, the lead agency shall reassess and resubmit the proposed financial assurance cost estimate within 45 days of the director's request.

(2) If the lead agency or operator disagrees with the director's request for reassessment, or the director determines that a financial assurance cost estimate resubmitted pursuant to this subdivision remains inadequate, the lead agency, operator, or director may request a review hearing by the board.

(3) Financial assurance cost estimates shall not be approved pending the director's request for reassessment pursuant to this subdivision.

(4) Financial assurance cost estimates determined to be inadequate by the board shall be returned to the lead agency for reassessment and resubmission to the director pursuant to this section. Financial assurance cost estimates determined to be adequate by the board may be approved by the lead agency.

(d) (1) The lead agency shall prepare a written response to the director's comments, if any, describing the disposition of the major issues raised by the director's comments. The lead agency shall submit its proposed response to the director at least 30 days prior to approval of the financial assurance cost estimate and shall include either of the following:

(A) A description of how the lead agency proposes to adopt the director's comments to the financial assurance cost estimate.

(B) A detailed description of the reasons why the lead agency proposes not to adopt the director's comments.

(2) Copies of any written comments received and responses prepared by the lead agency pursuant to paragraph (1) shall be provided to the operator.

(3) (A) The lead agency shall give the director at least 30 days' notice of the time, place, and date of the hearing at which the financial assurance cost estimate is scheduled to be approved by the lead agency.

(B) If no hearing is required by this chapter, the local ordinance, or other state law, then the lead agency shall provide 30 days' notice to the director that it intends to approve the financial assurance cost estimate.

(4) The lead agency shall send to the director its final response to the director's comments within 30 days of its approval of the financial assurance cost estimate during which time the department retains all of its powers, duties, and authorities pursuant to this chapter.

(e) (1) Within 30 days of the lead agency's approval of the financial assurance cost estimate, the operator shall provide the lead agency and the director an appropriate financial assurance mechanism that is at least equal to the approved financial assurance cost estimate.

(2) Within 15 days of receipt of a financial assurance mechanism, the lead agency and the director shall review the financial assurance mechanism to determine if the type of mechanism, including release instructions, complies with the requirements of this chapter.

(3) Financial assurance mechanisms determined to be noncompliant with this chapter shall be returned to the operator, with instructions on how to correct the type or release instructions of the financial assurance mechanism.

(f) To the extent there is a conflict between the comments of a trustee agency or a responsible agency that are based on that agency's statutory or regulatory authority and the comments of other commenting agencies that are received by the lead agency pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) regarding a financial assurance cost estimate or financial assurance mechanism, the lead agency shall consider only the comments of the trustee agency or responsible agency.

(g) The review of existing financial assurances shall not be considered a project for the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

SEC. 12. Section 2774 of the Public Resources Code is amended to read:

2774. (a) Every lead agency shall adopt ordinances in accordance with state policy that establish procedures for the

review and approval of reclamation plans and financial assurances and the issuance of a permit to conduct surface mining operations, except that any lead agency without an active surface mining operation in its jurisdiction may defer adopting an implementing ordinance until the filing of a permit application. The ordinances shall establish procedures requiring at least one public hearing and shall be periodically reviewed by the lead agency and revised, as necessary, to ensure that the ordinances continue to be in accordance with state policy.

(b) (1) (A) The lead agency shall conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's report submitted pursuant to Section 2207, solely to determine whether the surface mining operation is in compliance with this chapter.

(B) A lead agency shall not inspect a surface mining operation less than once in any calendar year. The lead agency shall cause an inspection to be conducted by an individual who is qualified pursuant to paragraph (2) and who satisfies the provisions of subdivision (c), including, but not limited to, a state-licensed geologist, state-licensed civil engineer, state-licensed landscape architect, state-licensed forester, or lead agency employee who has not been employed by the surface mining operation within the jurisdiction of the lead agency in any capacity during the previous 12 months.

(C) Notwithstanding subparagraph (B), a lead agency employee who is qualified pursuant to paragraph (2) and who satisfies the provisions of subdivision (c) may inspect a surface mining operation owned or operated by the lead agency.

(D) All inspections shall be conducted using a form developed by the department and approved by the board that includes the relevant professional licensing and disciplinary information of the person qualified pursuant to paragraph (2) who conducted the inspection. The operator shall be solely responsible for the reasonable cost of the inspection.

(E) The lead agency shall notify the director within 60 days of the date of completion of the inspection that the inspection has been conducted. The inspection notice shall contain a statement regarding the surface mining operation's compliance with this chapter, shall include a copy of the completed inspection form, and shall specify which aspects of the surface mining operations,

if any, are inconsistent with this chapter and those noncompliant aspects that have been corrected following the inspection, with proof of correction. For each remaining noncompliant aspect, the lead agency shall provide to the director a copy of the notice of violation, the notice of violation combined with an order to comply pursuant to Section 2774.1, or a statement that indicates the lead agency does not intend to initiate an enforcement action pursuant to Section 2774.1. If the surface mining operation has a review of its reclamation plan, financial assurances, or an interim management plan pending under subdivision (b) or (h) of Section 2770, or an appeal pending before the board or lead agency governing body under subdivision (e) or (h) of Section 2770, the inspection notice shall so indicate. The lead agency shall forward to the operator a copy of the inspection notice, a copy of the completed inspection form, and any supporting documentation, including, but not limited to, any inspection report prepared by the individual qualified pursuant to paragraph (2).

(2) (A) The department and the board, in consultation with the Board for Professional Engineers, Land Surveyors, and Geologists, shall adopt regulations that set forth the minimum qualifications for a person conducting an inspection of a surface mining operation pursuant to this chapter. The regulations shall delineate those aspects of an inspection that require the inspector to meet state licensure requirements.

(B) Beginning January 1 of the year following adoption of the regulations required pursuant to subparagraph (A), but not less than 180 days after adoption, all surface mine inspections shall be performed by a qualified individual.

(c) (1) On or before July 1, 2016, the department shall establish a training program for all surface mine inspectors. The program shall be designed to include a guidance document, developed by the department and approved by the board, to provide instruction and recommendations to surface mine inspectors performing inspections pursuant to subdivision (b).

(2) The training program shall include no less than four inspection workshops per year, offered by the department, in different regions of the state, to provide practical application of the guidance document material.

(3) On and after January 1, 2019, all inspectors shall have on file with the lead agency and the department a certificate of

completion of an inspection workshop. An inspector shall attend a workshop no later than five years after the date of his or her most recent certificate.

(d) In addition to subdivision (b), lead agencies or the Supervisor of Mines and Reclamation may inspect at any time a surface mining operation to determine if the operation is in compliance with this chapter and Section 2207.

(e) The approval of the guidance document by the board pursuant to subdivision (c) is not the adoption of a regulation for the purposes of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and is not subject to that chapter.

SEC. 13. Section 2774.1 of the Public Resources Code is amended to read:

2774.1. (a) Except as provided in subdivision (i) of Section 2770, if the lead agency or the director determines, based upon an annual inspection pursuant to Section 2774, or otherwise confirmed by an inspection of the mining operation, that a surface mining operation is not in compliance with this chapter, the lead agency or the director may notify the operator of that violation by personal service or certified mail. If the lead agency or the director determines that the noted violations cannot be corrected within 30 days of the notice, the lead agency shall or the director may combine the notice of violation with an order to comply. If the violation extends beyond 30 days after the date of the lead agency's or the director's notification, the lead agency or the director may issue an order by personal service or certified mail requiring the operator to comply with this chapter or, if the operator does not have an approved reclamation plan or financial assurances, cease all further mining activities.

(b) An order to comply issued under subdivision (a) shall take effect 30 days following service unless the operator within that 30-day period requests a hearing before the lead agency for orders issued by the lead agency, or the board for orders issued by the director, concerning the alleged violation. An order to comply shall specify which aspects of the surface mine's activities or operations are inconsistent with this chapter, shall specify a time for compliance that the lead agency or director determines is reasonable, not to exceed two years, taking into account the seriousness of the violation and any good faith efforts to comply

with applicable requirements, and may include an administrative penalty imposed pursuant to subdivision (c). If a lead agency or the director determines compliance with an order to comply will exceed two years, the board may specify a longer period based on an application and showing of good cause.

(c) (1) In an order to comply pursuant to subdivision (b), the lead agency or the director may impose an administrative penalty of not more than five thousand dollars ($5,000) per day, assessed from the original date of noncompliance with this chapter. The penalty may be imposed administratively by the lead agency or the director. In determining the amount of the administrative penalty, the lead agency or the director shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and any other matters justice may require.

(2) If an operator fails to comply with an order to comply that did not originally impose an administrative penalty, or if an operator fails to submit a report or pay annual fees to the director or lead agency pursuant to Section 2207, the lead agency or director may impose an administrative penalty pursuant to this paragraph. The administrative penalty shall become effective upon issuance of the assessment and payment shall be made to the lead agency or the director within 30 days, unless the operator petitions the legislative body of the lead agency, the board, or the superior court for review as provided in Section 2774.2. An assessment shall be served by personal service or by certified mail upon the operator.

(3) Penalties collected by the director shall not be used for purposes other than to cover the reasonable costs incurred by the director in implementing this chapter or Section 2207.

(d) If the lead agency or the director determines that the surface mine is not in compliance with this chapter, so that the surface mine presents an imminent and substantial endangerment to the public health or the environment, the lead agency or the Attorney General, on behalf of the director, may seek an order from a court of competent jurisdiction enjoining that operation.

(e) Upon a complaint by the director, the department, or the board, the Attorney General may bring an action to recover administrative penalties under this section, and penalties under Section 2207, in any court of competent jurisdiction in this state

against any person violating any provision of this chapter or Section 2207, or any regulation adopted pursuant to this chapter or Section 2207. The Attorney General may bring this action on his or her own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred. The Attorney General may also seek an order from a court of competent jurisdiction compelling the operator to comply with this chapter and Section 2207.

(f) (1) The lead agency has primary responsibility for enforcing this chapter and Section 2207. In cases where the board is not the lead agency pursuant to Section 2774.4, enforcement actions may be initiated by the director pursuant to this section only after the violation has come to the attention of the director and either of the following occurs:

(A) The lead agency has been notified by the director in writing of the violation for at least 30 days, and has not taken appropriate enforcement action, which may include failing to issue an order to comply within a reasonable time after issuing a notice of violation.

(B) The director determines that there is a violation that amounts to an imminent and substantial endangerment to the public health or safety, or to the environment.

(2) The director shall comply with this section in initiating enforcement actions.

(g) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

SEC. 14. Section 2774.4 of the Public Resources Code is amended to read:

2774.4. (a) The board shall exercise some or all of a lead agency's powers under this chapter pursuant to subdivision (c), except for permitting authority and vested rights determinations pursuant to Section 2776, if the board finds that a lead agency has done any of the following:

(1) Approved reclamation plans or financial assurances that are not consistent with this chapter.

(2) Failed to inspect or cause the inspection of surface mining operations as required by this chapter.

(3) Failed to seize the financial assurances and to carry out the reclamation of surface mining operations as required by this chapter.

(4) Failed to take appropriate enforcement actions as required by this chapter.

(5) Intentionally misrepresented the results of inspections required under this chapter.

(6) Failed to submit information to the department as required by this chapter.

(b) The board shall conduct a public hearing no sooner than three years after the board has taken action pursuant to subdivision (a) to determine if a lead agency has corrected its deficiencies in implementing and enforcing this chapter and the rules and regulations adopted pursuant to this chapter or has developed a program that will adequately administer this chapter and Section 2207. If the board finds sufficient evidence of correction or the development of a program to adequately implement this chapter and Section 2207, the board shall restore to the lead agency some or all of the powers assumed by the board pursuant to subdivision (a).

(c) Before taking any action pursuant to subdivision (a), the board shall first conduct a hearing, providing 30 days' notice to the lead agency, and shall determine if the lead agency has engaged in conduct described in subdivision (a). If the board finds that the lead agency has engaged in conduct described in subdivision (a), the board shall do either of the following:

(1) (A) Require the lead agency to develop a remedial plan to correct the noted deficiencies. The remedial plan shall describe specific objectives and corresponding processes designed to address, at a minimum, the noted deficiencies and a time that the remedial plan will be fully implemented.

(B) The board shall set a hearing to review the completion of the remedial plan consistent with paragraph (2) and subdivisions (d) and (e).

(2) Take immediate action pursuant to subdivision (a) and hold a public hearing within the lead agency's area of jurisdiction, upon a 45-day written notice given to the public in at least one newspaper of general circulation within the city or county and directly mailed to the lead agency and to all operators within the lead agency's jurisdiction who have submitted reports as required by Section 2207.

(d) Affected operators and interested persons have the right at the public hearing to present oral and written evidence on the

matter being considered. The board, at the public hearing, may place reasonable limits on the right of affected operators and interested persons to question and solicit testimony.

(e) (1) If the board decides to take action pursuant to subdivision (a) and exercise some or all of a lead agency's powers pursuant to this chapter, except for permitting authority and vested rights determinations pursuant to Section 2776, the board shall, based on the record of the public hearing, adopt written findings that explain all of the following:

(A) The action to be taken by the board.

(B) Why the board decided to take the action.

(C) Why the action is authorized by and meets the requirements of subdivision (a).

(2) In addition, the findings shall address the significant issues raised or written evidence presented by affected operators, interested persons, the lead agency, or the department and findings from any review of the lead agency's administrative and enforcement program. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision by the board.

(f) If the board finds that the lead agency has not satisfactorily completed the remedial plan prepared pursuant to paragraph (1) of subdivision (c), the board shall follow the procedures set forth in paragraph (2) of subdivision (c) and subdivisions (d) and (e).

(g) The lead agency, any affected operator, or any interested person who has presented oral or written evidence at the public hearing before the board pursuant to subdivision (d) may obtain a review of the board's action taken pursuant to subdivision (a) by filing in the superior court a petition for a writ of mandate within 30 days following the issuance of the board's decision. Section 1094.5 of the Code of Civil Procedure governs judicial proceedings pursuant to this subdivision, except that in every case the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set by this subdivision, the board's action under subdivision (a) shall not be subject to review by any court or agency.

SEC. 15. Section 2776 of the Public Resources Code is amended to read:

2776. (a) (1) A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall

not be required to secure a permit pursuant to this chapter as long as the vested right continues and as long as no substantial changes are made in the operation except in accordance with this chapter. A person shall be deemed to have vested rights if, prior to January 1, 1976, the person has, in good faith and in reliance upon a permit or other authorization, if the permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary for the surface mining operations. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

(2) A lead agency shall maintain records associated with a vested right determination.

(b) The reclamation plan required to be filed pursuant to subdivision (b) of Section 2770 shall apply to operations conducted after January 1, 1976, or to be conducted.

(c) Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for or the reclamation of mined lands on which surface mining operations were conducted prior to January 1, 1976.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 17. This act shall become operative only if both this bill and Assembly Bill 1142 of the 2015–16 Regular Session are enacted and become operative.

O

Supported Legislation

Assembly Bill 177 (Bonilla D)
Professions and vocations: licensing boards: authority: extension.

Status: 8/31/2015-In committee: Referred to Senate Appropriations. Suspense file.
Location: 8/31/2015- Senate Appropriations. Suspense file.
Last Amendment: 8/31/2015

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

Updated 9/3/15
Staff Analysis: AB 177

Bill Summary: The Professional Engineers Act provides for the licensure and regulation of engineers by the Board for Professional Engineers, Land Surveyors, and Geologists, in the Department of Consumer Affairs. This bill would extend the operation of these provisions until January 1, 2020.

Staff Comment: As drafted, among other things, AB 177 would extend the sunset date for this Board to January 1, 2020. AB 177 would merge the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund into the fund, which would be renamed the Professional Engineer's, Land Surveyor's, and Geologist's Fund. Recent amendments defined the merger would become effective July 1, 2016 which is also the beginning of the new Fiscal Year. Additionally, AB 177 would add a much needed cause for disciplinary action by the board if a licensee or certificate holder fails or refuses to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder.

Board Position: Support - as amended 6/30/2015.

Staff Recommendation: Board staff recommends the Board take a **support** position on the bill as amended 8/31/2015.

Laws: An act to amend Sections 6710, 6714, 6749, 6797, 7839.2, 7841, 7841.1, 7841.2, 8710, 8759, and 8800 of, to add Sections 6775.2, 7860.2, and 8780.2 to, to repeal Section 7885 of, and to repeal and add Section 7886 of, the Business and Professions Code, relating to professions and vocations.

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
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August 11, 2015

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

Re: Support of AB 177

Dear Senator Lara:

The Board for Professional Engineers, Land Surveyors, and Geologists has voted to **SUPPORT** Assembly Bill 177. This bill is scheduled to be heard in Appropriations Committee on August 17, 2015.

As drafted, among other things, this bill will extend the sunset date for this Board to January 1, 2020. AB 177 would merge the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund into the fund, which would be renamed the Professional Engineer's, Land Surveyor's, and Geologist's Fund. Additionally, AB 177 would add a much needed cause for disciplinary action by the board if a licensee or certificate holder fails or refuses to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder.

If you have any questions or concerns please contact Kara Williams, Legislative Analyst, at 916.263.5438.

Sincerely,

Richard B. Moore, PLS
Executive Officer

cc. Members, Senate Appropriations Committee
Brendan McCarthy, Consultant, Senate Appropriations Committee

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY MARCH 3, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL No. 177

Introduced by Assembly Member Bonilla
(Principal Coauthor: Senator Hill)

January 26, 2015

An act to amend Sections *207,* 5510, 5517, 5620, 5621, 5622, 6710, 6714, 6749, 7839.2, 7841, 7841.1, 7841.2, 8710, and 8759 of, to amend and repeal Section 7885 of, to amend, repeal, and add Sections 205, ~~207,~~ 6797, 7886, and 8800 of, *to add Section 5550.2 to,* and to add and repeal Sections 6775.2, 7860.2, and 8780.2 of, the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) The Professional Engineers Act provides for the licensure and regulation of engineers by the Board for Professional Engineers, Land Surveyors, and ~~Geologists, which consists of 15 members, in the Department of Consumer Affairs.~~ *Geologists.* The act requires the board to appoint an executive ~~officer, as specified. Under existing law, these provisions are repealed on January 1, 2016.~~ *officer. Existing law repeals the board and the executive officer position on January 1, 2016.*

This bill would extend the operation of these provisions ~~until~~ *to* January 1, 2020. The bill, until January 1, 2020, would add as a cause for disciplinary action by the board, as specified, if a licensee or certificate holder under the act fails or refuses to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder. ~~The bill would also make technical amendments to the act.~~

(2) Existing ~~law~~ *law, the Architects Practice Act,* provides for the licensure and regulation of architects and landscape architects by the California Architects Board~~, which consists of 10 members, in the Department of Consumer of Affairs.~~ *and authorizes the board to appoint an executive officer.* 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.~~ *Existing law repeals the board, the executive officer position, and the committee on January 1, 2016. Existing law requires a person to pass an examination as a condition of licensure as an architect and authorizes a person to take the examination if he or she meets certain examination eligibility requirements.*

This bill would extend the operation of ~~these~~ *those* provisions ~~until~~ *to* January 1, 2020. *The bill would also authorize the board to grant eligibility to a candidate to take the licensure examination if he or she is enrolled in an Additional Path to Architecture Licensing program, as specified.*

(3) The Professional Land Surveyors' Act provides for the licensure and regulation of land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists, which is vested with the power to administer the ~~act. Under existing law, these provisions are repealed on January 1, 2016.~~ *act until January 1, 2016.*

This bill would extend ~~the operation of these provisions until~~ *that power to* January 1, 2020. The ~~bill~~ *bill, until January 1, 2020,* would also add as a cause for disciplinary action by the board, as specified, if a licensee or certificate holder under the act fails or refuses to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder.

(4) The Geologist and Geophysicist Act provides for the registration and regulation of professional geologists and professional geophysicists and the certification of applicants in ~~specialties~~ *a specialty* in geology

and geologists-in-training by the Board for Professional Engineers, Land Surveyors, and Geologists. The act requires an applicant for registration as a geologist to meet certain requirements, including, among others, that he or she has graduated with a major in geological sciences from college or university, and requires an applicant for registration as a geophysicist to meet certain requirements, including, among others, that he or she has completed a combination of at least 30 semester hours in courses, as specified. The act requires an applicant for certification as a geologist-in-training to comply with certain requirements, including, among ~~others~~ *others*, that the applicant successfully pass the Fundamentals of Geology examination.

This bill would provide for licensure instead of registration under the act. The bill would also allow an applicant for licensure as a geologist to have graduated from a college or university with a major in a discipline other than geological sciences that, in the opinion of the board, is relevant to geology. The bill would also ~~allows~~ *allow* an applicant for licensure as a geophysicist to have completed at least the equivalent of 30 semester hours in courses, as specified. The bill would require an applicant for certification as a geologist-in-training to have graduated from a college or university with a major in geological sciences or any other discipline *relevant to geology*, as specified. The ~~bill~~ *bill, until January 1, 2020,* would add as a cause for disciplinary action by the board, as specified, if a licensee or certificate holder under the act fails or refuses to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder.

(5) Under existing law, there is the Professions and Vocations Fund in the State Treasury, which consists of certain special funds and accounts, including the Professional Engineer's and Land Surveyor's Fund and the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund. Under existing law the moneys in the Geology and Geophysics Account are *continuously* appropriated to carry out the purposes of the Geologist and Geophysicist Act, the moneys in the Professional Engineers's and Land Surveyor's Fund are *continuously* appropriated for the purposes of the Professional Engineers *Act* and the Professional Land ~~Surveyor's~~ *Surveyors'* Act, and the moneys in those funds *that* are attributable to administrative fines, civil penalties, and criminal penalties, as specified, are not continuously appropriated and are only available for expenditure upon appropriation by the Legislature.

~~This bill, on and after July 1, 2016, would merge the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund into the fund, which would be renamed the Professional Engineer's, Land Surveyor's, and Geologist's Fund, and would require that the fees and civil penalties received under the Professional Engineers Act, the Professional Land Surveyors' Act, and the Geologist and Geophysicist Act be deposited into that fund. The bill would specify that the fees in the fund are continuously appropriated, as specified.~~

This bill, beginning July 1, 2016, would abolish the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund and would rename the Professional Engineer's and Land Surveyor's Fund as the Professional Engineer's, Land Surveyor's, and Geologist's Fund. The bill would direct those moneys collected under the Professional Engineers Act, the Professional Land Surveyors' Act, and the Geologist and Geophysicist Act to be deposited into the Professional Engineer's, Land Surveyor's, and Geologist's Fund, a continuously appropriated fund. Because additional moneys, except for fine and penalty money, would be deposited into a continuously appropriated fund, the bill would make an appropriation.

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

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

SECTION 1. Section 205 of the Business and Professions Code is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

(1) Accountancy Fund.
(2) California Architects Board Fund.
(3) Athletic Commission Fund.
(4) Barbering and Cosmetology Contingent Fund.
(5) Cemetery Fund.
(6) Contractors' License Fund.
(7) State Dentistry Fund.
(8) State Funeral Directors and Embalmers Fund.
(9) Guide Dogs for the Blind Fund.
(10) Home Furnishings and Thermal Insulation Fund.
(11) California Architects Board-Landscape Architects Fund.

(12) Contingent Fund of the Medical Board of California.
(13) Optometry Fund.
(14) Pharmacy Board Contingent Fund.
(15) Physical Therapy Fund.
(16) Private Investigator Fund.
(17) Professional Engineer's and Land Surveyor's Fund.
(18) Consumer Affairs Fund.
(19) Behavioral Sciences Fund.
(20) Licensed Midwifery Fund.
(21) Court Reporters' Fund.
(22) Veterinary Medical Board Contingent Fund.
(23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.
(24) Electronic and Appliance Repair Fund.
(25) Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund.
(26) Dispensing Opticians Fund.
(27) Acupuncture Fund.
(28) Physician Assistant Fund.
(29) Board of Podiatric Medicine Fund.
(30) Psychology Fund.
(31) Respiratory Care Fund.
(32) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
(33) Board of Registered Nursing Fund.
(34) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.
(35) Animal Health Technician Examining Committee Fund.
(36) State Dental Hygiene Fund.
(37) State Dental Assistant Fund.
(38) Structural Pest Control Fund.
(39) Structural Pest Control Eradication and Enforcement Fund.
(40) Structural Pest Control Research Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

~~(c) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed.~~

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

SEC. 2. Section 205 is added to the Business and Professions Code, to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

(1) Accountancy Fund.
(2) California Architects Board Fund.
(3) Athletic Commission Fund.
(4) Barbering and Cosmetology Contingent Fund.
(5) Cemetery Fund.
(6) Contractors' License Fund.
(7) State Dentistry Fund.
(8) State Funeral Directors and Embalmers Fund.
(9) Guide Dogs for the Blind Fund.
(10) Home Furnishings and Thermal Insulation Fund.
(11) California Architects Board-Landscape Architects Fund.
(12) Contingent Fund of the Medical Board of California.
(13) Optometry Fund.
(14) Pharmacy Board Contingent Fund.
(15) Physical Therapy Fund.
(16) Private Investigator Fund.
(17) Professional Engineer's, Land Surveyor's, and Geologist's Fund.
(18) Consumer Affairs Fund.
(19) Behavioral Sciences Fund.
(20) Licensed Midwifery Fund.
(21) Court Reporters' Fund.
(22) Veterinary Medical Board Contingent Fund.
(23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.
(24) Electronic and Appliance Repair Fund.
(25) Dispensing Opticians Fund.
(26) Acupuncture Fund.
(27) Physician Assistant Fund.
(28) Board of Podiatric Medicine Fund.

(29) Psychology Fund.
(30) Respiratory Care Fund.
(31) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
(32) Board of Registered Nursing Fund.
(33) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.
(34) Animal Health Technician Examining Committee Fund.
(35) State Dental Hygiene Fund.
(36) State Dental Assistant Fund.
(37) Structural Pest Control Fund.
(38) Structural Pest Control Eradication and Enforcement Fund.
(39) Structural Pest Control Research Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) This section shall become operative on July 1, ~~2017.~~ *2016.*

SEC. 3. Section 207 of the Business and Professions Code is amended to read:

207. (a) Notwithstanding any other provision of law, the money in any fund described in Section 205 that is attributable to administrative fines, civil penalties, and criminal penalties imposed by a regulating entity, or cost recovery by a regulating entity from enforcement actions and case settlements, shall not be continuously appropriated. The money in each fund that is not continuously appropriated shall be available for expenditure as provided in this code only upon appropriation by the Legislature.

(b) Notwithstanding any other provision of law, the annual Budget Act may appropriate, in a single budget item for each individual fund described in ~~paragraphs (1) to (40), inclusive, of~~ subdivision (a) of Section 205, the entire amount available for expenditure in the budget year for that fund. That appropriation may include funds that are continuously appropriated and funds that are not continuously appropriated.

~~(c) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed.~~

~~SEC. 4. Section 207 is added to the Business and Professions Code, to read:~~

~~207. (a) Notwithstanding any other provision of law, the money in any fund described in Section 205 that is attributable to administrative fines, civil penalties, and criminal penalties imposed by a regulating entity, or cost recovery by a regulating entity from enforcement actions and case settlements, shall not be continuously appropriated. The money in each fund that is not continuously appropriated shall be available for expenditure as provided in this code only upon appropriation by the Legislature.~~

~~(b) Notwithstanding any other provision of law, the annual Budget Act may appropriate, in a single budget item for each individual fund described in paragraphs (1) to (39), inclusive, of subdivision (a) of Section 205, the entire amount available for expenditure in the budget year for that fund. That appropriation may include funds that are continuously appropriated and funds that are not continuously appropriated.~~

~~(c) This section shall become operative on July 1, 2016.~~

~~SEC. 5.~~

SEC. 4. Section 5510 of the Business and Professions Code is amended to read:

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

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

This section shall remain in effect only until January 1, 2020, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

~~SEC. 6.~~

SEC. 5. Section 5517 of the Business and Professions Code is amended to read:

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

This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 6. Section 5550.2 is added to the Business and Professions Code, to read:

5550.2. Notwithstanding subdivision (b) of Section 5552, the board may grant eligibility, based on an eligibility point determined by the Additional Path to Architectural Licensing Program, for a candidate to take the examination for a license to practice architecture if he or she is enrolled in an Additional Path to Architectural Licensing program that integrates the experience and examination components offered by a National Architectural Accrediting Board-accredited degree program.

SEC. 7. Section 5620 of the Business and Professions Code is amended to read:

5620. The duties, powers, purposes, responsibilities, and jurisdiction of the California State Board of Landscape Architects that were succeeded to and vested with the Department of Consumer Affairs in accordance with Chapter 908 of the Statutes of 1994 are hereby transferred to the California Architects Board. The Legislature finds that the purpose for the transfer of power is to promote and enhance the efficiency of state government and that assumption of the powers and duties by the California Architects Board shall not be viewed or construed as a precedent for the establishment of state regulation over a profession or vocation that was not previously regulated by a board, as defined in Section 477.

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

Whenever in this chapter "board" is used, it refers to the California Architects Board.

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

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

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

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 8. Section 5621 of the Business and Professions Code is amended to read:

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

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

(c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; and one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of his or her successor or until one year shall have elapsed, whichever first occurs. Vacancies shall be filled for the unexpired term.

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

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 9. Section 5622 of the Business and Professions Code is amended to read:

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

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

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

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

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 10. Section 6710 of the Business and Professions Code is amended to read:

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

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

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 11. Section 6714 of the Business and Professions Code is amended to read:

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

This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 12. Section 6749 of the Business and Professions Code is amended to read:

6749. (a) A professional engineer shall use a written contract when contracting to provide professional engineering services to a client pursuant to this chapter. The written contract shall be executed by the professional engineer and the client or the client's representative prior to the professional engineer commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of the services to be provided to the client by the professional engineer.

(2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.

(3) The name, address, and license or certificate number of the professional engineer, and the name and address of the client.

(4) A description of the procedure that the professional engineer and the client will use to accommodate additional services.

(5) A description of the procedure to be used by both parties to terminate the contract.

(b) This section shall not apply to any of the following:

(1) Professional engineering services rendered by a professional engineer for which the client will not pay compensation.

(2) A professional engineer who has a current or prior contractual relationship with the client to provide engineering services, and that client has paid the professional engineer all of the fees that are due under the contract.

(3) If the client knowingly states in writing after full disclosure of this section that a contract which complies with the requirements of this section is not required.

(4) Professional engineering services rendered by a professional engineer to any of the following:

(A) A professional engineer licensed or registered under this chapter.

(B) A land surveyor licensed under Chapter 15 (commencing with Section 8700).

(C) An architect licensed under Chapter 3 (commencing with Section 5500).

(D) A contractor licensed under Chapter 9 (commencing with Section 7000).

(E) A geologist or a geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(F) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with or incidental to the products, systems, or services of that corporation or its affiliates.

(G) A public agency.

(c) "Written contract" as used in this section includes a contract that is in electronic form.

SEC. 13. Section 6775.2 is added to the Business and Professions Code, to read:

6775.2. (a) The failure of, or refusal by, a licensee or a certificate holder to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder constitutes a cause for disciplinary action under Section 6775 or 6775.1.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 14. Section 6797 of the Business and Professions Code is amended to read:

6797. (a) The department shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report such money to the ~~State~~ Controller and shall pay it to the ~~State~~ Treasurer, who shall keep the money in a separate fund known as the Professional Engineer's and Land Surveyor's Fund.

(b) For accounting and recordkeeping purposes, the Professional Engineer's and Land Surveyor's Fund shall be deemed to be a single special fund, and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's and Land Surveyor's Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

~~(d) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed.~~

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

SEC. 15. Section 6797 is added to the Business and Professions Code, to read:

6797. (a) The department shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report such money to the ~~State~~ Controller and shall pay it to the ~~State~~ Treasurer, who shall keep the money in a separate fund known as the Professional Engineer's, Land Surveyor's, and Geologist's Fund.

(b) For accounting and recordkeeping purposes, the Professional Engineer's, Land Surveyor's, and Geologist's Fund shall be deemed to be a single special fund, and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's, Land Surveyor's, and Geologist's Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

(d) This section shall become operative on July 1, 2016.

SEC. 16. Section 7839.2 of the Business and Professions Code is amended to read:

7839.2. (a) A professional geologist or professional geophysicist shall use a written contract when contracting to provide geological or geophysical services to a client pursuant to this chapter. The written contract shall be executed by the professional geologist or professional geophysicist and the client or the client's representative prior to the professional geologist or professional geophysicist commencing work, unless the client states in writing that work may be commenced before the contract is executed. The written contract shall include, but is not limited to, all of the following:

(1) A description of the services to be provided to the client by the professional geologist or professional geophysicist.

(2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.

(3) The name, address, and license or certificate number of the professional geologist or professional geophysicist, and the name and address of the client.

(4) A description of the procedure that the professional geologist or professional geophysicist and the client will use to accommodate additional services.

(5) A description of the procedure to be used by both parties to terminate the contract.

(b) Subdivision (a) shall not apply to any of the following:

(1) Geologic or geophysical services rendered by a professional geologist or professional geophysicist for which the client will not pay compensation.

(2) A geologist or geophysicist who has a current or prior contractual relationship with the client to provide geologic or geophysical services, and who has already been paid the fees that are due under the contract by the client.

(3) If the client executes a waiver in writing after full disclosure of this section that a contract that complies with the requirements of this section is not required.

(4) Geological or geophysical services rendered by a geologist or geophysicist to any of the following:

(A) A geologist or geophysicist licensed under this chapter.

(B) An engineer licensed under Chapter 7 (commencing with Section 6700).

(C) A land surveyor licensed under Chapter 15 (commencing with Section 8700).

(D) An architect licensed under Chapter 3 (commencing with Section 5500).

(E) A contractor licensed under Chapter 9 (commencing with Section 7000).

(F) A public agency.

(c) As used in this section, "written contract" includes a contract in electronic form.

SEC. 17. Section 7841 of the Business and Professions Code is amended to read:

7841. An applicant for licensure as a geologist shall have all the following qualifications:

(a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Graduation from a college or university with a major in geological sciences or any other discipline that, in the opinion of the board, is relevant to geology.

(c) Have a documented record of a minimum of five years of professional geological experience of a character satisfactory to the board, demonstrating that the applicant is qualified to assume responsible charge of this work upon licensure as a geologist. This experience shall be gained under the supervision of a geologist or geophysicist licensed in this or any other state, or under the supervision of others who, in the opinion of the board, have the training and experience to have responsible charge of geological work. Professional geological work does not include routine sampling, laboratory work, or geological drafting.

Each year of undergraduate study in the geological sciences shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.

Teaching in the geological sciences at college level shall be credited year for year toward meeting the requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of upper division or graduate courses.

Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of three years towards meeting the requirement for at least five years of professional geological work as set forth above.

The ability of the applicant shall have been demonstrated by the applicant having performed the work in a responsible position, as the term "responsible position" is defined in regulations adopted by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in regulations adopted by it.

(d) Successfully pass a written examination that incorporates a national examination for geologists created by a nationally recognized entity approved by the board, and a supplemental California specific examination. The California specific examination shall test the applicant's knowledge of state laws, rules and regulations, and of seismicity and geology unique to practice within this state.

SEC. 18. Section 7841.1 of the Business and Professions Code is amended to read:

7841.1. An applicant for licensure as a geophysicist shall have all of the following qualifications. This section shall not apply to applicants for licensure as geologists.

(a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Meet one of the following educational requirements fulfilled at a school or university whose curricula meet criteria established by rules of the board.

(1) Graduation with a major in a geophysical science or any other discipline that, in the opinion of the board, is relevant to geophysics.

(2) Completion of a combination of at least 30 semester hours, or the equivalent, in courses that, in the opinion of the board, are relevant to geophysics. At least 24 semester hours, or the equivalent, shall be in the third or fourth year, or graduate courses.

(c) Have at least seven years of professional geophysical work that shall include either a minimum of three years of professional geophysical work under the supervision of a professional geophysicist, except that prior to July 1, 1973, professional geophysical work shall qualify under this subdivision if it is under the supervision of a qualified geophysicist, or a minimum of five

years' experience in responsible charge of professional geophysical work. Professional geophysical work does not include the routine maintenance or operation of geophysical instruments, or, even if carried out under the responsible supervision of a professional geophysicist, the routine reduction or plotting of geophysical observations.

Each year of undergraduate study in the geophysical sciences referred to in this section shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.

Teaching in the geophysical sciences referred to in this section at a college level shall be credited year for year toward meeting the requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of third or fourth year or graduate courses.

Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of four years towards meeting the requirements for at least seven years of professional geophysical work as set forth above.

The ability of the applicant shall have been demonstrated by his or her having performed the work in a responsible position, as the term "responsible position" is defined in regulations adopted by the board. The adequacy of the required supervision and experience shall be determined by the board in accordance with standards set forth in regulations adopted by it.

(d) Successfully pass a written examination.

SEC. 19. Section 7841.2 of the Business and Professions Code is amended to read:

7841.2. An applicant for certification as a geologist-in-training shall comply with all of the following:

(a) Not have committed acts or crimes constituting grounds for denial of certification under Section 480.

(b) Successfully pass the Fundamentals of Geology examination.

(c) Graduation from a college or university with a major in geological sciences or any other discipline that, in the opinion of the board, is relevant to geology.

SEC. 20. Section 7860.2 is added to the Business and Professions Code, to read:

7860.2. (a) The failure of, or refusal by, a licensee or a certificate holder to respond to a written request from a

representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder constitutes a cause for disciplinary action under Section ~~7860 or 7860.1.~~ *7860.*

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 21. Section 7885 of the Business and Professions Code is amended to read:

7885. (a) The board shall report each month to the State Controller the amount and source of all revenue received by it pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Geology and Geophysics Account, which is hereby created within the Professional Engineer's and Land Surveyor's Fund established in Section 6797.

(b) All moneys in the Geology and Geophysics Fund on January 1, 2012, shall be transferred on that date to the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund.

~~(c) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed.~~

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

SEC. 22. Section 7886 of the Business and Professions Code is amended to read:

7886. (a) The moneys paid into the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund pursuant to this chapter are hereby appropriated to be used by the board to carry out the provisions of this chapter.

~~(b) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed.~~

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

SEC. 23. Section 7886 is added to the Business and Professions Code, to read:

7886. (a) The department shall receive and account for all money derived under the operation of this chapter and, at the end of each month, shall report such money to the Controller and shall pay it to the Treasurer, who shall keep the money in a separate

fund known as the Professional Engineer's, Land Surveyor's, and Geologist's Fund.

(b) For accounting and recordkeeping purposes, the Professional Engineer's, Land Surveyor's, and Geologist's Fund shall be deemed to be a single special fund and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's, Land Surveyor's, and Geologist's Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

(d) This section shall become operative on July 1, 2016.

SEC. 24. Section 8710 of the Business and Professions Code is amended to read:

8710. (a) The Board for Professional Engineers, Land Surveyors, and Geologists is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 25. Section 8759 of the Business and Professions Code is amended to read:

8759. (a) A licensed land surveyor or licensed civil engineer authorized to practice land surveying shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the licensed land surveyor or licensed civil engineer and the client or the client's representative prior to the licensed land surveyor or licensed civil engineer commencing work, unless the client knowingly states in writing that work may be commenced before

the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of the services to be provided to the client by the licensed land surveyor or licensed civil engineer.

(2) A description of any basis of compensation applicable to the contract, and the method of payment agreed upon by the parties.

(3) The name, address, and license or certificate number of the licensed land surveyor or licensed civil engineer, and the name and address of the client.

(4) A description of the procedure that the licensed land surveyor or licensed civil engineer and the client will use to accommodate additional services.

(5) A description of the procedure to be used by both parties to terminate the contract.

(b) This section shall not apply to any of the following:

(1) Professional land surveying services rendered by a licensed land surveyor or licensed civil engineer for which the client will not pay compensation.

(2) A licensed land surveyor or licensed civil engineer who has a current or prior contractual relationship with the client to provide professional services pursuant to this chapter, and that client has paid the licensed land surveyor or licensed civil engineer all of the fees that are due under the contract.

(3) If the client knowingly states in writing after full disclosure of this section that a contract which complies with the requirements of this section is not required.

(4) Professional services rendered by a licensed land surveyor or a licensed civil engineer to any of the following:

(A) A professional engineer licensed under Chapter 7 (commencing with Section 6700).

(B) A land surveyor licensed under this chapter.

(C) An architect licensed under Chapter 3 (commencing with Section 5500).

(D) A contractor licensed under Chapter 9 (commencing with Section 7000).

(E) A geologist or a geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(F) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are

provided in connection with or incidental to the products, systems, or services of that corporation or its affiliates.

(G) A public agency.

(c) "Written contract" as used in this section includes a contract that is in electronic form.

SEC. 26. Section 8780.2 is added to the Business and Professions Code, to read:

8780.2. (a) The failure of, or refusal by, a licensee or a certificate holder to respond to a written request from a representative of the board to cooperate in the investigation of a complaint against that licensee or certificate holder constitutes a cause for disciplinary action under Section 8780 or 8780.1.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

SEC. 27. Section 8800 of the Business and Professions Code is amended to read:

8800. (a) The department shall receive and account for all money derived under the operation of this chapter and, at the end of each month, shall report such money to the ~~State~~ Controller and shall pay it to the ~~State~~ Treasurer, who shall keep the money in a separate fund known as the Professional Engineer's and Land Surveyor's Fund.

(b) For accounting and recordkeeping purposes, the Professional Engineer's and Land Surveyor's Fund shall be deemed to be a single special fund, and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's and Land Surveyor's Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

~~(d) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed.~~

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

SEC. 28. Section 8800 is added to the Business and Professions Code, to read:

8800. (a) The department shall receive and account for all money derived under the operation of this chapter and, at the end of each month, shall report such money to the ~~State~~ Controller and

shall pay it to the ~~State~~ Treasurer, who shall keep the money in a separate fund known as the Professional Engineer's, Land Surveyor's, and Geologist's Fund.

(b) For accounting and recordkeeping purposes, the Professional Engineer's, Land Surveyor's, and Geologist's Fund shall be deemed to be a single special fund, and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

(c) The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's, Land Surveyor's, and Geologist's Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

(d) This section shall become operative on July 1, 2016.

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Supported Legislation

Senate Bill 284 (Cannella R)
Engineering and land surveying: limited liability partnerships.

Status: 8/10/2015-Chaptered by Secretary of State - Chapter 157, Statutes of 2015.
Last Amendment: 5/5/2015

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

Updated 8/26/15
Staff Analysis: SB 284

Bill Summary: Current 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. Current law repeals these provisions on January 1, 2016. This bill would extend the operation of these provisions until January 1, 2019. This bill contains other existing laws.

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.

Board Position: Support - as amended 5/5/2015.

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.

Senate Bill No. 284

CHAPTER 157

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

[Approved by Governor August 10, 2015. Filed with Secretary of State August 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 284, 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 extend the operation of these provisions until January 1, 2019.

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

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

6738. (a) This chapter does not prohibit one or more civil, electrical, or mechanical engineers from practicing or offering to practice, within the scope of their license, civil (including geotechnical and structural), electrical, or mechanical engineering as a sole proprietorship, partnership, limited

liability partnership, firm, or corporation (hereinafter called business), if all of the following requirements are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

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

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

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

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

(3) If the business name of a California engineering business contains the name of any person, then that person shall be licensed as a professional engineer, a licensed land surveyor, a licensed architect, or a geologist

registered under the Geologist and Geophysicist Act (Chapter 12.5 (commencing with Section 7800)). Any offer, promotion, or advertisement by the business that contains the name of any individual in the business, other than by use of the name of an individual in the business name, shall clearly and specifically designate the license or registration discipline of each individual named.

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

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

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

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

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

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

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

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

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, or a geologist, (A) by the appropriate licensing

board if that person is operating a place of business or practice in this state, or (B) by the applicable state board if no place of business existed in this state.

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

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

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

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

(j) This section shall become operative on January 1, 2019.

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

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

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

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

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

(b) An out-of-state business with a branch office in this state shall meet the requirements of subdivision (a) and shall have an owner, partner, or officer who is in charge of the land surveying work in this state, who is licensed in this state, and who is physically present at the branch office in this state on a regular basis. However, the name of the business may contain the name of a person not licensed in this state, if that person is appropriately licensed or registered in another state. Any offer, promotion, or advertisement that contains the name of any individual in the business, other than by use of the name of the individual in the business name, shall clearly and

specifically designate the license or registration discipline of each individual named.

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

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

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

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 4. Section 8729 of the Business and Professions Code, as added by Section 4 of Chapter 634 of the Statutes of 2010, is amended to read:

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

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

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

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

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

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

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

(e) This chapter does not prevent an individual or business engaged in any line of endeavor, other than the practice of land surveying, from employing or contracting with a licensed land surveyor or a licensed civil

engineer to perform the respective land surveying services incidental to the conduct of business.

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

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

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

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

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

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

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

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

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

(j) This section shall become operative on January 1, 2019.

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

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

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

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

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

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

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

(4) "Electronic transmission by the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (b) to a recipient who has provided an unrevoked consent to the use of those means of transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form. However, an electronic transmission by a partnership to an individual partner is not authorized unless, in addition to satisfying the requirements of this section, the transmission satisfies the requirements applicable to consumer consent to electronic records as set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001(c)(1)).

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

(6) (A) "Foreign limited liability partnership" means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (i) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) which is licensed under the laws of the state to engage in the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law, or (iii) which (I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

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

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

(8) (A) "Registered limited liability partnership" means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 10 (commencing with Section 16951), that is registered under Section 16953 and (i) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) is licensed under the laws of the state to engage in the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law, or (iii)(I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

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

(9) "Partnership" means an association of two or more persons to carry on as coowners a business for profit formed under Section 16202, predecessor law, or comparable law of another jurisdiction, and includes, for all purposes of the laws of this state, a registered limited liability partnership, and excludes any partnership formed under Chapter 4.5 (commencing with Section 15900).

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

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

(12) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(14) "Professional limited liability partnership services" means the practice of architecture, the practice of public accountancy, the practice of engineering, the practice of land surveying, or the practice of law.

(15) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

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

(17) "Statement" means a statement of partnership authority under Section 16303, a statement of denial under Section 16304, a statement of dissociation under Section 16704, a statement of dissolution under Section 16805, a statement of conversion or a certificate of conversion under Section 16906, a statement of merger under Section 16915, or an amendment or cancellation of any of the foregoing.

(18) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

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

(20) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 6. Section 16101 of the Corporations Code, as amended by Section 2 of Chapter 291 of the Statutes of 2011, is amended to read:

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

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

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

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

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

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

(4) "Electronic transmission by the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the partnership, (2) posting on an electronic message board or network that the partnership has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (b) to a recipient who has provided an unrevoked consent to the use of those means of transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form. However, an electronic transmission by a partnership to an individual partner is not authorized unless, in addition to satisfying the requirements of this section, the transmission satisfies the requirements applicable to consumer consent to electronic records as set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001(c)(1)).

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

(6) (A) "Foreign limited liability partnership" means a partnership, other than a limited partnership, formed pursuant to an agreement governed by the laws of another jurisdiction and denominated or registered as a limited liability partnership or registered limited liability partnership under the laws of that jurisdiction (i) in which each partner is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) which is licensed under the laws of the state to engage in the practice of architecture, the practice of public accountancy, or the practice of law, or (iii) which (I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

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

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

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

(8) (A) "Registered limited liability partnership" means a partnership, other than a limited partnership, formed pursuant to an agreement governed by Article 10 (commencing with Section 16951), that is registered under Section 16953 and (i) each of the partners of which is a licensed person or a person licensed or authorized to provide professional limited liability partnership services in a jurisdiction or jurisdictions other than this state, (ii) is licensed under the laws of the state to engage in the practice of architecture, practice of public accountancy, or the practice of law, or (iii)(I) is related to a registered limited liability partnership that practices public accountancy or, to the extent permitted by the State Bar, practices law or is related to a foreign limited liability partnership and (II) provides services related or complementary to the professional limited liability partnership services provided by, or provides services or facilities to, that registered limited liability partnership or foreign limited liability partnership.

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

(9) "Partnership" means an association of two or more persons to carry on as coowners a business for profit formed under Section 16202, predecessor law, or comparable law of another jurisdiction, and includes, for all purposes of the laws of this state, a registered limited liability partnership, and excludes any partnership formed under Chapter 4.5 (commencing with Section 15900).

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

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

(12) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(14) "Professional limited liability partnership services" means the practice of architecture, the practice of public accountancy, or the practice of law.

(15) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

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

(17) "Statement" means a statement of partnership authority under Section 16303, a statement of denial under Section 16304, a statement of dissociation under Section 16704, a statement of dissolution under Section 16805, a statement of conversion or a certificate of conversion under Section 16906, a statement of merger under Section 16915, or an amendment or cancellation of any of the foregoing.

(18) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

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

(20) This section shall become operative on January 1, 2019.

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

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

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

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an

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

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

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

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

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

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

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

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars ($7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement,

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

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

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars ($7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that

the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

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

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

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

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

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

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

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

(4) For claims based upon acts, errors, or omissions arising out of the practice of engineering or the practice of land surveying, a registered limited

liability partnership or foreign limited liability partnership providing engineering or land surveying services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than two million dollars ($2,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars ($5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

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

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than two million dollars ($2,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars ($5,000,000). The partnership remains in compliance with this section during a calendar year, notwithstanding amounts paid during that calendar year from the accounts,

funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if, within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

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

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

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (4) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), shall furnish the following information to the Secretary of

State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

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

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership

2. _____
Jurisdiction where partnership is organized

3. _____
Address of principal office

4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), 16956(a)(3)(D), or 16956 (a)(4)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars ($10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars ($15,000,000) in the case of a partnership providing legal services, or ten million dollars ($10,000,000), in the case of a partnership providing architectural services, engineering services, or land surveying services.

5. _____
Title of authorized person executing this form

6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the

optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

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

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

(f) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 8. Section 16956 of the Corporations Code, as added by Section 8 of Chapter 634 of the Statutes of 2010, is amended to read:

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

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

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of

insurance is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

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

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

of security by designating and segregating funds in compliance with the requirements of this subparagraph.

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

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

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

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars ($7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that

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

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

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars ($7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution

and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

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

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

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. On and after January 1, 2008, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars ($5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, “designated period” means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies.

A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

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

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than five hundred thousand dollars ($500,000), and for all other partnerships is not required to exceed five million dollars ($5,000,000). On and after January 1, 2008, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars ($1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars ($100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars ($5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing architectural services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all

partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

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

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), or subparagraph (D) of paragraph (3) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

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

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership

2. _____
Jurisdiction where partnership is organized

3. _____
Address of principal office

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

5. _____
Title of authorized person executing this form

6. _____
Signature of authorized person executing this form

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

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

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability

partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1), (2), or (3) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

(f) This section shall become operative on January 1, 2019.

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

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

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

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

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

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for

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

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

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

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

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

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

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

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

(*l*) "Transact intrastate business" as used in this section means to repeatedly and successively provide professional limited liability partnership services in this state, other than in interstate or foreign commerce.

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

(1) A shareholder of a domestic corporation.

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

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

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

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

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

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

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

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

(3) Maintaining bank accounts.

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

(5) Effecting sales through independent contractors.

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

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

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

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

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

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

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

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

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

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

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

(v) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 10. Section 16959 of the Corporations Code, as amended by Section 36 of Chapter 834 of the Statutes of 2014, is amended to read:

16959. (a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign limited liability partnership that transacts intrastate business in

this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting to the Secretary of State an application for registration as a foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, the street address of its principal office, the mailing address of the principal office if different from the street address, the name and street address of its agent for service of process in this state in accordance with subdivision (a) of Section 16309, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

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

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

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

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

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

application for registration under subdivision (a) or an amended registration or notice under Section 16960.

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

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

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

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

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

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

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

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

(1) A shareholder of a domestic corporation.

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

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

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

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

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

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

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

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

(3) Maintaining bank accounts.

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

(5) Effecting sales through independent contractors.

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

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

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

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

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

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

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

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

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

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

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

(v) This section shall become operative on January 1, 2019.

O

Supported Legislation

Senate Bill
(Committee on Business, Professions and Economic Development)

Status:
Location:
Last Amendment:

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

Updated 8/26/15
Staff Analysis: SB

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 cleaner language that could be included with its "Significate Structures" proposal in the future. The June 25, 2015, version of the bill adds a proposed amendment to Section 7818 to correct a typographical error in the reference to a Government Code section; this change is being made at the request of the Board.

Note: SB 799 the Senate Business, Professions and Economic Development non-health related omnibus committee bill is no longer the legislative vehicle for the non- substantial changes our program requested. The provisions of the former SB 799 will be amended into another vehicle.

Board Position: Support- as amended 6/25/15.

Staff Recommendation: Board staff recommends the Board take a **support** position on the most recent version of the bill.

Laws: An act to amend Sections 5070.1, 5087, 6735, 7083, 7818, 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.

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
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June 30, 2015

The Honorable Susan Bonilla
Chair, Assembly Business and Professions Committee
State Capitol, Room 4140
Sacramento, CA 95814

Re: Senate Bill 799– **Support**

Dear Chairwoman Bonilla:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted to **SUPPORT** Senate Bill 799, which is scheduled to be heard in the Business and Professions Committee on July 7, 2015.

The mission of the Board is to protect the public health, safety, welfare, and property by promoting standards of competence and integrity through the licensing and regulation of the Board's professions.

This bill would remove language that was added to Section 6735 in SB 1467 (2014) (enacted). SB 1467 amended Section 6735 of the PE Act to incorporate cross-references to Education Code and Health and Safety Code sections that require structural engineers to prepare plans for hospitals and schools. 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.

Please join us in supporting this important legislation.

Sincerely,

Richard B. Moore, PLS
Executive Officer

Amended in Assembly August 20, 2015

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL No.

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 *5055*, 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7685, *7818*, 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, as amended, Committee on Business, Professions and Economic Development. Business and professions.

(1) *Existing law provides for the practice of accountancy by the California Board of Accountancy. Existing law, until January 1, 2019, authorizes an individual whose principal place of business is not in this state and who has a valid and current license, certificate, or permit to practice public accountancy from another state to engage in the practice of public accountancy in this state under a practice privilege without obtaining a certificate or license subject to specified requirements.* 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 *authorize an individual practicing public accountancy in this state under a practice privilege to be styled and known as a "certified public accountant" and use the abbreviation "C.P.A." The bill would* prohibit the ~~California Board of Accountancy~~ *board* 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~~ *board* to issue a certified public ~~account~~ *accountant* (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)~~

(2) 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)~~

(3) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which consists of 7 members appointed by the Governor. Existing law authorizes the board to issue licenses for guide dog training and instructional services. A violation of these licensing provisions is a misdemeanor.

This bill would also include dogs trained and provided for visually impaired persons within these licensing requirements. The bill would change reporting requirements from a calendar year to a fiscal year period and would make technical changes.

~~(5)~~

(4) Under the Funeral Directors and Embalmers Law, the Cemetery and Funeral Bureau regulates licensed funeral establishments and requires that they be operated by a licensed funeral director who is required to provide written information regarding funeral goods and services and prices to consumers. Existing law requires a funeral establishment that maintains an Internet Web site to also post that information on its Internet Web site provided by a link from the homepage. A violation of these provisions is a misdemeanor.

This bill would require that the funeral establishment's Internet Web site contain specified key words.

~~(6) The~~

(5) Existing law provides for the licensure and regulation of structural pest control operators and registered companies by the Structural Pest Control Board. 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~~ *registered companies* 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.~~ *registered companies.*

~~(7) Existing~~

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.

~~(8)~~

(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.~~ *technology.*

(7) This bill would make various other nonsubstantive changes.

~~(9)~~

(8) 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:

SECTION 1. Section 5055 of the Business and Professions Code is amended to read:

5055. Any person who has received from the board a certificate of certified public ~~accountant~~ *accountant, or who is authorized to practice public accountancy in this state pursuant to Article 5.1 (commencing with Section 5096),* may, subject to Section 5051, be styled and known as a "certified public accountant" and may

also use the abbreviation "C.P.A." No other person, except a firm registered under this chapter, shall assume or use that title, designation, or abbreviation or any other title, designation, sign, card, or device tending to indicate that the person using it is a certified public accountant.

~~SECTION 1.~~

SEC. 2. Section 5070.1 of the Business and Professions Code is amended to read:

5070.1. (a) The board may establish, by regulation, a system for the placement of a license into a retired status, upon application, for certified public accountants and public accountants who are not actively engaged in the practice of public accountancy or any activity that requires them to be licensed by the board.

(b) No licensee with a license in a retired status shall engage in any activity for which a permit is required.

(c) The board shall deny an applicant's application to place a license in a retired status if the permit is subject to an outstanding order of the board, is suspended, revoked, or otherwise punitively restricted by the board, or is subject to disciplinary action under this chapter.

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

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

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

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

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

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

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

~~SEC. 2.~~

SEC. 3. Section 5087 of the Business and Professions Code is amended to read:

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

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

~~SEC. 3.~~

SEC. 4. Section 6735 of the Business and Professions Code is amended to read:

6735. (a) All civil (including structural and geotechnical) engineering plans, calculations, specifications, and reports (hereinafter referred to as "documents") shall be prepared by, or under the responsible charge of, a licensed civil engineer and shall include his or her name and license number. Interim documents shall include a notation as to the intended purpose of the document, such as "preliminary," "not for construction," "for plan check only," or "for review only." All civil engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the licensee and the date of signing and sealing or stamping. All final civil engineering calculations and reports shall bear the signature and seal or stamp of the licensee, and the date of signing and sealing or stamping. If civil engineering plans are required to be

signed and sealed or stamped and have multiple sheets, the signature, seal or stamp, and date of signing and sealing or stamping shall appear on each sheet of the plans. If civil engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, and date of signing and sealing or stamping shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

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

~~SEC. 4.~~

SEC. 5. Section 7083 of the Business and Professions Code is amended to read:

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

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

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

~~SEC. 5.~~

SEC. 6. Section 7200 of the Business and Professions Code is amended to read:

7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of

Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of persons who are blind or visually impaired and at least two of them shall be persons who are blind or visually impaired who use guide dogs.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

~~SEC. 6.~~

SEC. 7. Section 7200.5 of the Business and Professions Code is amended to read:

7200.5. The board shall have exclusive authority in this state to issue licenses for the instruction of persons who are blind or visually impaired in the use of guide dogs and for the training of guide dogs for use by persons who are blind or visually impaired. It shall also have exclusive authority in this state to issue licenses to operate schools for the training of guide dogs and the instruction of persons who are blind or visually impaired in the use of guide dogs.

~~SEC. 7.~~

SEC. 8. Section 7200.7 of the Business and Professions Code is amended to read:

7200.7. A fee equal to no more than 0.005 of all school expenses incurred in the most recently concluded school fiscal year, as specified in the audit required under Section 7217, shall be paid no later than April 30 of each year for renewal of a school's license pursuant to Section 7200.5. The board shall, by regulation, define the exact amount of the fee. All fees collected pursuant to this section shall be deposited into the Guide Dogs for the Blind Fund, which is hereby created.

~~SEC. 8.~~

SEC. 9. Section 7201 of the Business and Professions Code is amended to read:

7201. No person shall be eligible to membership in the board who is a stockholder in, or an owner of, or financially interested directly or indirectly, in any company, organization, or concern

supplying, delivering, or furnishing any guide dogs for use by persons who are blind or visually impaired.

~~SEC. 9.~~

SEC. 10. Section 7202 of the Business and Professions Code is amended to read:

7202. Each of the appointed members of the board shall hold office for a term of four years and until his *or her* successor is appointed and qualified or until one year shall have elapsed since the expiration of the term for which he *or she* was appointed, whichever first occurs. No person shall serve as an appointed member of the board for more than two consecutive terms.

~~SEC. 10.~~

SEC. 11. Section 7208 of the Business and Professions Code is amended to read:

7208. Pursuant to the provisions of the Administrative Procedure Act the board may make such rules and regulations as are reasonably necessary to:

(a) Govern the procedure of the board.

(b) Govern the admission of applicants for examination for license to instruct persons who are blind or visually impaired in the use of guide dogs or to engage in the business of training, selling, hiring, or being in the business of supplying guide dogs for persons who are blind or visually impaired.

(c) Govern the operation of schools which furnish guide dogs and train persons who are blind or visually impaired to use guide dogs.

(d) The reissuance of licenses.

(e) The reexamination of licensees.

~~SEC. 11.~~

SEC. 12. Section 7209 of the Business and Professions Code is amended to read:

7209. A person to be eligible for examination as an instructor must (a) have a knowledge of the special problems of persons who are blind or visually impaired and how to teach them, (b) be able to demonstrate by actual blindfold test under traffic conditions his *or her* ability to train guide dogs with whom persons who are blind or visually impaired would be safe, (c) be suited temperamentally and otherwise to instruct persons who are blind or visually impaired in the use of guide dogs, and (d) have had at least three years' actual experience, comprising such number of

hours as the board may require, as an instructor, and have handled 22 person-dog units; or its equivalent, as determined by the board, as an apprentice under a licensed instructor or under an instructor in a school satisfactory to the board.

~~SEC. 12.~~

SEC. 13. Section 7209.5 of the Business and Professions Code is amended to read:

7209.5. Except as the context otherwise requires, as used in this chapter the term "instructor" means a person who instructs persons who are blind or visually impaired in the use of guide dogs or who engages in the business of training, selling, hiring, or supplying guide dogs for persons who are blind or visually impaired.

~~SEC. 13.~~

SEC. 14. Section 7210.5 of the Business and Professions Code is amended to read:

7210.5. It is unlawful to solicit funds for any person purporting to provide guide dogs for persons who are blind or visually impaired in this state unless the person for whose benefit the solicitation is made holds a valid and unimpaired license issued by the State Board of Guide Dogs for the Blind.

As used in this section "person" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

~~SEC. 14.~~

SEC. 15. Section 7211.1 of the Business and Professions Code is amended to read:

7211.1. (a) As a condition of renewal of an instructor's license, the instructor shall provide proof of completion of not less than 8 hours of continuing education. The board shall determine the form of proof.

(b) Continuing education shall meet the criteria specified in Section 166, and shall be in one or more of the following subject matter areas:

(1) Blindness and mobility.
(2) Health issues relating to blindness.
(3) Instructing persons who are blind or visually impaired.
(4) Care and training of dogs.

~~SEC. 15.~~

SEC. 16. Section 7211.2 of the Business and Professions Code is amended to read:

7211.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, ~~information~~ *information,* or indictment.

~~SEC. 16.~~

SEC. 17. Section 7215 of the Business and Professions Code is amended to read:

7215. No person shall sell, give, or furnish any guide dog to a person who is blind or visually impaired unless the following requirements have been met:

(a) The dog has been immunized against distemper and rabies.

(b) The dog has been spayed or neutered.

(c) The dog has been examined by a licensed veterinarian and found to be in good health.

A certificate from a veterinarian certifying to the foregoing shall be delivered to the recipient of the dog at the time the dog is assigned to a client.

~~SEC. 17.~~

SEC. 18. Section 7215.5 of the Business and Professions Code is amended to read:

7215.5. *(a)* During the first year following the successful training of each person-dog unit, and release from a guide dog training school of the trained person supplied with a guide dog, the school may retain title to the trained dog. During this probationary year, the school may enter into a contractual agreement with the user of the dog describing the conditions under which the user may maintain the status of legal custodian of the dog. During the probationary year, the school, acting in what it deems to be the best interest of the user, the dog, or the public, may temporarily or permanently resume possession of the dog.

~~Within~~

(b) Within 15 days after the end of each fiscal year, each licensed school shall report to the board the following:

(1) The number of dog ownership titles transferred to dog users pursuant to this section during the calendar year.

(2) The number of title recoveries and repossessions made by the school pursuant to this section during the calendar year.

(3) The number, type, and amount of charges assessed for followup training, instruction, veterinary, or boarding services, pursuant to this section, which make a distinction between users who have acquired title to their dogs and users who have not acquired title.

(4) The views of the governing entity of the school as to any problems or concerns relative to compliance with the provisions of this section, along with recommendations for appropriate legislative or administrative changes commensurate with the purposes of this section.

~~Immediately~~

(c) Immediately upon completion of the first year following the successful training referred to above, if the training school and the dog user are mutually satisfied with the operation of the person-dog unit, title to the dog shall be transferred to the user who is blind or visually impaired if the user so desires. Transfer of title shall be evidenced by a transfer of title agreement executed by both parties thereto. The school may retain an option to recover title and possession to the guide dog subject to conditions described in the transfer of title agreement. These conditions may include, but are not limited to, the following:

(1) If in the school's opinion, the guide dog is being misused or neglected or mistreated by its user who is blind or visually impaired.

(2) If the user to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another person who is blind or visually impaired.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

~~The~~

(d) The guide dog school shall make no distinction as to the quality or extent of followup or supportive services available to

its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make this distinction when assessing reasonable and appropriate charges for followup training, instruction, veterinary, or boarding services.

~~No~~

(e) No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.

~~SEC. 18.~~

SEC. 19. Section 7217 of the Business and Professions Code is amended to read:

7217. (a) Within 60 days after the termination of the fiscal year of a school, there shall be furnished to the board the following:

(1) A list of students accepted for training and those who have completed training.

(2) A list of the number of dogs trained.

(b) Within 90 days after the end of a fiscal year, there shall be furnished to the board an independent audit of the school's finances by a certified public accountant licensed by this state.

~~SEC. 19.~~

SEC. 20. Section 7685 of the Business and Professions Code is amended to read:

7685. (a) (1) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale.

(2) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, prior to the drafting of any contract, a copy of any preneed agreement that has been

signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(3) The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by any individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Part 453 of Title 16 of the Code of Federal Regulations and any subsequent version of this regulation, shall be provided over the telephone, if requested.

(b) (1) Each licensed funeral establishment that maintains an Internet Web site shall post on its Internet Web site the list of funeral goods and services that are required to be included in the establishment's general price list, pursuant to federal rule, and a statement that the general price list is available upon request.

(2) Information posted pursuant to paragraph (1) shall be provided by a link from the homepage of the Internet Web site with a word or combination of words, including, but not limited to, "goods," "merchandise," "products," or "services."

(3) An establishment that posts on its Internet Web site home page the words "price information" or a similar phrase that includes the word "price," with a link that leads to the establishment's general price list, need not comply with paragraphs (1) or (2).

(4) Nothing in this subdivision shall be construed to affect an establishment's obligations under federal or state law effective prior to January 1, 2013.

(5) This subdivision shall become operative on January 1, 2013.

SEC. 21. Section 7818 of the Business and Professions Code is amended to read:

7818. The board, pursuant to the provisions contained in Chapter ~~4.5~~ *3.5* (commencing with Section ~~11371)~~ *11340)* of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend or repeal rules and regulations to carry out the provisions of this chapter.

~~SEC. 20.~~

SEC. 22. Section 8508 of the Business and Professions Code is amended to read:

8508. "Household" means any structure and its contents that are used for persons and their convenience.

~~SEC. 21.~~

SEC. 23. Section 8513 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

~~SEC. 22.~~

SEC. 24. Section 8516.5 of the Business and Professions Code is repealed.

~~SEC. 23.~~

SEC. 25. Section 8552 of the Business and Professions Code is amended to read:

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

~~SEC. 24.~~

SEC. 26. Section 8611 of the Business and Professions Code is amended to read:

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

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

~~SEC. 25.~~

SEC. 27. Section 17913 of the Business and Professions Code is amended to read:

17913. (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall be 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).

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

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

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

(3) Where the three asterisks (***) appear in the form: If the registrant is an individual, insert his or her full name and residence address. If the registrants are a married couple, insert the full name and residence address of both parties to the marriage. If the registrant is a general partnership, copartnership, joint venture, or limited liability partnership, insert the full name and residence address of each general partner. If the registrant is a limited partnership, insert the full name and residence address of each general partner. If the registrant is a limited liability company, insert the name and address of the limited liability company, as set out in its articles of organization on file with the California Secretary of State, and the state of organization. If the registrant is a trust, insert the full name and residence address of each trustee. If the registrant is a corporation, insert the name and address of the corporation, as set out in its articles of incorporation on file with the California Secretary of State, and the state of incorporation. If the registrants are state or local registered domestic partners, insert the full name and residence address of each domestic partner. If the registrant is an unincorporated association other than a partnership, insert the name of each person who is interested in the business of the association and whose liability with respect to the association is substantially the same as that of a general partner.

(4) Where the four asterisks (****) appear in the form, insert whichever of the following best describes the nature of the business: (i) “an individual,” (ii) “a general partnership,” (iii) “a limited partnership,” (iv) “a limited liability company,” (v) “an unincorporated association other than a partnership,” (vi) “a corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “a married

couple," (x) "joint venture," (xi) "state or local registered domestic partners," or (xii) "a limited liability partnership."

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

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

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

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

(e) If the registrant is a corporation, a limited liability company, a limited partnership, or a limited liability partnership, the county clerk may require documentary evidence issued by the California Secretary of State and deemed acceptable by the county clerk, indicating the current existence and good standing of that business entity to be attached to a completed and notarized affidavit of identity, for purposes of subdivision (d).

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

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

~~SEC. 26.~~

SEC. 28. Section 13995.40 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

subdivision, the phrase "two consecutive terms" shall not include partial terms.

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

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

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

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

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

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

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

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

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

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

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

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

~~SEC. 27.~~

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

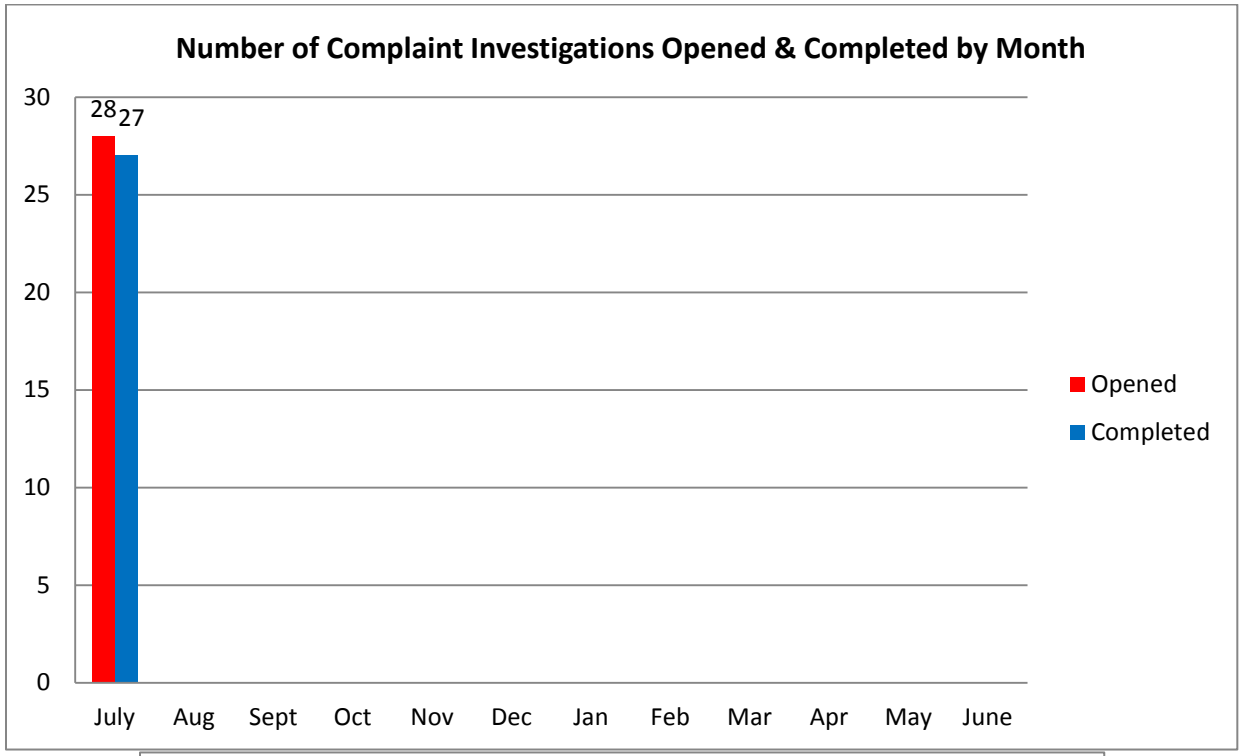
IV. Consideration of Rulemaking Proposals

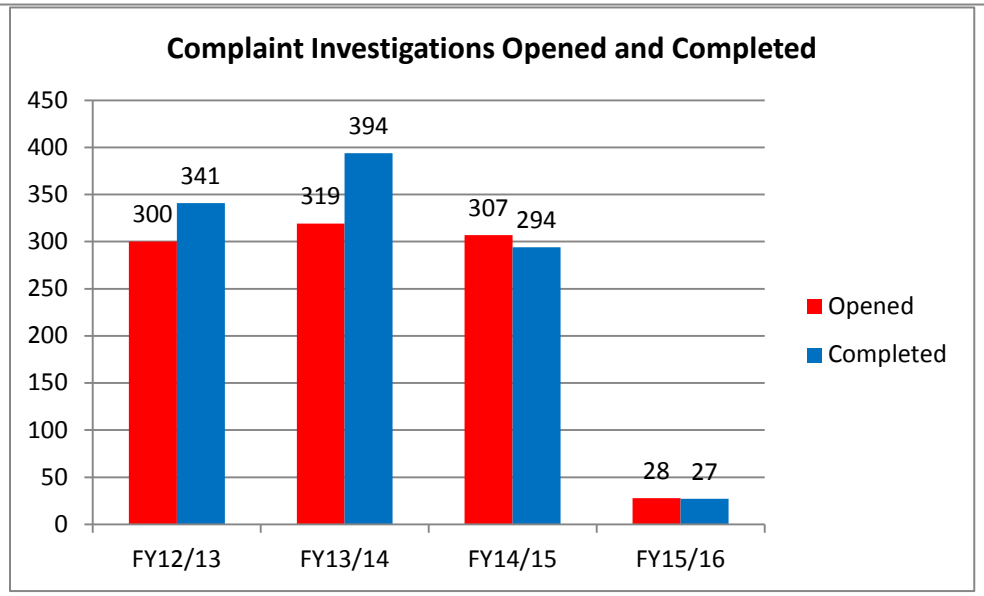
V. Enforcement

A. Enforcement Statistical Report

PELS ENFORCEMENT PROGRAM

Complaint Investigation Phase

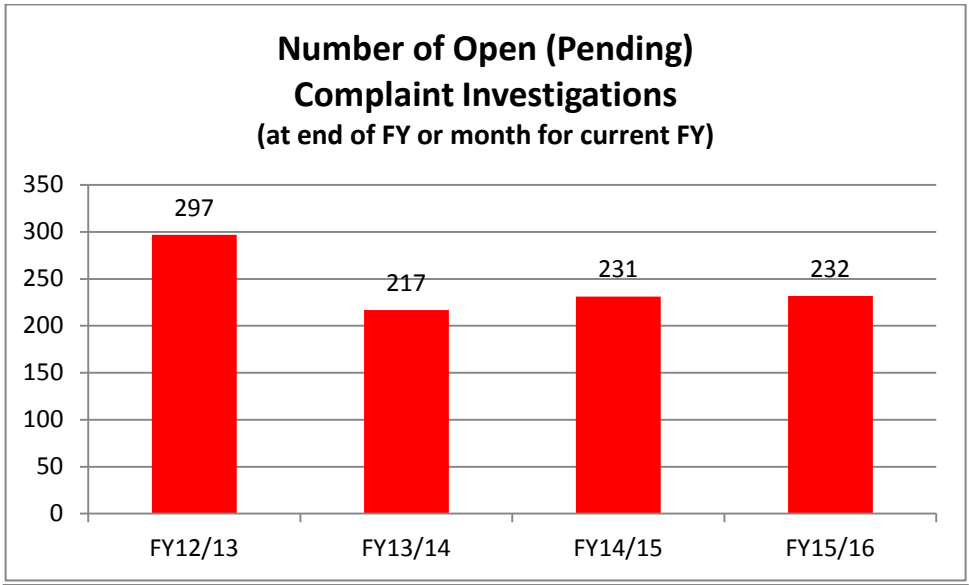


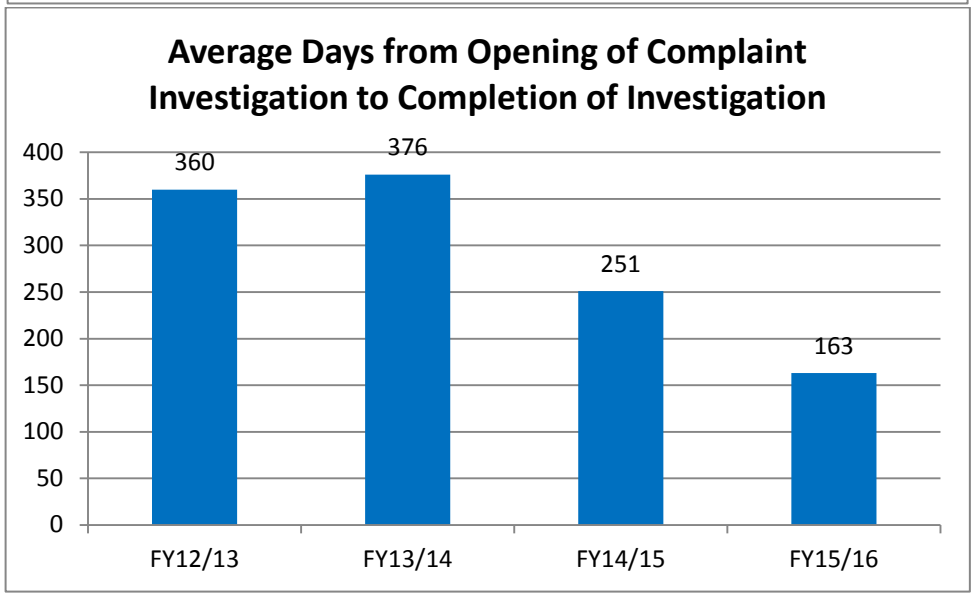


NOTE: FY15/16 statistics are through July 31, 2015

PELS ENFORCEMENT PROGRAM

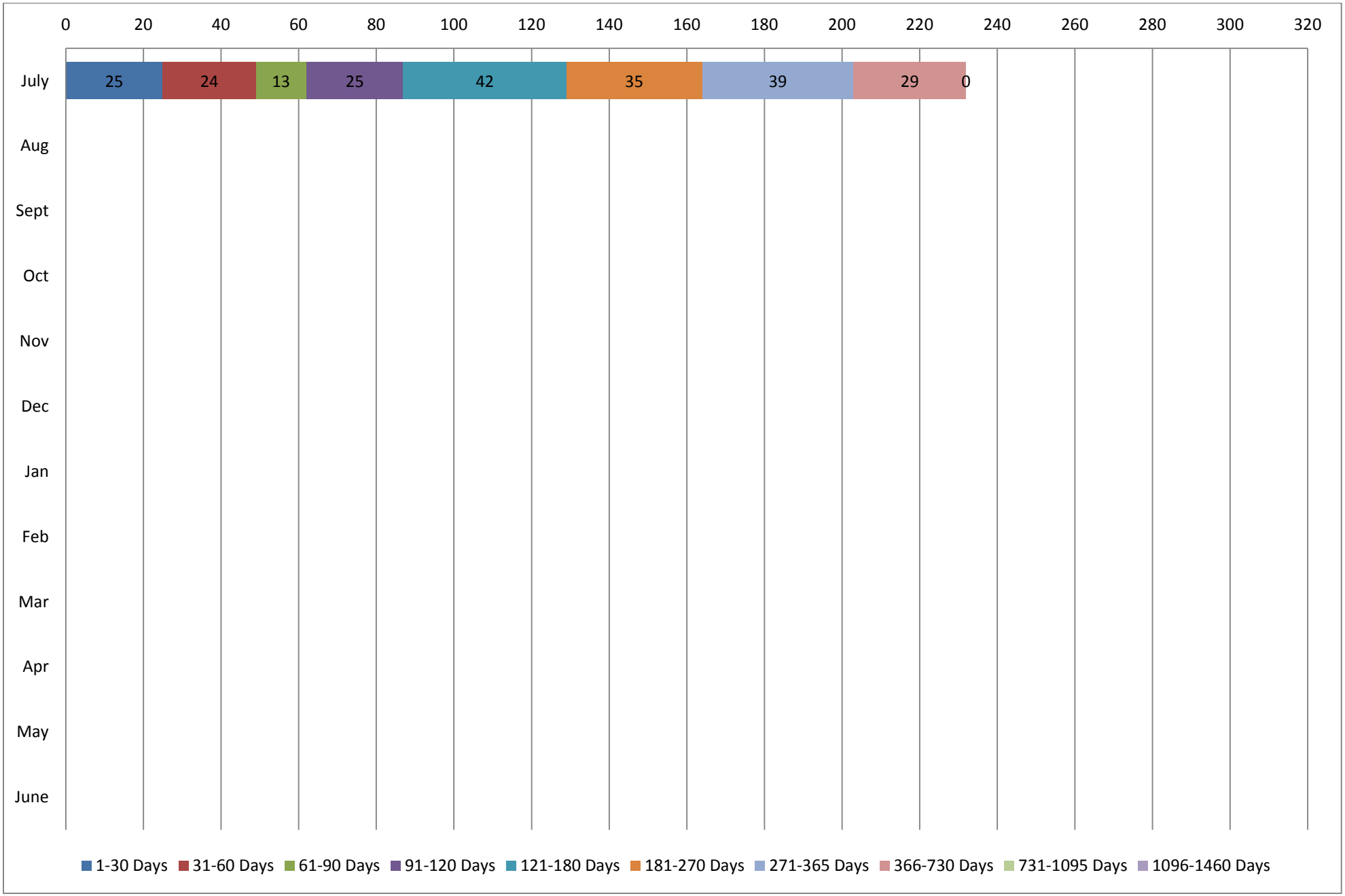
Complaint Investigation Phase





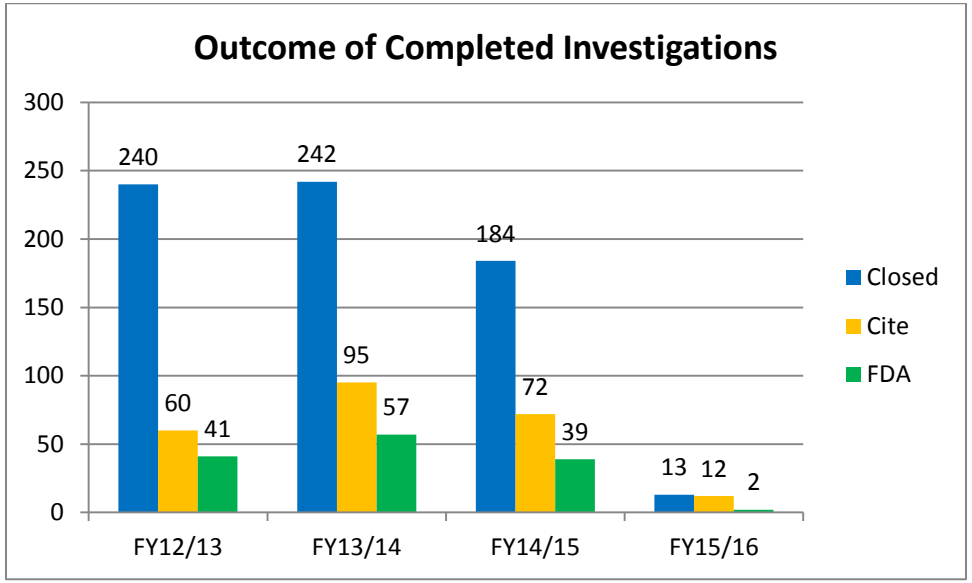
NOTE: FY15/16 statistics are through July 31, 2015

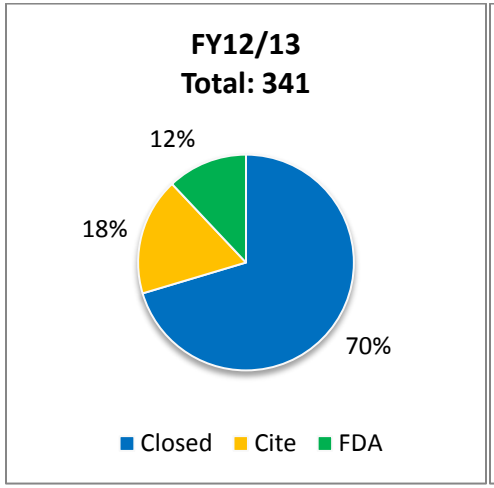
Aging of Open (Pending) Complaint Investigation Cases
FY15/16

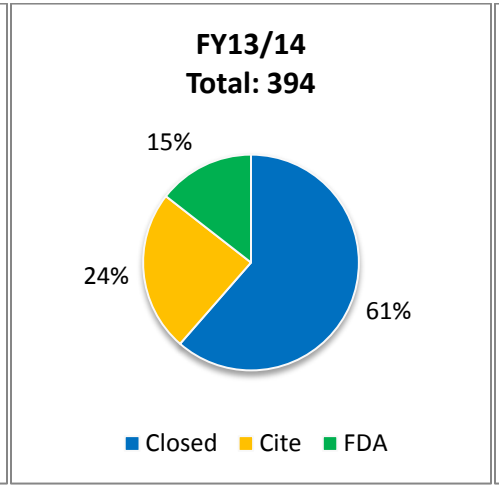


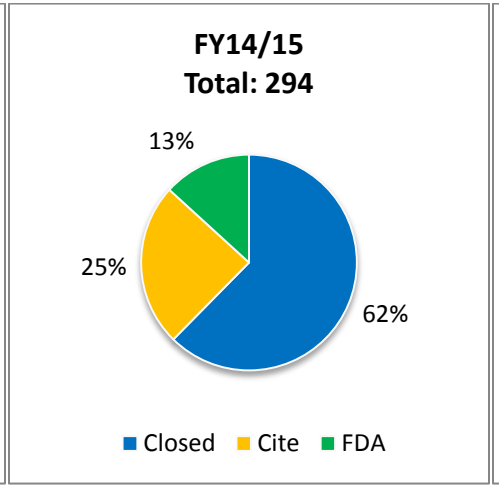
PELS ENFORCEMENT PROGRAM

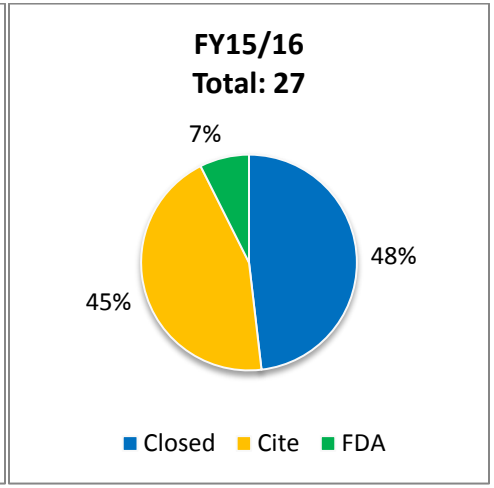
Outcome of Completed Investigations











NOTE: FY15/16 statistics are through July 31, 2015

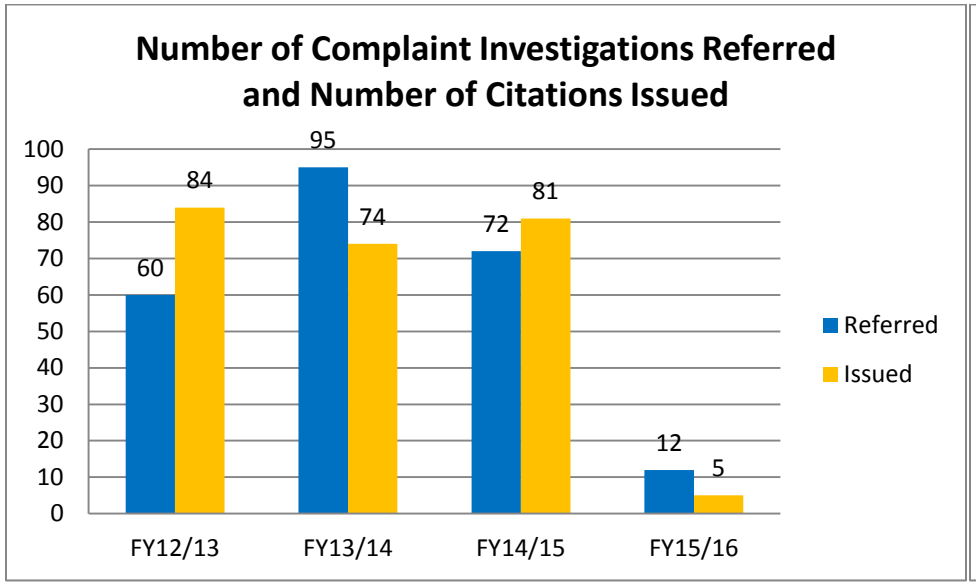
Closed = Closed with No Action Taken, includes the categories listed on the next page.

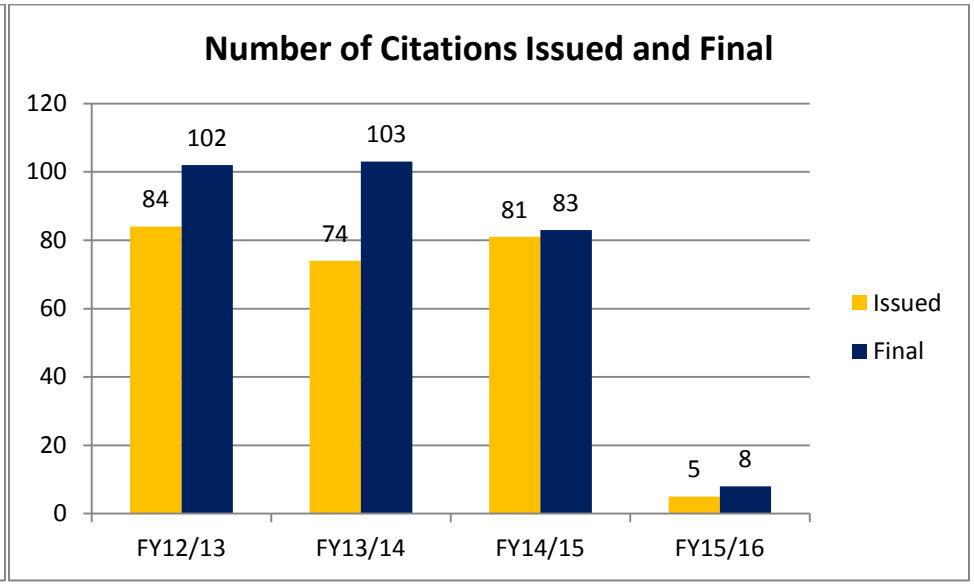
Cite = Referred for Issuance of Citation

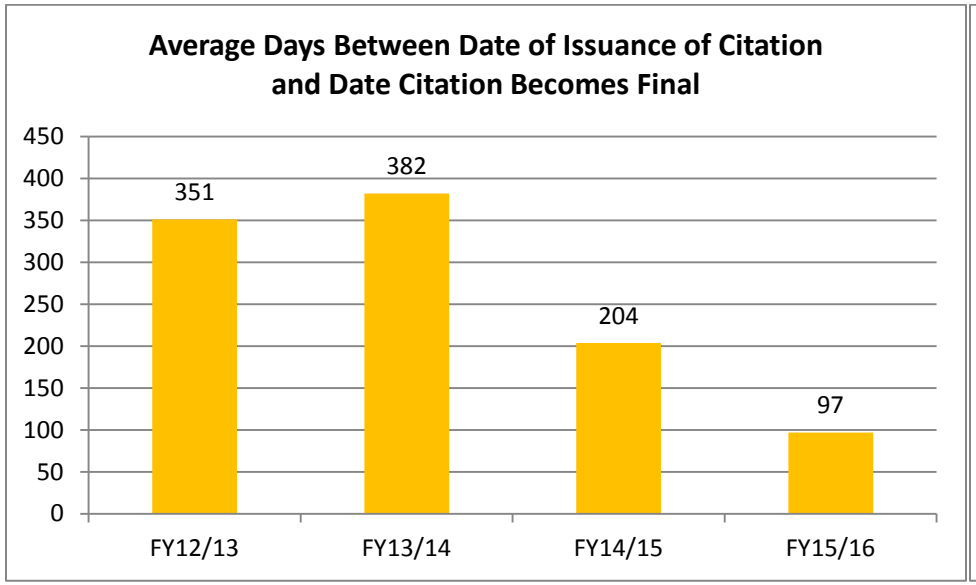
FDA = Referred for Formal Disciplinary Action

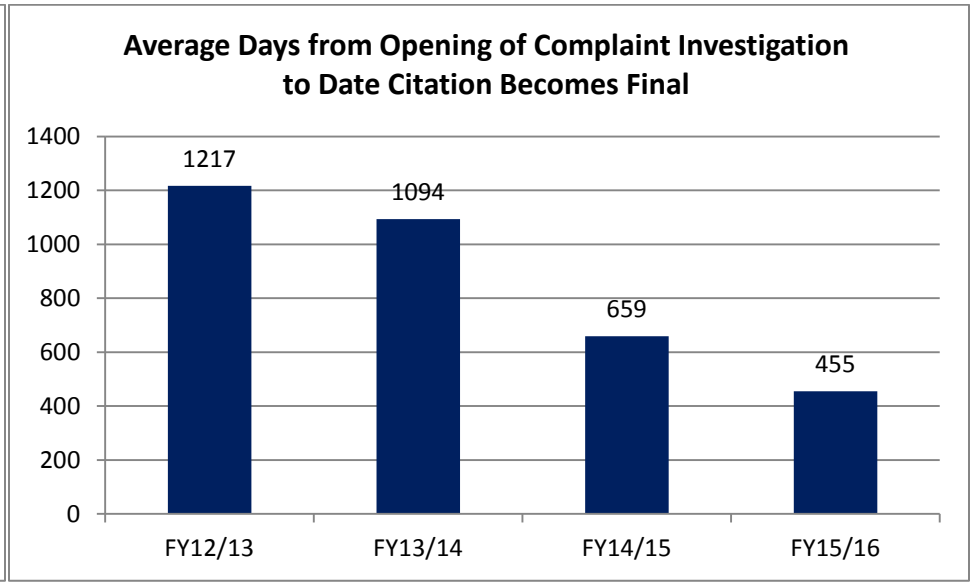
PELS ENFORCEMENT PROGRAM

Citations (Informal Enforcement Actions)





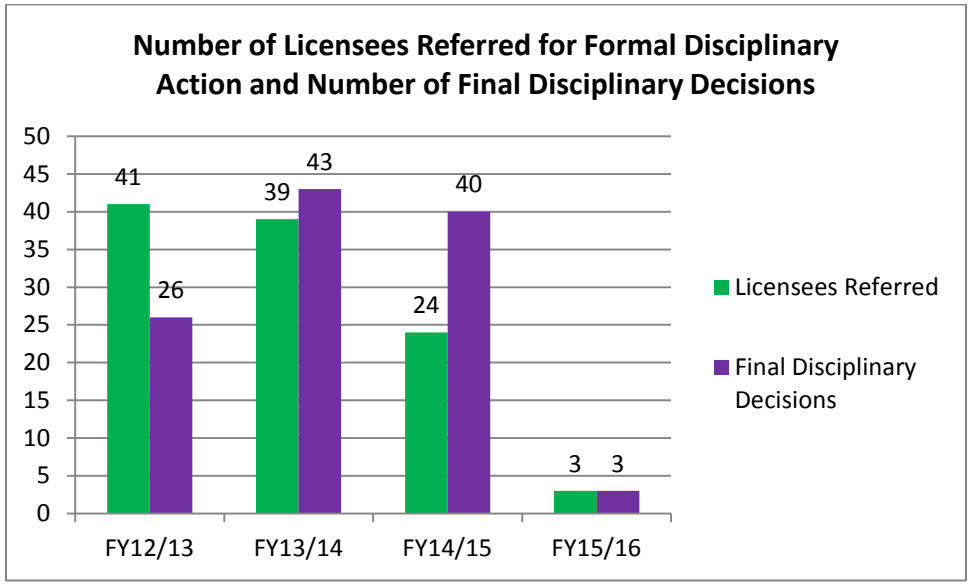


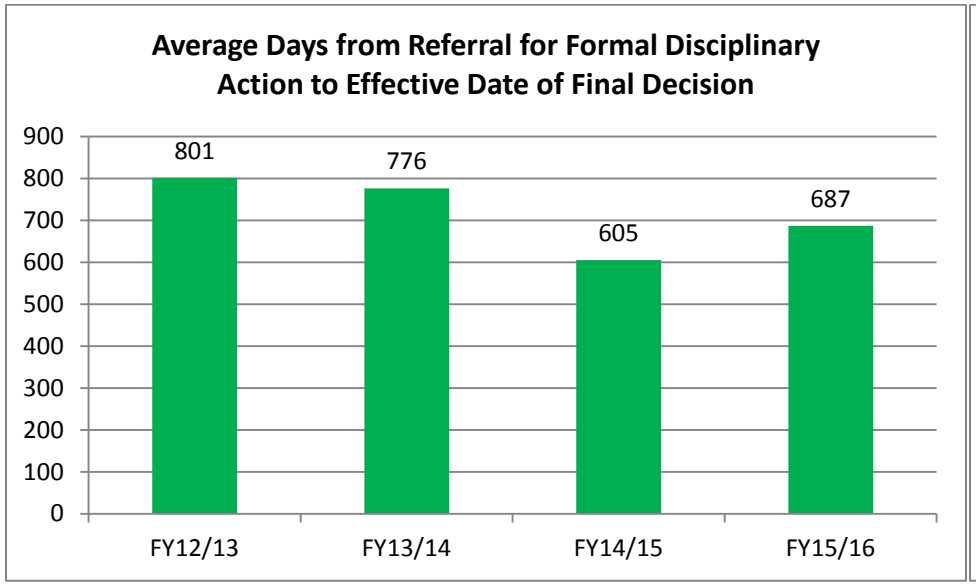


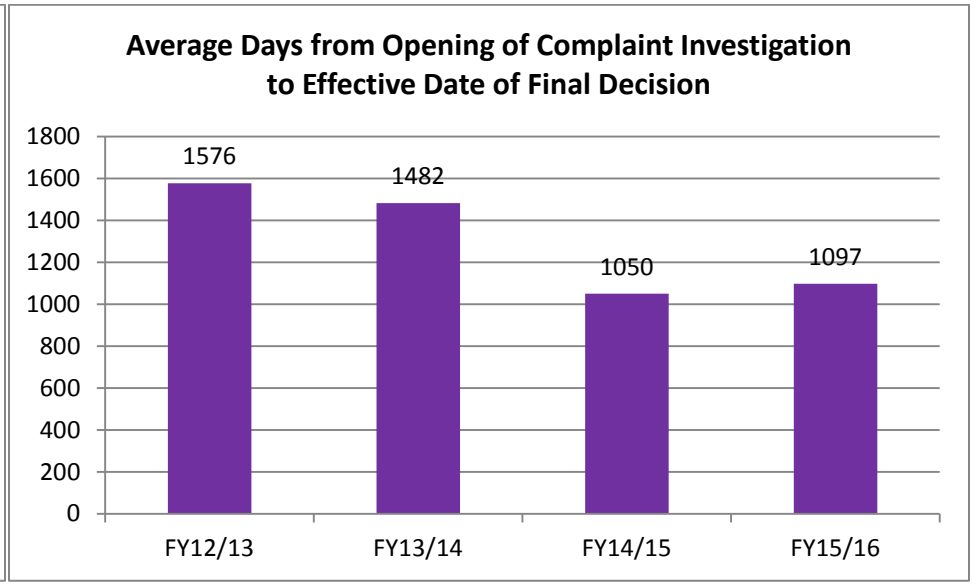
NOTE: FY15/16 statistics are through July 31, 2015

PELS ENFORCEMENT PROGRAM

Formal Disciplinary Actions Against Licensees



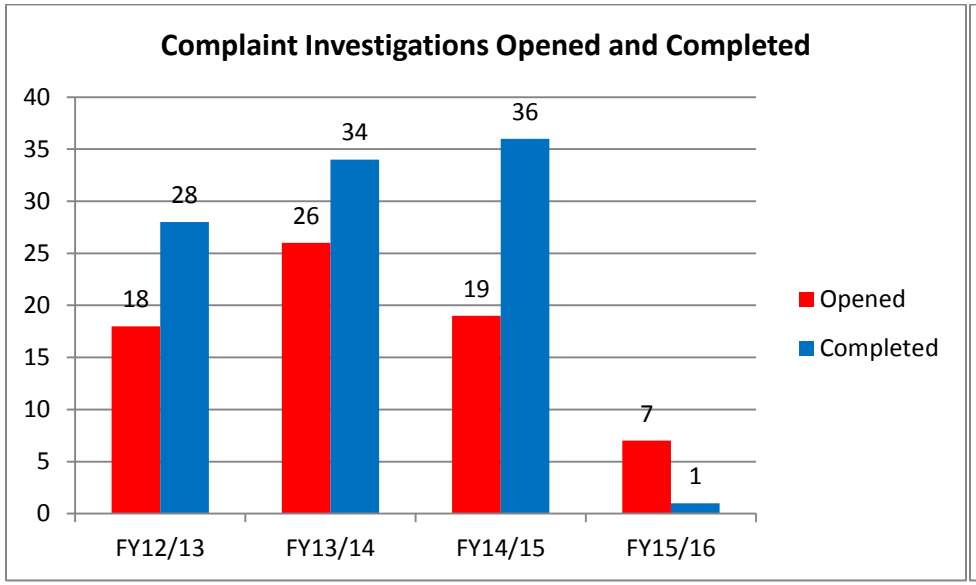


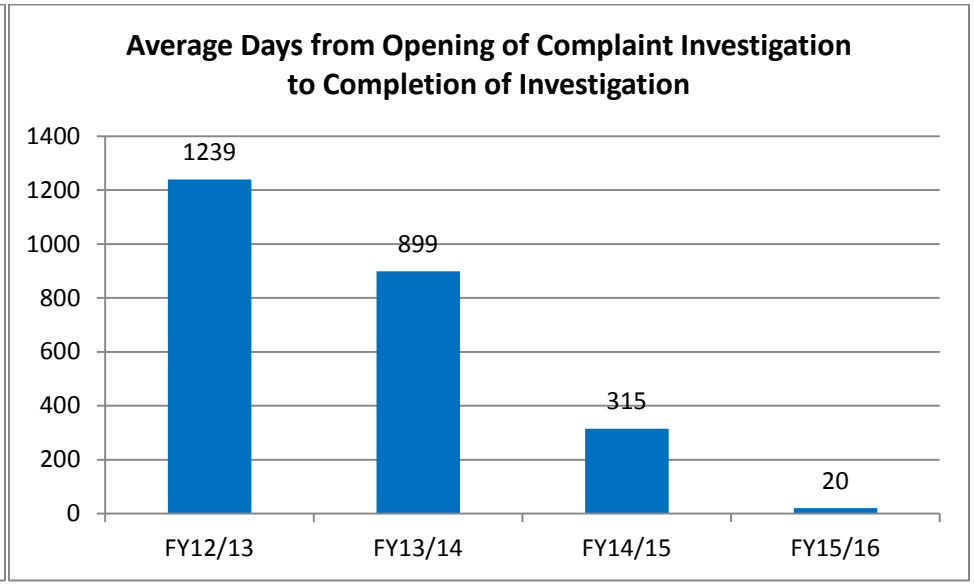


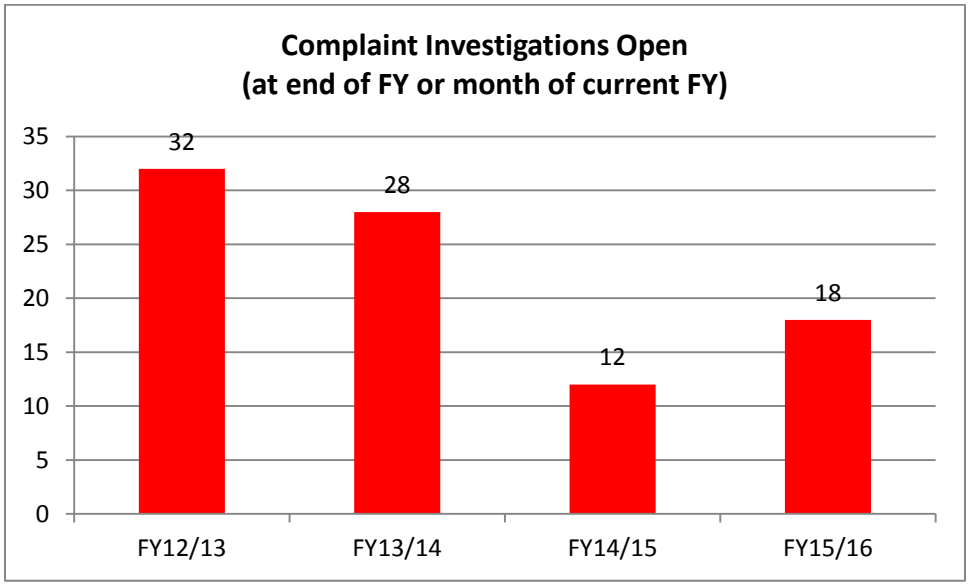
NOTE: FY15/16 statistics are through July 31, 2015

G&G ENFORCEMENT PROGRAM

Complaint Investigation Phase



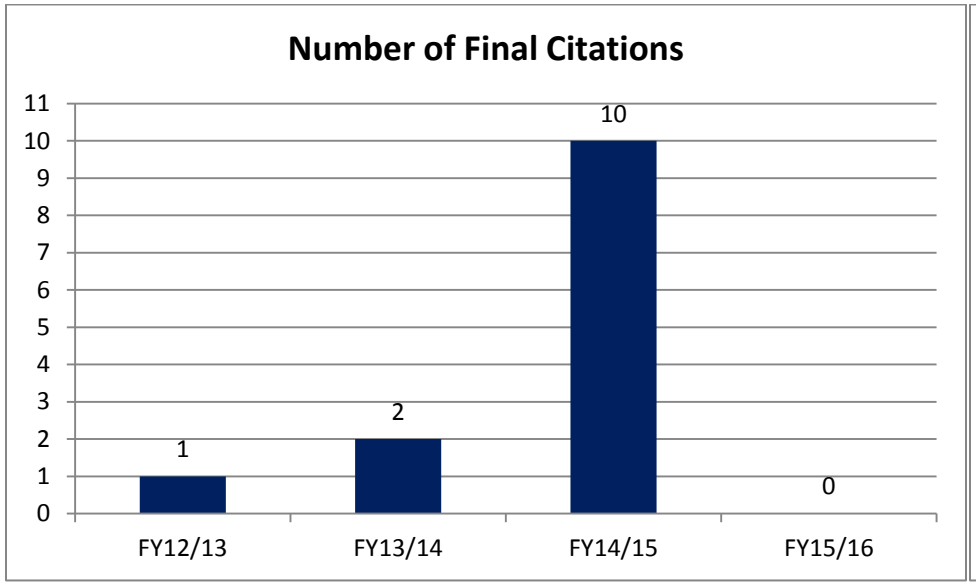


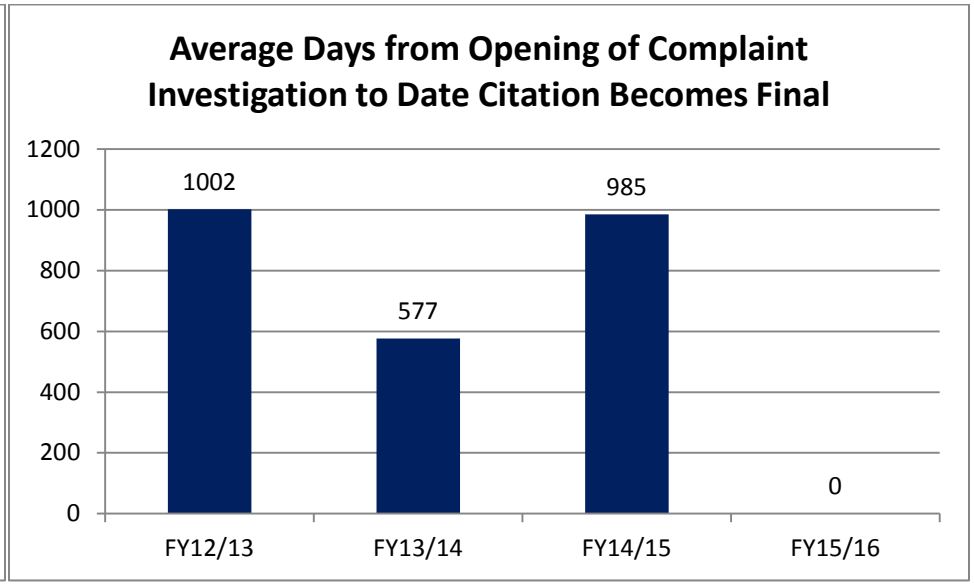


NOTE: FY15/16 statistics are through July 31, 2015

G&G ENFORCEMENT PROGRAM

Citations (Informal Enforcement Actions)

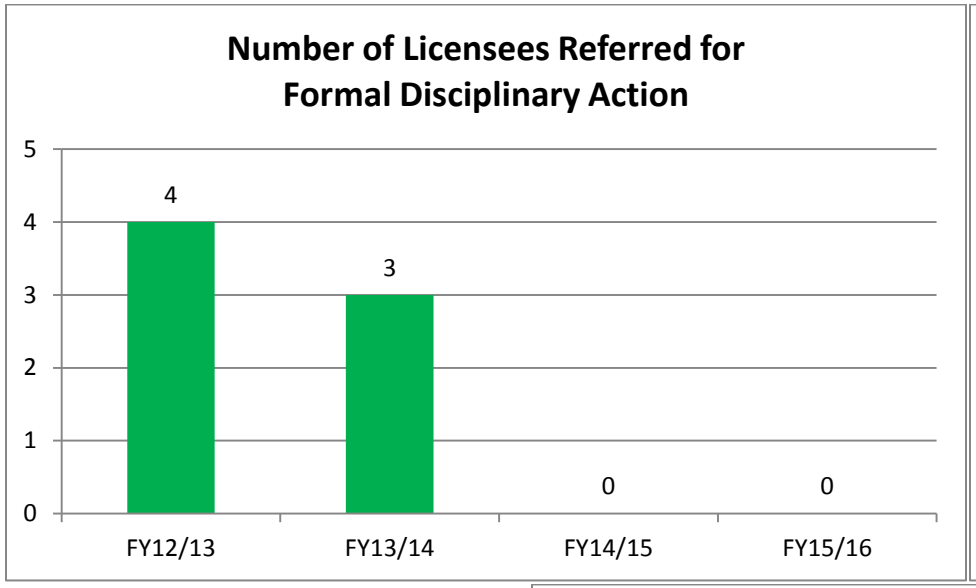


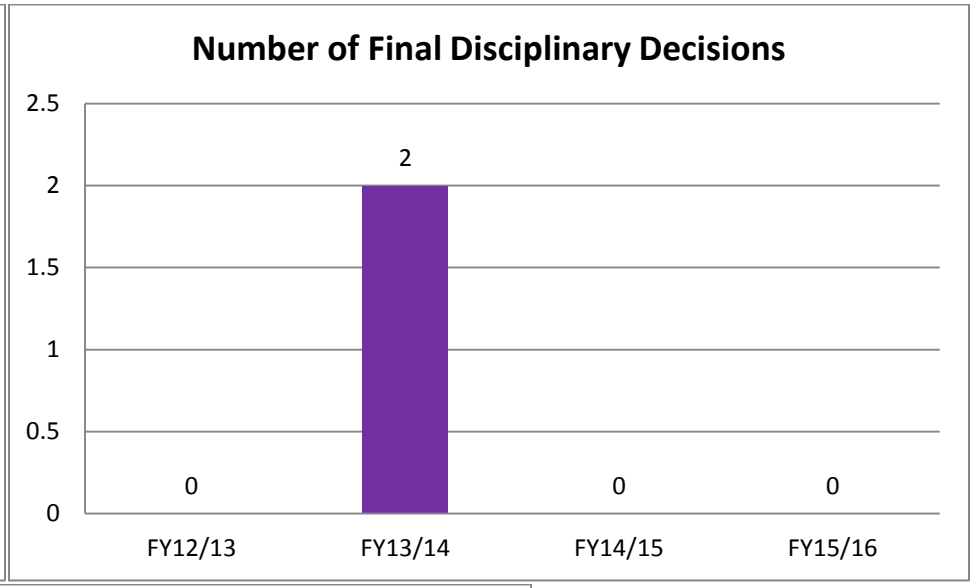


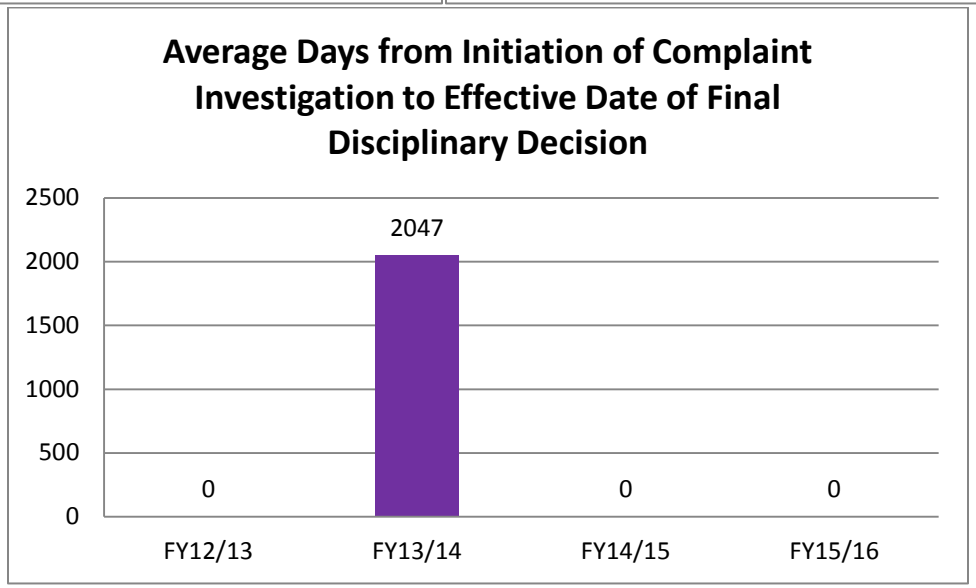
NOTE: FY15/16 statistics are through July 31, 2015

G&G ENFORCEMENT PROGRAM

Formal Disciplinary Actions against Licensees







NOTE: FY15/16 statistics are through July 31, 2015

VI. Exams/Licensing

A. Fall 2015 Examination Update
B. Delinquent Reinstatement Requirements
C. Credit for Overlapping Experience When Applying for Licensure or Certification

VII. Approval of Delinquent Reinstatements

APPROVAL OF DELINQUENT REINSTATEMENTS

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

CIVIL

JOHN GRANTHAM
Reinstate applicant's Civil license once he/she takes and passes the California Seismic Principles and Engineering Surveying examinations, and pays all delinquent and renewal fees.

ELECTRICAL

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

MECHANICAL

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

METALLURGICAL

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

VIII. Administration

A. FY 2014/15 Budget Summary
B. FY 2015/16 Budget Introduction

Budget Overview

- Introduction
- FY 2014/15 – Summary
- FY 2015/16 - Introduction

Introduction

<u>Expenditure Authority</u>

- Non-Discretionary
  - Salaries and Wages
  - Staff Benefits
  - Pro-Rata (DCA,DGS, SCSA, DOF, SCO)
- Discretionary
  - General Operating Expense
  - Travel
  - Training
  - Enforcement

Introduction Cont.

Revenue and Revenue Codes

- Application / License Fees
  - 125700
- Renewal Fees
  - 125800
- Delinquency Fees
  - 125900

Introduction Cont.

- Appropriation
  - A program's annual expenditure authority approved by Governor

Fund Code	Fund	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
0770	Professional Engineer's and Land Surveyor's Fund	$7,751	$9,858	$9,587
0205	Geology and Geophysics Account, Professional Engineer's and Land Surveyor's Fund	$1,136	$1,419	$1,431
0995	Reimbursements	$93	$16	$16
Total State Operations	* Dollars in thousands	**$8,980**	**$11,293**	**$11,034**

- Fund
  - A program's account where expenditures are paid and revenue is deposited
  - 0770 - Engineers, 0205 – Geology
  - 0995 – Investigative Cost Recovery, OIS Public Sales

0770 - Board for Prof. Engineers and Land Surveyors
Analysis of Fund Condition

Prepared 09/01/2015

(Dollars in Thousands)

2015 Budget Act	ACTUAL 2014-15	Budget Act CY 2015-16	BY 2016-17	BY+1 2017-18
BEGINNING BALANCE	$ 5,832	$ 6,990	$ 5,825	$ 4,254
Prior Year Adjustment	-45	$ -	$ -	$ -
Adjusted Beginning Balance	$ 5,787	$ 6,990	$ 5,825	$ 4,254
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	$ 125	$ 104	$ 104	$ 104
125700 Other regulatory licenses and permits	$ 2,552	$ 2,562	$ 2,562	$ 2,562
125800 Renewal fees	$ 5,278	$ 6,064	$ 5,506	$ 5,506
125900 Delinquent fees	$ 59	$ 66	$ 60	$ 60
141200 Sales of documents	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300 Income from surplus money investments	$ 15	$ 15	$ 1	$ 1
150500 Interest Income from interfund loans	$ 7	$ -	$ -	$ -
160400 Sale of fixed assets	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 11	$ 9	$ 9	$ 9
161400 Miscellaneous revenues	$ 1	$ 1	$ 1	$ 1
Totals, Revenues	$ 8,048	$ 8,821	$ 8,243	$ 8,243
Transfers from Other Funds				
FO0001 Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2011	$ 500	$ -	$ 800	$ 1,000
Totals, Revenues and Transfers	$ 8,548	$ 8,821	$ 9,043	$ 9,243
Totals, Resources	$ 14,335	$ 15,811	$ 14,868	$ 13,497
EXPENDITURES				
Disbursements:				
1110 Program Expenditures (State Operations)	$ 7,336	$ 9,968	$ 10,496	$ 10,706
8840 SCO (State Operations)	$ 1	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 8	$ 18	$ -	$ -
Total Disbursements	$ 7,345	$ 9,986	$ 10,614	$ 10,706
FUND BALANCE				
Reserve for economic uncertainties	$ 6,990	$ 5,825	$ 4,254	$ 2,791
Months in Reserve	8.4	6.6	4.8	3.1

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1

C. ASSUMES INTEREST RATE AT 0.3%.

0205 - Geology
Analysis of Fund Condition

Prepared 09/01/2015

(Dollars in Thousands)

2015 Budget Act	ACTUALS 2014-15	BUDGET ACT CY 2015-16	BY 2016-17	BY+1 2017-18
BEGINNING BALANCE	$ 990	$ 1,121	$ 696	$ 281
Prior Year Adjustment	$ 97	$ -	$ -	$ -
Adjusted Beginning Balance	$ 1,087	$ 1,121	$ 696	$ 281
REVENUES AND TRANSFERS				
Revenues:				
125600 Other regulatory fees	$ 7	$ 3	$ 3	$ 3
125700 Other regulatory licenses and permits	$ 275	$ 227	$ 237	$ 237
125800 Renewal fees	$ 801	$ 787	$ 816	$ 816
125900 Delinquent fees	$ 16	$ 15	$ 15	$ 15
141200 Sales of documents	$ -	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ -	$ -	$ -	$ -
150300 Income from surplus money investments	$ 3	$ 3	$ 3	$ 3
160400 Sale of fixed assets	$ -	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ -	$ 1	$ 1	$ 1
161400 Miscellaneous revenues	$ -	$ -	$ -	$ -
Totals, Revenues	$ 1,102	$ 1,036	$ 1,075	$ 1,075
Totals, Revenues and Transfers	$ 1,102	$ 1,036	$ 1,075	$ 1,075
Totals, Resources	$ 2,189	$ 2,157	$ 1,771	$ 1,356
EXPENDITURES				
Disbursements:				
1110 Program Expenditures (State Operations)	$ 1,067	$ 1,461	$ 1,490	$ 1,520
8840 FSCU (State Operations)	$ -	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations	$ 1	$ -	$ -	$ -
Total Disbursements	$ 1,068	$ 1,461	$ 1,490	$ 1,520
FUND BALANCE				
Reserve for economic uncertainties	$ 1,121	$ 696	$ 281	$ -164
Months in Reserve	9.2	5.6	2.2	-1.3

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED

B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING BY +1

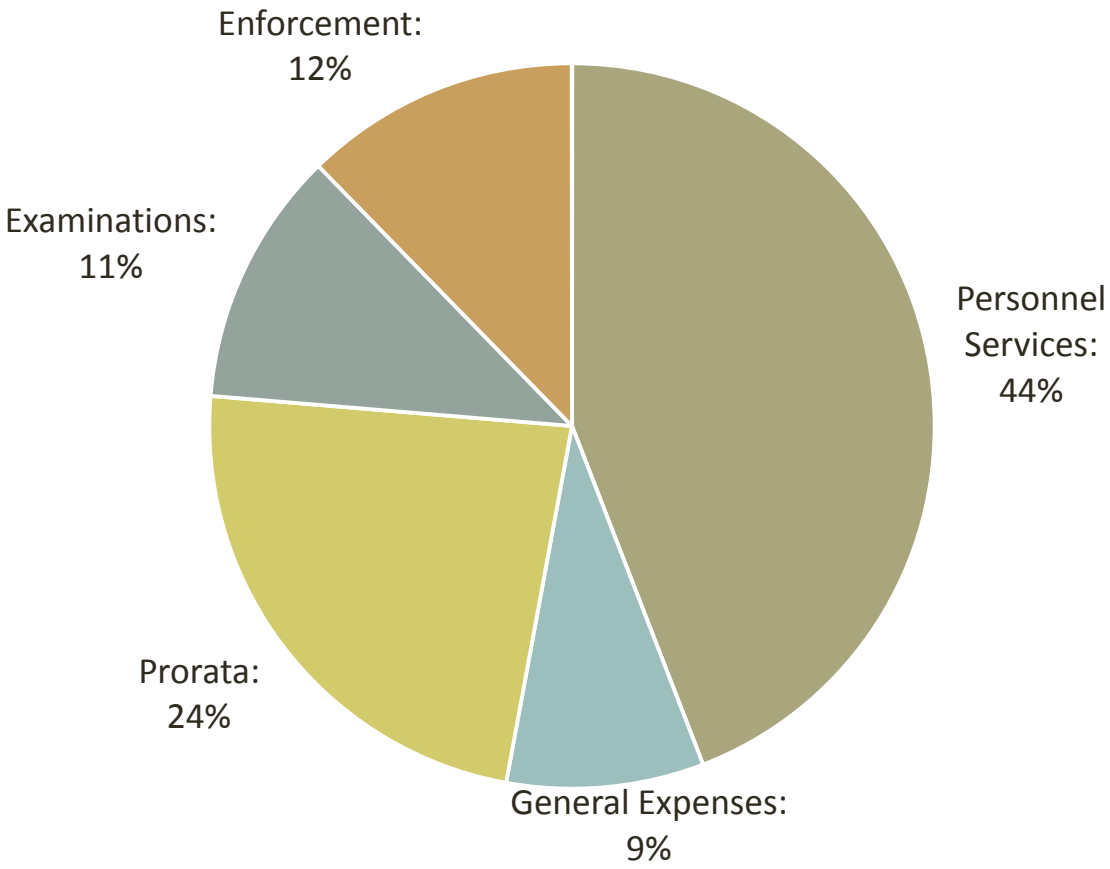
C. ASSUMES 0.3% GROWTH IN INCOME FROM SURPLUS MONEY

0770- Professional Engineers and Land Surveyors Financial Statement

	FY 2013-14 Annual (7/13-6/14)	FY 2014-15 Annual (7/14-6/15)	% Change	FY 2014-15 Annual Governor's Budget	FY 2014-15 Annual Projections	% Change
Revenue						
Applications/Licensing Fees (125700)	2,571,585	2,551,516	-1%	2,618,000	2,551,516	-3%
Renewal fees (125800)	5,962,327	5,277,870	-11%	5,123,000	5,277,870	3%
Delinquent fees (125900)	57,168	59,463	4%	65,000	59,463	-9%
Interest	7,048	14,951	112%	0	14,951	
Other	129,805	137,279	6%	104,000	137,279	32%
Total Revenue:	**8,727,933**	**8,041,079**	**-8%**	**7,910,000**	**8,041,079**	**2%**
Expense						
Personnel Services:						
Civil Service-Perm	2,002,423	2,048,122	2%	2,202,444	2,048,122	
Temp Help	50,823	43,793	-14%	101,908	43,793	
Exam Proctor	0	0	N/A	116,780	0	
Allocated Proctor Cost	14,372	13,434	-7%	0	13,434	
Statutory Exempt - EO	111,873	115,202	3%	110,807	115,202	
Board/Commission	3,500	5,800	66%	16,100	5,800	
Comm Member	1,900	2,100	11%	6,429	2,100	
Overtime	346	462	34%	14,100	462	
Total Salaries and Wages	**2,185,237**	**2,228,913**	**2%**	**2,568,568**	**2,228,913**	**-13%**
Total Benefits	**961,725**	**1,082,098**	**13%**	**1,063,530**	**1,082,098**	**2%**
Total Personnel Services	**3,146,962**	**3,311,011**	**5%**	**3,632,098**	**3,311,011**	**-9%**
Operating Expense and Equipment:						
Fingerprints	138	1,876	N/A	0	1,876	
General Expense	59,421	55,919	-6%	72,019	55,919	
Printing	41,525	21,441	-48%	24,312	21,441	
Communication	25,235	26,052	3%	12,849	26,052	
Postage	52,027	75,878	46%	35,140	75,878	
Travel Out-of-State	0	356	N/A	0	356	
Travel In State	75,331	90,178	20%	88,993	90,178	
Training	2,400	1,210	N/A	13,853	1,210	
Facilities Operations	344,171	345,376	0%	369,619	345,376	
C & P Services - Interdept.	320	0	N/A	23,958	0	
C & P Services - External	398,532	343,819	-14%	5,012	37,647	
Minor Equipment	47,182	3,359	N/A	0	3,359	
Prorata	1,861,078	1,756,793	-6%	1,886,821	1,756,793	
Total General Expenses:	**2,907,360**	**2,722,257**	**-6%**	**2,532,576**	**2,416,085**	**-5%**
Examinations:						
Exam Rent - Non State	0	0	N/A	363,457	0	
Administrative External Svcs	683,517	546,825	-20%	2,230,830	852,997	
C/P Svs - Ext Expert Examiners	0	0	N/A	145,322	0	
Other Expense	0	0	N/A	3,301	0	
Total Examinations:	**683,517**	**546,825**	**-20%**	**2,742,910**	**852,997**	**-69%**
Enforcement:						
Attorney General	523,820	432,255	-17%	608,188	432,255	
Office Admin. Hearing	104,924	106,382	1%	162,611	106,382	
Evidence / Witness Fees	208,446	176,180	-15%	77,077	176,180	
Court Reporters	4,552	11,034	142%	0	11,034	
DOI - Investigation	263,053	188,690	-28%	186,549	188,690	
Tort Payment		8,738			8,738	
Total Enforcement:	**1,104,795**	**923,279**	**-16%**	**1,034,425**	**923,279**	**-11%**
Total OE&E	**4,695,672**	**4,192,361**	**-11%**	**6,309,911**	**4,192,361**	**-34%**
Total Expense:	**7,842,634**	**7,503,372**	**-4%**	**9,942,009**	**7,503,372**	**-25%**

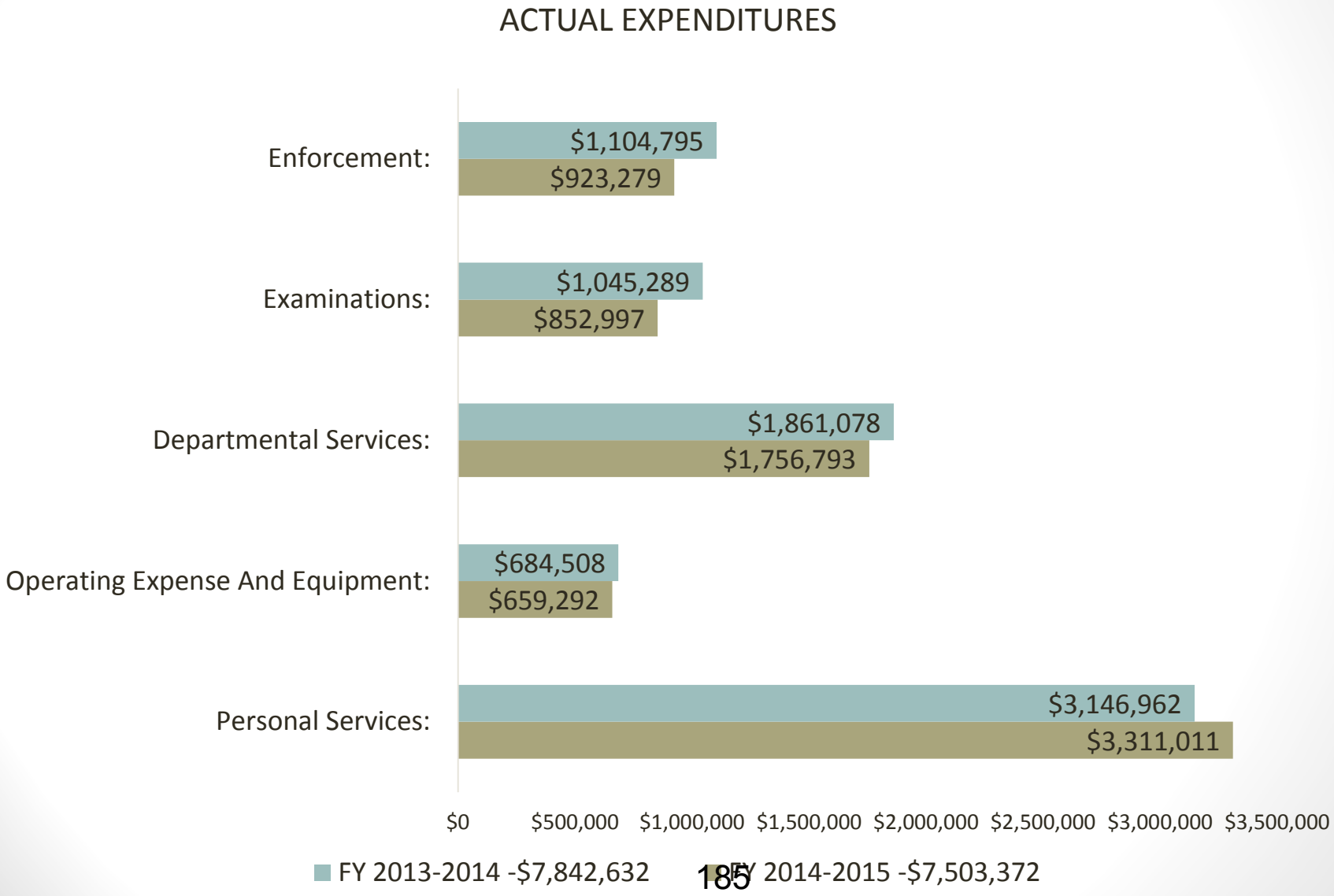
Total Revenue:	8,727,933	8,041,079	-8%	7,910,000	8,041,079	2%
Total Expense:	7,842,634	7,503,372	-4%	9,942,009	7,503,372	-25%
Difference:	**885,299**	**537,707**		**-2,032,009**	**537,707**	

FY 2014/15 – PELS Expenditures

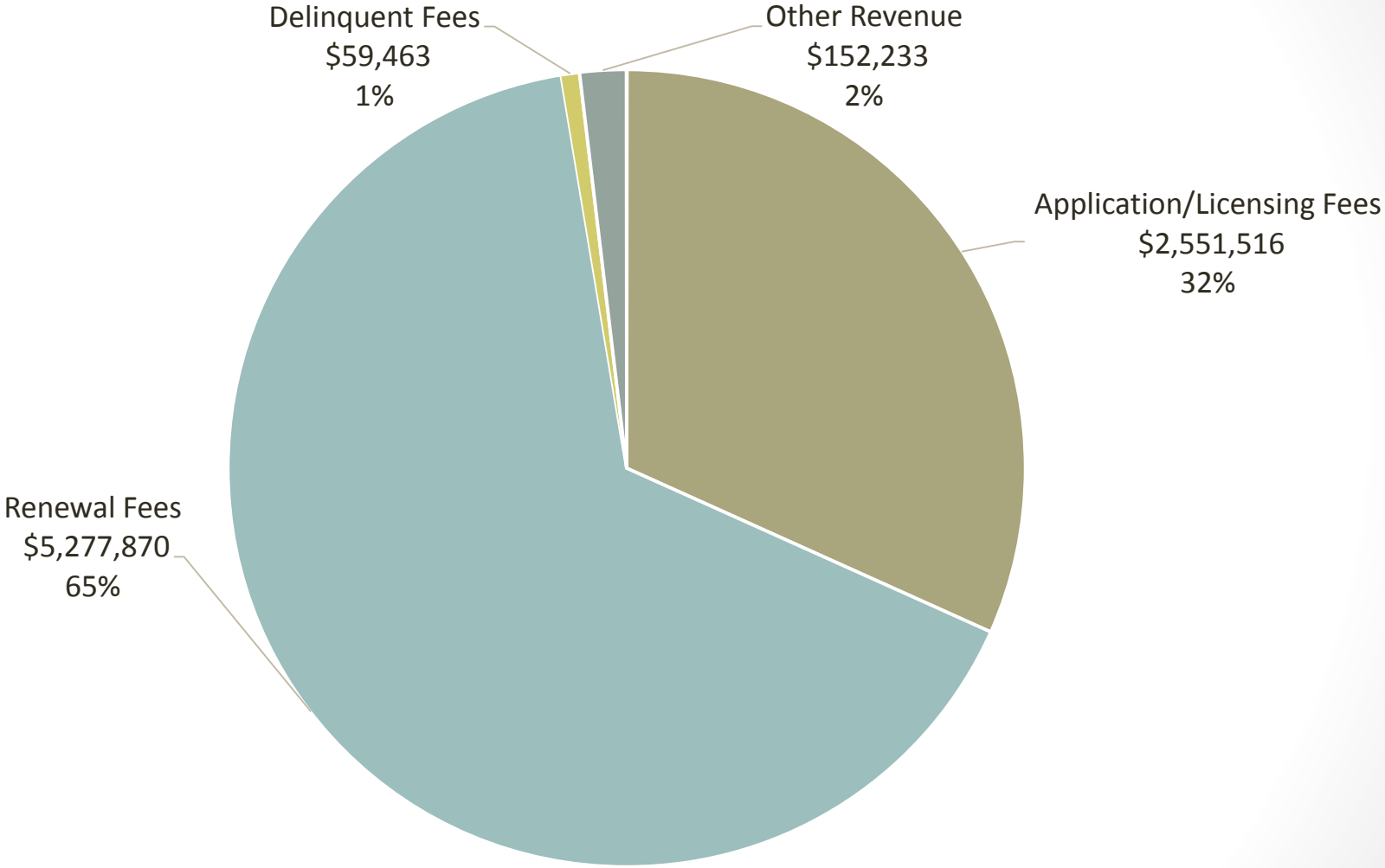


Personnel Services:	3,311,011
General Expenses:	659,292
Prorata:	1,756,793
Examinations:	852,997
Enforcement:	923,279
Total Actual Expenditures:	$7,503,372

PELS Expenditures 2013-14 & 2014-15



FY 2014/15 – PELS Revenue

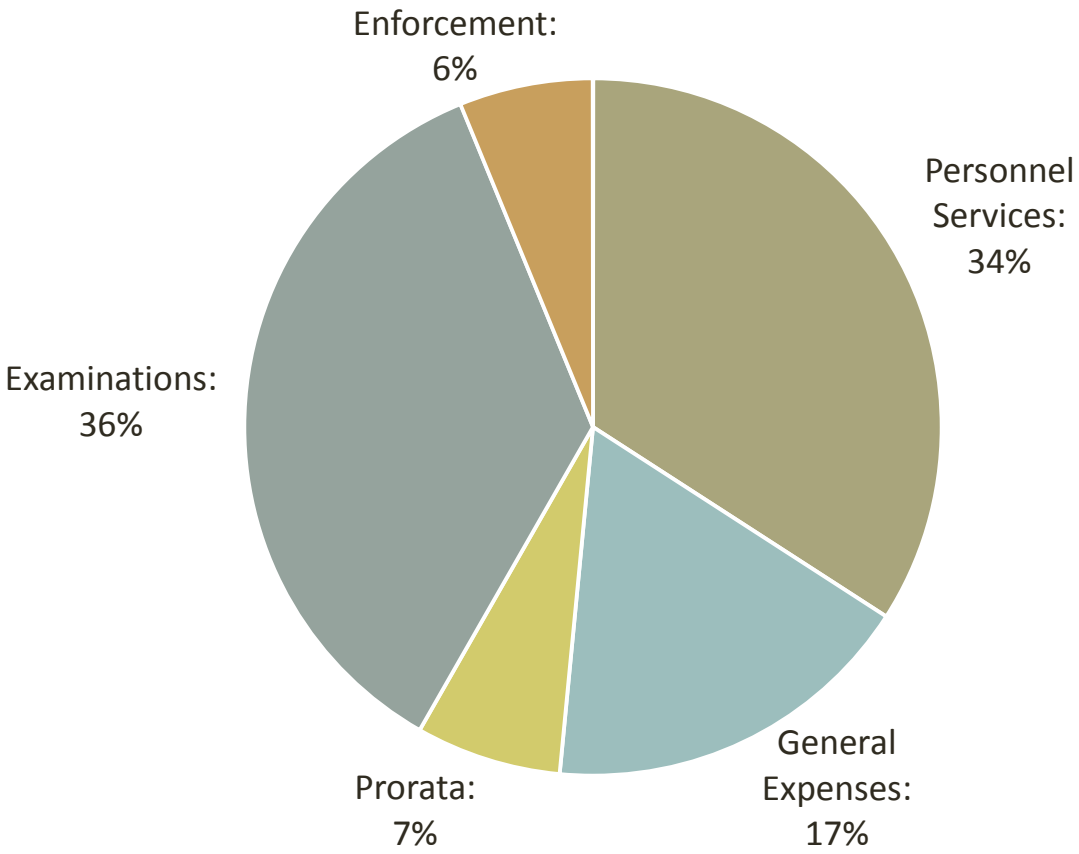


Revenue:$8,041,079

0205 - Geology Financial Statement

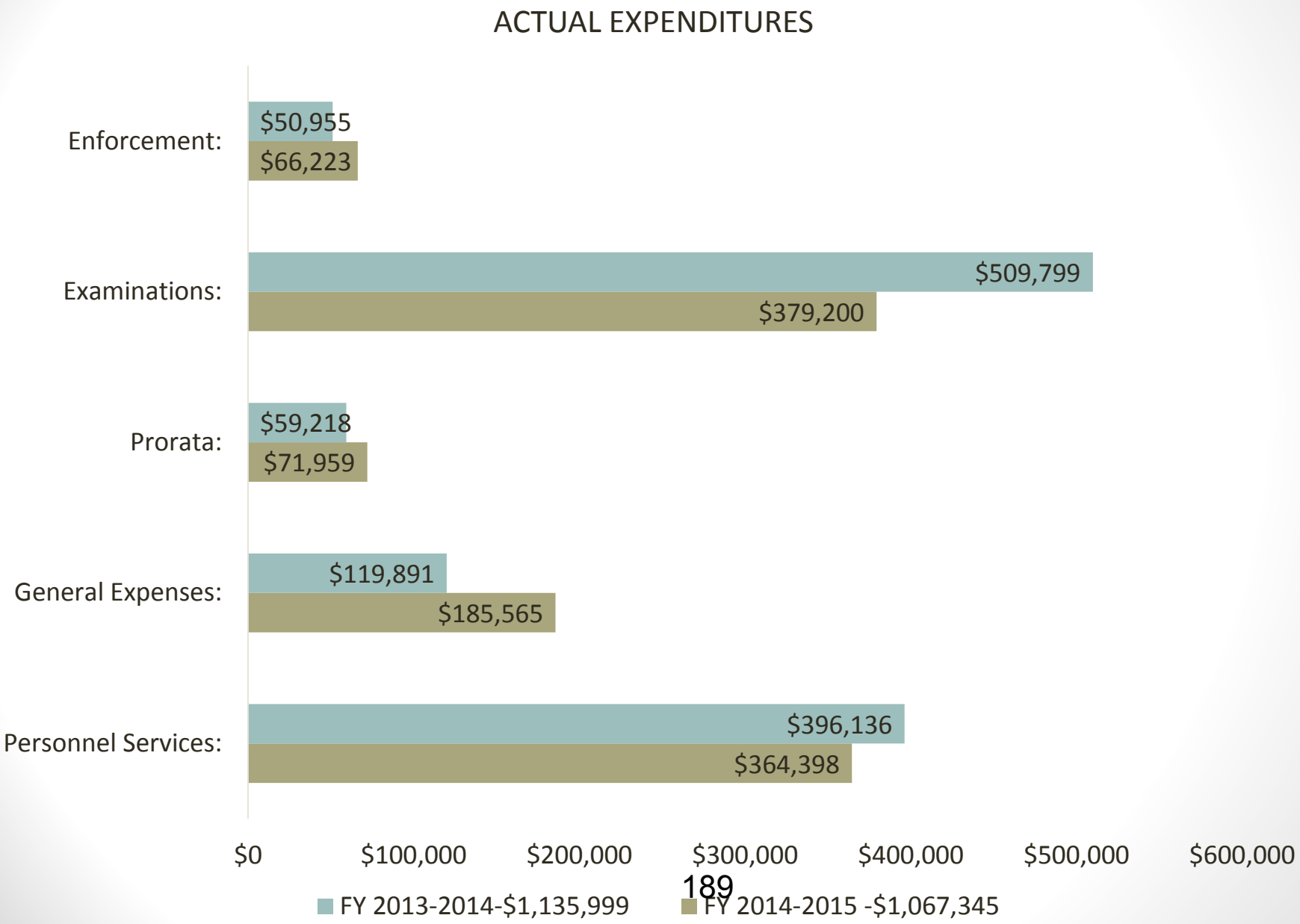
	FY 2013-14 Annual (7/13-6/14)	FY 2014-15 Annual (7/14-6/15)	% Change	FY 2014-15 Annual Governor's Budget	FY 2014-15 Annual Projections	% Change
Revenue						
Applications/Licensing Fees (125700)	182,356	274,940	51%	234,000	274,940	17%
Renewal fees (125800)	759,839	801,288	5%	810,000	801,288	-1%
Delinquent fees (125900)	12,893	16,234	26%	12,000	16,234	35%
Interest	3,202	3,271	2%	0	3,271	
Other	8,118	6,905	-15%	3,000	6,905	130%
Total Revenue:	**966,407**	**1,102,638**	**14%**	**1,059,000**	**1,102,638**	**4%**
Expense						
Personnel Services:						
Civil Service-Perm	247,024	238,276	-4%	359,904	238,276	
Temp Help	0	0	N/A	5,000	0	
Allocated Proctor Cost	21,695	8,283	-62%	8,282	8,283	
Committee Member	1,500	300	-80%	0	300	
Overtime	598	151	N/A	0	151	
Total Salaries and Wages	**270,817**	**247,010**	**-9%**	**373,186**	**247,010**	**-34%**
Total Benefits	**125,319**	**117,388**	**-6%**	**140,935**	**117,388**	**-17%**
Total Personnel Services	**396,136**	**364,398**	**-8%**	**514,121**	**364,398**	**-29%**
Operating Expense and Equipment:						
General Expense	3,355	3,678	10%	9,518	3,678	
Fingerprint Reports		25	N/A		25	
Printing	1,571	0	N/A	731	0	
Communication	933	1,122	20%	1,215	1,122	
Postage	4,597	4,991	9%	731	4,991	
Travel In State	10,238	8,139	-21%	1,427	8,139	
Training	0	0	N/A	231	0	
Facilities Operations	3,400	5,100	50%	7,006	5,100	
C & P Services - Interdept.	0	0	N/A	24,093	0	
C & P Services - External				1,011		
DP Billing (OIS)	44,655	26,079	-42%	26,196	26,079	
Indirect Distributed Cost (OAS & ISO)	51,142	68,431	34%	68,585	68,431	
Interagency Services	0	68,000	N/A	25,761	68,000	
Interagency Agreement (OER)			#DIV/0!	0		
Prorata	59,218	71,959	21%	80,743	71,959	
Total General Expenses:	**179,109**	**257,524**	**44%**	**247,248**	**257,524**	**4%**
Examinations:						
Exam Supplies/Materials	0	0	N/A	142	0	
Exam Rent - Non State	660	0	N/A	5,153	0	
Administrative External Svcs	375,217	285,730	-24%	359,935	285,730	
C/P Svs - Ext Expert Examiners	133,922	93,470	-30%	110,319	93,470	
Total Examinations:	**509,799**	**379,200**	**-26%**	**475,549**	**379,200**	**-20%**
Enforcement:						
Attorney General	22,950	36,830	60%	155,125	36,830	
Office Admin. Hearing	2,097	5,539	164%	7,783	5,539	
Evidence / Witness Fees	25,908	23,854	-8%	11,667	23,854	
Total Enforcement:	**50,955**	**66,223**	**30%**	**174,575**	**66,223**	**-62%**
Total OE&E	**739,863**	**702,947**	**-5%**	**897,372**	**702,947**	**-22%**
Total Expense:	**1,135,999**	**1,067,345**	**-6%**	**1,411,493**	**1,067,345**	**-24%**
Total Revenue:	966,407	1,102,638	14%	1,059,000	1,102,638	4%
Total Expense:	1,135,999	1,067,345	-6%	1,411,493	1,067,345	-24%
Difference:	**-169,592**	**35,293**		**-352,493**	**35,293**	

FY 2014/15 – GEO Expenditures

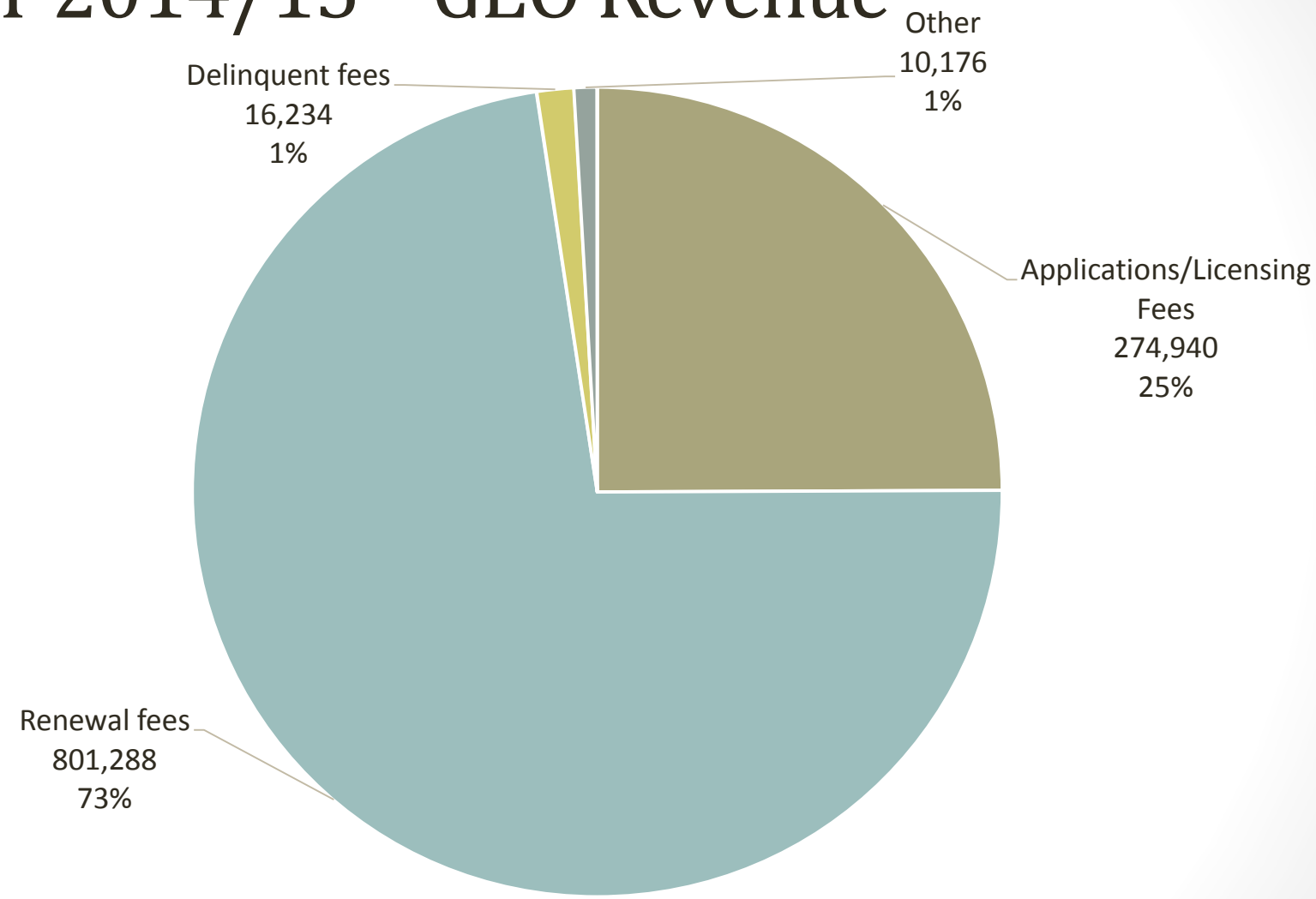


Personnel Services:	364,398
General Expenses:	185,565
Prorata:	71,959
Examinations:	379,200
Enforcement:	66,223
Total Expenditures:	$1,067,345

GEO Expenditures 2013-14/2014-15



FY 2014/15 – GEO Revenue

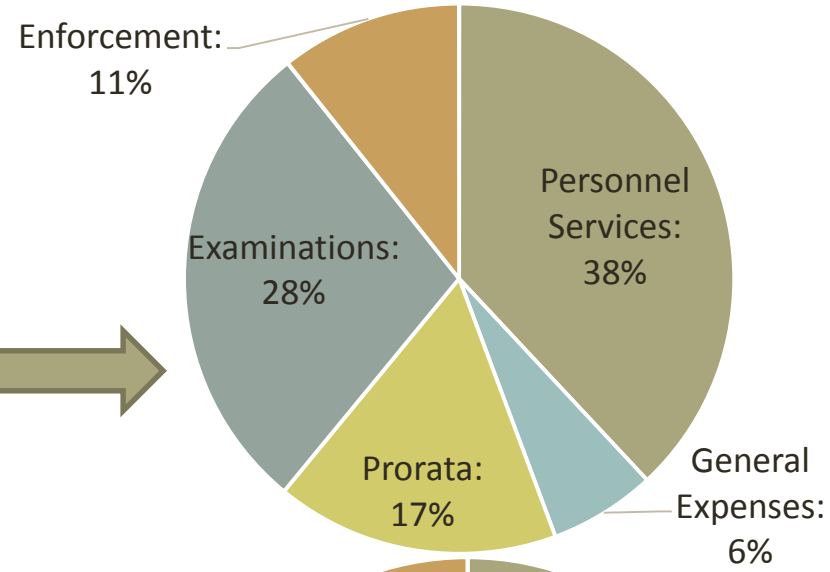


Revenue: $1,102,638

FY 2015/16 Introduction

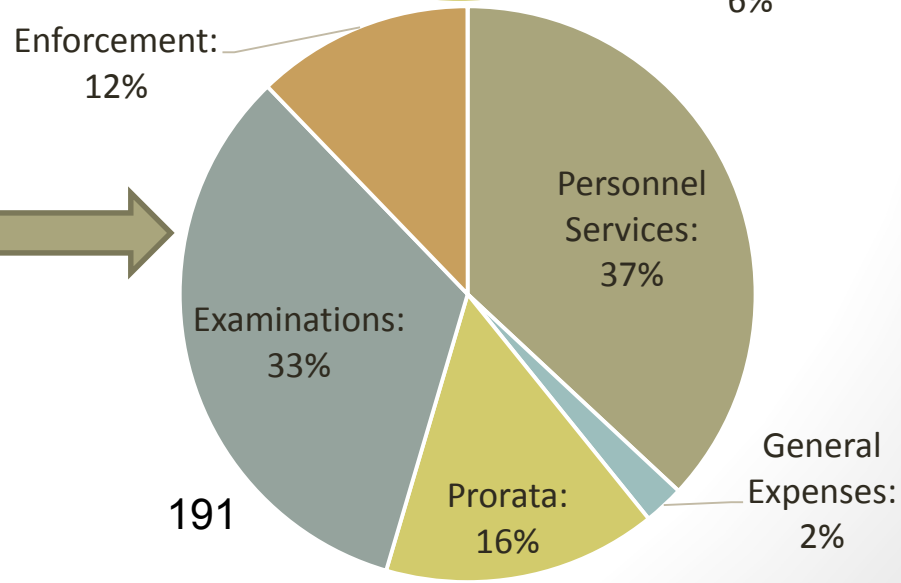
BUDGET ALLOTMENT PELS:

Personnel Services:	$3,679,552
General Expenses:	$605,270
Prorate:	$1,612,144
Examinations:	$2,739,609
Enforcement:	$1,034,425
Total:	**$9,671,000**

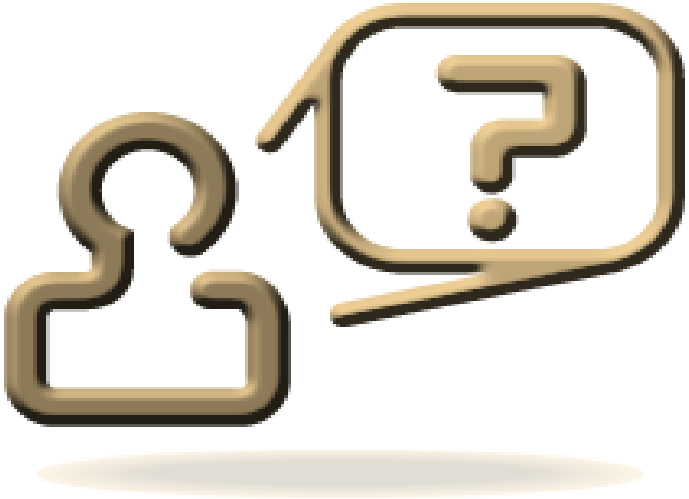


BUDGET ALLOTMENT GEO:

Personnel Services:	$528,756
General Expenses:	$32,078
Prorata:	$220,042
Examinations:	$475,549
Enforcement:	$174,575
Total:	**$1,431,000**



Questions?



IX. Executive Officer's Report

A. Legislation and Regulation Workgroup Summary
B. Personnel
C. BreEZe Update
D. ABET
E. ASBOG
F. NCEES
G. Outreach

X. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs
B. Appointment of TAC Members
C. Reports from the TACs

XI. President’s Report/Board Member Activities

XII. Approval of Consent Items

(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.)

A. Approval of the Minutes of the July 16, 2015, Board Meeting

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

2535 Capitol Oaks Drive, Third Floor Conference Room
Sacramento, CA 95833

Thursday, July 16, beginning at 9:00 a.m.

Board Members Present:	Robert Stockton, President; Coby King, Vice President; Natalie Alavi; Kathy Jones Irish; Eric Johnson; Betsy Mathieson; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; and Patrick Tami
Board Members Absent:	Asha Brooks and Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Celina Calderone (Board Liaison); Larry Kereszt (Examinations Manager); Jeff Alameida (Administrative Manager); Kara Williams (Budget Analyst); and Michael Santiago (Legal Counsel)

I. Roll Call to Establish a Quorum

President Stockton called the meeting to order at 9:00, and a quorum was established.

II. Public Comment

During Public Comment, Mr. Josephson thanked the Board for allowing SEAOC to participate in the Joint Civil and Structural TAC meeting.

III. Legislation

A. Discussion of Legislation for 2015:

SB 209 – This bill would require the Department of Conservation, no later than January 1, 2018, and on an ongoing basis thereafter, to offer continuing educational opportunities for lead agency employees to become certified, as appropriate, by the department to inspect surface mining operations. The bill would prohibit a lead agency that operates a surface mining operation from having an inspection performed by a lead agency employee, as specified, unless that employee has become certified as a surface mining operation inspector within the previous 2 years. It would revise the proof of financial assurances to be submitted with the annual report and would define "financial assurances" to be the combination of an approved current financial assurance cost estimate and a financial assurance mechanism, as specified. The bill would require the inspections be conducted by a state licensed geologist, state licensed civil engineer, or state licensed geophysicist, as specified.

Mr. Testa representing the State Mining and Geology Board explained that the bill has been characterized as a Surface Mining and Reclamation Reform Bill. It

addresses specific problem areas within SMARA. He provided some history and added that the adequacy of the inspections with the SMARA program has been problematic. Mr. Testa reported that SB 209 is attempting to clean up language in statute and regulation. Currently, it reads that the State Mining and Geology Board along with the Department of Conservation would work with the Board (BPELSG) on language and return to legislature to amend the language to determine which license must complete the inspections. The inspections determine compliance with the approved reclamation plans and permit conditions. They inspect the lateral dimensions of the mine, depth, slope angles, geologic hazards, encroachment, and reclamation standards.

Ms. Williams noted that there are minor amendments and that the author's office has been willing to work with the Board to make these changes.

Mr. Satorre arrived at 9:06 a.m.

MOTION:	Dr. Qureshi and Ms. Mathieson moved to take a watch position on SB 209.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

AB 1060 - Ms. Williams reported that this bill was amended and no longer impacts the Board.

AB 320 – 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. . Additionally, on April 24, 2015 amendments were made that permits a licensed civil, electrical, or mechanical engineer to use the title "environmental engineer" without obtaining additional qualifications.

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Ms. Williams reported the bill had been amended again in July 2015 to remove the language that had been added in April. Because of these amendments, she recommended the Board reconfirm their opposition.

MOTION:	Mr. Tami and Ms. Mathieson moved to oppose AB 320 as amended July 2015 and work with staff to convey that to legislators.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

AB 85 - This bill would, under the Bagley-Keene Open Meeting Act, 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 contains other related provisions.

There have not been amendments since the last Board meeting.

AB 12 - 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.

There have not been amendments since the last Board meeting.

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AB 507 – Commencing October 1, 2015, this bill would require the Department of Consumer Affairs 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 departments' 3rd phase of the BreEZe implementation project, including, but not limited to, a timeline for the implementation. This bill contains other related provisions.

Mr. Alameida reported that there was an amendment July 9, 2015 that extended the date to submit the annual report to the legislature to March 2016. In addition, it was identified that DCA shall post all clients that are on the BreEZe system.

MOTION:	Mr. Johnson and Ms. Alavi moved to take a watch position on AB 507 as amended July 9, 2015.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

AB 177 – The Professional Engineers Act provides for the licensure and regulation of engineers by the Board for Professional Engineers, Land surveyors, and Geologists, in the Department of Consumer Affairs. This bill would extend the operation of these provisions until January 1, 2020 and would merge the Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's fund into the fund that would be renamed the Professional Engineer's, Land Surveyor's, and Geologist's Fund. Additionally, AB 177 would add a much needed cause for disciplinary action by the Board if a licensee or certificate holder fails or refuses to respond to a written request from a representative of the Board to cooperate in the investigation of a complaint against that licensee or certificate holder.

Ms. Williams reported that the bill was amended on June 30, 2015, to change the effective date of the fund merger to July 1, 2016, as the Board had suggested be done at its last meeting.

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MOTION:	Mr. King and Ms. Jones Irish move to support AB 177 as amended June 30, 2015
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

SB 284 – Current 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. Current law repeals these provisions on January 1, 2016. This bill would extend the operation of these provisions until January 1, 2019. This bill contains other existing laws.

Mr. DeWitt, representing ACEC, pointed out that the bill originally eliminated the sunset date altogether. However, there were concerns with eliminating the sunset provision at this time, so it was amended to coincide with the date in the Architects Practice Act. ACEC plans to work with the architects' association to convince the Legislature to eliminate the sunset date altogether in a future legislative session.

10:19 a.m. Mr. Silva left the meeting.

SB 799 – 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 cleaner language that could be included with its "Significant Structures" proposal in the future. The June 25, 2015, version of the bill adds a proposed amendment to Section 7818 to correct

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a typographical error in the reference to a Government Code section; this change is being made at the request of the Board.

MOTION:	Mr. Tami and Mr. Satorre moved to support SB 799 as amended June 25, 2015.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva				X	
Patrick Tami	X				

10:25 a.m. Dr. Qureshi left the meeting.

B. Legislative Proposals for 2016
Ms. Eissler reported that based on timing of the legislative session, it would be more appropriate to present the proposals at the September Board meeting.

IV. Consideration of Rulemaking Proposals

A. Adoption of Proposed Amendments to Section 438 of Article 3 in Division 5 of Title 16 of the California Code of Regulations (Waiver of Fundamentals Examination)

MOTION:	Mr. Johnson and Ms. Mathieson moved to adopt the amendment to Board Rule 438.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi				X	

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Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva				X	
Patrick Tami	X				

MOTION:	Mr. King and Mr. Tami moved to delegate authority to the Executive Officer to complete the rulemaking file.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi				X	
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva				X	
Patrick Tami	X				

10:50 a.m. Mr. Silva returned.

V. Enforcement

A. Enforcement Statistical Report
Ms. Eissler presented the enforcement statistics through the end of Fiscal Year 14/15.

B. Report on Initiation of Use of Notice of Department Designation (NODD) Form
Ms. Eissler introduced the new Notice of Department Designation (NODD) form and explained there are provisions in the Professional Engineers Act and the Professional Land Surveyors' Act that require state and local government agencies to designate licensees who are in responsible charge of the civil, electrical, and mechanical engineering, and land surveying work being performed at those agencies. The NODD form was created to help facilitate these agencies in notifying the Board so the Board can confirm they are in compliance with those laws. It was promoted in both the Board Bulletin and the Board's website.

11:06 a.m. Dr. Qureshi returned

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VI. Exams/Licensing

A. Spring 2015 Examination Results
Mr. Kereszt reported on the examination statistics including those of the Structural Engineer examination.

B. Examination Statistical Report
Mr. Kereszt presented various graphs that represented the examination trends among the National versus the State specific examinations.

C. Delinquent Reinstatement Requirements
Ms. Eissler reported that staff is working on gathering data and statistics for delinquent reinstatement requirements between the three acts that was requested at the last meeting. These items will be presented at a future board meeting.

D. Credit for Overlapping Experience When Applying for Licensure or Certification
Ms. Eissler asked for clarification on a request made during Closed Session at the June Board meeting regarding overlapping experience. The Board advised that it had concerns regarding when overlapping experience is or should be allowed. Ms. Eissler indicated that copies of the applicable statutory and regulatory sections could be provided at the next meeting for the Board to review.

VII. Approval of Delinquent Reinstatements

No Report Given.

VIII. Administration

A. FY 2014/15 Budget Summary
Ms. Williams reported on the two Board funds and compared Fiscal Years 2014/15 versus 2013/14.

It was determined that the Board is generating more revenue than allocated expenses and is projected to have a surplus at the end of the year. Ms. Williams also reported on the fund condition including the BreEZe expenditures. Mr. Moore reported that the DCA will have spent upwards of $100 million dollars by the time Release II is executed. Ms. Jones Irish expressed that the state of the BreEZe implementation is scandalous. She explained that sometimes the vendor does not have a clear understanding of the scope of work and possibly not an appropriate vendor for the challenge.

B. Consideration of Budget Change Proposals
Ms. Williams advised that there is a Budget Change Proposal for a Psychometrician position in the Board's Licensing Unit. It is currently being reviewed at the Department's Budget office.

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IX. Executive Officer's Report

A. Legislation and Regulation Workgroup Summary

Mr. Moore reported that the workgroup is monitoring the legislative bills that were presented. Mr. King and Mr. Stockton will be calling in biweekly to participate in the workgroup.

B. Personnel

No report given.

C. BreEZe Update

Mr. Moore indicated that DCA is working on the Release II launch date set for late 2015 or early 2016.

D. ABET

There are opportunities for Board member participation coming up in the fall for ABET visits. Brooke Phayer, the Board's Outreach Coordinator, will notify Board members of the dates and locations once they are received.

E. ASBOG

Mr. Moore presented the Board with a proposed meeting calendar for 2015-2018 from ASBOG. These dates are for their various committee meetings, examinations, and annual meetings.

F. NCEES

Mr. Moore introduced Barton Ching and Alice Rystov from the NCEES Emerging Leaders Committee. Of 600 applicants in the country, there were 12 individuals selected; and of those 12, 2 were from California.

1. Annual Meeting Action Items

Mr. Tami reviewed the motions that will be presented at the 2015 NCEES Annual Meeting.

ADVISORY COMMITTEE ON COUNCIL ACTIVITIES (ACCA)

ACCA 1 – This approach protects the S.E. title but also regulates the practice of structural engineering, and better safeguards public safety relative to structures with an elevated level of threat.

ACCA 8 – Encouraging candidates to acquire a master's degree prior to sitting for their engineering examination.

COMMITTEE ON EDUCATION

EDUCATION MOTION 1 – Continuing Professional Competency.

EXAMINATION POLICY AND PROCEDURES

EPP 2 – The Professional Surveyor examination will go to Computer Based Testing as of October 2016.

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EPP3 - This proposed amendment would update the examination dates annually by NCEES staff and affirmed by the board of directors. The examination date should avoid conflicts with public and religious holidays.

COMMITTEE ON FINANCES

FINANCE MOTION 4 – Would change the cost of the Professional Surveyors examination. It would increase from $250 to $300 but is actually a reduction of $50 because the $100 fee administrative fee will be removed.

COMMITTEE ON UNIFORM PROCEDURES AND LEGISLATIVE GUIDELINES

UPLG Motion 6 – The language was modified to clarify that a bachelor's degree is required, which is one of the things the NCEES Records program looks for when determining whether someone qualifies for this designation. In addition, the three ABET-accredited programs were separated into different paragraphs to make it easier to read.

UPLG Motion 7 – Mr. Stockton expressed concern with the definition of surveying; B. 6. A substantial portion of the experience must be spent in charge of work related to property conveyance and/or boundary line determination.

MOTION:	Mr. Tami and Dr. Qureshi support all motions with the exception of UPLG Motions 6 and/or 7 and to authorize the Board's delegates to vote consistent with Board policy should any issues arise at the Annual Meeting.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

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Mr. Moore reported that both Ms. Shelley R. Macy, P.E., and Mr. Gary W. Thompson, PLS, are running for NCEES Treasurer. Mr. Tami provided some background on both individuals.

MOTION:	Dr. Qureshi and Ms. Mathieson moved to support Shelley Macy for NCEES Treasurer
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre			X		
William Silva			X		
Patrick Tami			X		

G. Outreach
Mr. Moore reported on the Board's outreach efforts. Ms. Jones Irish offered her assistance.

X. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs
No Report Given

B. Appointment of TAC Members

MOTION:	Ms. Mathieson and Mr. King moved to reappoint William Owen and Mark Riches to the Geology and Geophysicist TAC.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	

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Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

MOTION:	Dr. Qureshi and Mr. Tami moved to appoint Mahmoud Khodr, Maurice Palumbo, Walter Okitsu, Jason Pack, and Troy Arseneau as new members to the Traffic TAC.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

4:25 p.m. Ms. Jones Irish left the meeting

C. Reports from the TACs

1. Approval of LSTAC Work Plan for FY2015/16

MOTION:	Mr. Tami and Mr. King moved to approve the Land Surveyor TAC Workplan
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish				X	
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

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4:30 p.m. Ms. Jones Irish returned.

2. Approval of the Traffic TAC Workplan for FY2015/16

MOTION:	Dr. Qureshi and Mr. Johnson moved to approve the Traffic TAC Workplan.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish	X				
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

Ms. Christ reported on the Joint TAC meeting that took place the day before. They reviewed the Significant Structures proposal by SEAOC. The decision was for the TAC members to comment on each individual item that is included in the proposal and have those comments returned to Ms. Christ and bring them back to the next meeting. She added that Dr. Brandow suggested to SEAOC that they remove items from the proposal that were contentious.

XII. Approval of Consent Items

A. Approval of the Minutes of the April 15-16, 2015, Board Meeting

MOTION:	Mr. King and Ms. Mathieson moved to approve the April minutes.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish			X		
Robert Stockton	X				
Natalie Alavi			X		
Asha Brooks				X	
Eric Johnson	X				
Coby King	X				
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	

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Karen Roberts	X				
Ray Satorre	X				
William Silva	X				
Patrick Tami	X				

B. Approval of the Minutes of the June 11, 2015, Board Meeting

MOTION:	Ms. Mathieson and Mr. Johnson moved to approve the June minutes.
VOTE:	All Aye; Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Kathy Jones Irish			X		
Robert Stockton	X				
Natalie Alavi	X				
Asha Brooks				X	
Eric Johnson	X				
Coby King			X		
Betsy Mathieson	X				
Mohammad Qureshi	X				
Hong Beom Rhee				X	
Karen Roberts	X				
Ray Satorre	X				
William Silva			X		
Patrick Tami	X				

XI. President's Report/Board Member Activities

President Stockton presented a gavel plaque to Ms. Jones Irish for her service as Board President for 2014-15.

In addition, President Stockton presented a Certificate of Appreciation to Mr. Gary Duke for his legal counsel to the Board. Mr. Duke thanked everyone for their support.

President Stockton thanked everyone for their support on his appointment.

XIV. 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. 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)

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XV. Open Session to Announce the Results of Closed Session

Ms. Eissler reported that during closed session the Board took action on three stipulations, a default decision, and a proposed decision and discussed pending litigation as noticed.

XIII. Other Items Not Requiring Board Action

President Stockton requested that an item be included on a future agenda to address clarification relating to survey work that is done by unlicensed individuals who work for utility companies, specifically, Section 8730(c) that pertains to legal descriptions and other surveying work.

XVI. Adjourn

Meeting adjourned at 4:53 p.m.

PUBLIC PRESENT

Stephen Testa, State Mining and Geology Board
Carl Josephson, SEAOC
Steve Hai, CalTrans
Bob DeWitt, ACEC
Barton Ching, NCEES
Alice Rystov, NCEES
Rob McMillan, CLSA

DRAFT

XIII. Other Items Not Requiring Board Action

XIV. **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)]

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XV. Open Session to Announce the Results of Closed Session

XVI. Adjourn