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

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Board for Professional Engineers, Land Surveyors, and Geologists  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833  
(916) 263-2222

Thursday, May 12, 2011, immediately following the Public Hearing Regarding Proposed Amendments to Title 16, California Code of Regulations section 3005 [hearing scheduled to begin at 9:00 a.m.],  
and continuing on  
Friday, May 13, 2011, beginning at 9:00 a.m.

Board Members: Mike Modugno, President; Jerry Silva, Vice President; James Foley; Carl Josephson; Philip Quartararo; Hong Boem Rhee; Ray Satorre; Patrick Tami; Michael Trujillo; Paul Wilburn; and Erik Zinn.

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

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## 2. Public Comment

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

### **PUBLIC COMMENT**

Time is allotted during the meeting to provide members of the public with an opportunity to address the Board. The time allotted for each member of the public to address the Board may be limited by the Board based on the number of individuals wishing to speak.

\* \* \* \* \*

It is requested that the speakers stand or come forward as they are recognized to speak. It is also requested, but not required, that the speakers give their names and any organizations they represent.

\* \* \* \* \*

The public may speak on items on the agenda during the Public Comment item or when the specific item comes up for discussion by the Board. If the Board does not notice a person's request to speak during discussion of an item, it is not a deliberate attempt to limit comment. It is sometimes difficult to notice a raised hand in a meeting room. If the Board does not notice you at first, please stand so that you may be recognized to speak.

\* \* \* \* \*

The public may speak on items not on the agenda; however, the Board may not discuss or take action on such items at this meeting. Board members cannot engage in dialogue, other than to request clarification from the speaker, regarding items not on the agenda due to constraints imposed by law. The Board may direct staff to follow up on the item with the speaker or may direct that the item be placed on the agenda of a future meeting for discussion.

\* \* \* \* \*

The Board asks that you not discuss a pending application or a disciplinary complaint matter because the Board members will be the "judges" who ultimately decide the matter, and, by law, they are not permitted to receive information that is not part of the official administrative record in the matter. Any issues relating to such matters should be addressed in writing to the Board's Executive Officer. If a person attempts to speak on such a matter, the person will be instructed to refrain from making further comments.

\* \* \* \* \*

If a person becomes disruptive, the person will be requested to cease the disruptive behavior. If the person fails to do so, the Board is allowed by law to request that the person leave the meeting and may even have the person removed if he or she fails to leave.



3. **Public Hearing on the Continued Regulation of the Practice of Geophysics and Licensure of Professional Geophysicists**

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**NOTE:** This hearing will be held on Thursday, May 12, 2011, beginning at 10:00 a.m., or immediately following the Public Hearing regarding Proposed Amendments to the California Code of Regulations.



4. **Continued Regulation of the Practice of Geophysics and Licensure of Professional Geophysicists (Possible Action)**

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**NOTE:** This item will be discussed after the Public Hearing on the Continued Regulation of the Practice of Geophysics and Licensure of Professional Geophysicists.



5. DCA Director Updates

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6. **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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A. Rodolfo Dimalanta v. Board for Professional Engineers and Land Surveyors, Court of Appeal, First Appellate District, Case No. A131485 [Superior Court of Alameda County Case No. RG10513640]

B. Executive Officer Interviews

**NOTE:** The interviews will be conducted on Friday, May 13, 2011, beginning at 9:30 a.m.



7. **Open Session to Announce the Results of Closed Session**

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8. **Nomination and Election of President and Vice President for Fiscal Year 2011-2012 (Possible Action)**

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9. **Adoption of 2011-2013 Strategic Plan (Possible Action)**





**10. Temporary Authorization Applications (Possible Action)**

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## 11. Executive Officer's Report

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- A. Legislation
  - 1. Discussion of Legislation for 2011: AB 172, AB 275, AB 958, AB 1023, AB 1210, SB 541, SB 543, SB 692, and SB 944 (Possible Action)
  - 2. Legislative Proposals for 2011:
    - a. Proposed Amendments to the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.) Relating to Qualifications for Certification as a Geologist-in-Training (Possible Action)
- B. Sunset Review 2010 (Possible Action)
- C. Personnel
- D. Governor's Executive Order B-06-11 Relating to Travel



# Board for Professional Engineers and Land Surveyors

## 2011 Legislative Session

- AB 275** Solorio. Rainwater Capture Act of 2011. This bill would enact the Rainwater Capture Act of 2011, which would among other things, authorize landscape contractors, holding a specified classification, to design and install all exterior components of a rainwater capture system.  
STATUS: Last amended 3/25/11. Passed out of Assembly 5/2/11.  
BOARD POSITION: Oppose unless amended
- AB 958** Berryhill. Regulatory boards: limitations periods. Existing law requires some boards within the Department of Consumer Affairs (DCA) to file disciplinary action accusations against licensees for various violations within a specified time. This bill would delete those specified limitations periods for each board and would instead impose a specified limitations period on all boards within DCA.  
STATUS: Introduced 2/18/11.  
BOARD POSITION: Oppose
- AB 1023** Wagner. Maintenance of the codes. This bill would make nonsubstantive changes to various provisions of law based on the recommendations made by the Legislative Counsel to the Legislature. This bill repeals Sections 6731.1, 6731.2, 8726.1, and 8761.1 of the Business and Professions Code.  
STATUS: Introduced 2/18/11. To be heard in Assem. Judiciary Com. 5/10/11.  
BOARD POSITION: Oppose unless amended
- AB 1210** Garrick. Civil Engineering. This bill adds Section 6730.4 to the Engineer's Act, relating to water quality.  
STATUS: Amended 3/31/11. Passed Assembly BP&CP Com. 5/3/11.  
RECOMMENDED POSITION: Support  
BOARD POSITION: Watch (position was taken on previous version of the bill)
- SB 541** Price. Regulatory Boards: expert consultants. This bill would authorize the boards of DCA to continue to utilize expert consultants, as done in the past, without going through formal contracting process.  
STATUS: Amended 4/13/11. Passed Sen. BP&ED Com. 5/2/11.  
RECOMMENDED POSITION: Support  
BOARD POSITION:
- SB 543** Price. Business and professions: regulatory boards. This bill extends the sunset dates for various DCA regulatory boards and bureaus that are being evaluated by the Joint Sunset Review Committee. It also makes various changes to the Engineer's, Land Surveyor's, and Geology Acts.  
STATUS: Amended 4/14/11. Passed Sen. BP&ED Com. 5/2/11.  
BOARD POSITION: Support

## **Board for Professional Engineers and Land Surveyors**

- SB 692** Walters. Professional Engineers. This bill would change the disciplines currently licensed as "title act" engineers to "practice act" engineers.  
STATUS: Introduced 2/18/11. Passed Sen. BP&ED Com. 4/25/11.  
BOARD POSITION: Watch
- SB 944** Senate Business Professions & Economic Development Committee. This is one of the Committee's Omnibus bills. It will be amended to include some minor changes to the Engineer's Act and the Land Surveyor's Act.  
STATUS: Introduced 3/31/11. Passed out of Sen. BP&ED Com. 5/2/11.  
RECOMMENDED POSITION: Support  
BOARD POSITION:

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL: AB 275**

**AUTHOR: Solorio**

**TOPIC:** Rainwater Capture Act

**DATE OF INTRODUCTION:** 2/7/11

**MOST RECENT VERSION:** 3/25/11

**ANALYSIS DATE:** 5/4/11

**BILL'S LEGISLATIVE HISTORY:** Passed Assembly and sent to Senate

**RECOMMENDED POSITION:** Oppose unless amended

**BOARD POSITION:** Oppose unless amended

**SUMMARY:**

This bill would enact the Rainwater Capture Act of 2011, which would authorize residential, commercial, and governmental landowners to install, maintain, and operate rain barrel systems, as defined, and rainwater capture systems, as defined, for specified purposes, provided that the systems comply with specified requirements. This bill would authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is used for landscape irrigation. The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

**COMMENT:**

ACEC has proposed suggested language as follows:

Page 3, line 15 – Strike “used for landscape irrigation” and insert “provided it is used exclusively for landscape irrigation and further provided the work is performed in accordance with subdivision (c) of this section.”

Page 3, line 41 – Add “(e) Nothing contained in this measure authorizes or permits a landscape contractor from engaging in or performing activities which are subject to the licensing requirements in the Professional Engineers Act (commencing with Business and Professions Code Section 6700, and following)”

Board staff civil engineer, Susan Christ, has reviewed and approved this language.

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL: AB 958**

**AUTHOR: Berryhill**

**TOPIC:** Regulatory boards: limitations periods

**DATE OF INTRODUCTION:** 2/18/11

**MOST RECENT VERSION:**

**ANALYSIS DATE:** 5/4/11

**BILL'S LEGISLATIVE HISTORY:**

**RECOMMENDED POSITION:** Oppose

**BOARD POSITION:** Oppose

**SUMMARY:**

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires these boards to file disciplinary action accusations against licensees for various violations within a specified limitations period particular to each board. This bill would delete those specified limitations periods for each board and would instead impose a specified limitations period on all boards within the Department of Consumer Affairs.

**COMMENT:**

This bill would require that any accusation filed against a licensee of a board shall be filed within one year after the board discovers the act or omission alleged as the ground for disciplinary action, or within four years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

This bill is not consumer friendly. Many of our cases are opened more than four years after an "alleged act" occurs. For example, someone's house starts to shift on its foundation 5 years after the house is built due to a faulty geotechnical report. Furthermore, expecting a case to be filed within one year may work for some cases but not for all.

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL: AB 1023**

**AUTHOR: Wagner**

**TOPIC:** Maintenance of the codes

**DATE OF INTRODUCTION:** 2/18/11

**MOST RECENT VERSION:**

**ANALYSIS DATE:** 5/4/11

**BILL'S LEGISLATIVE HISTORY:**

**RECOMMENDED POSITION:** Oppose unless amended

**BOARD POSITION:** Oppose unless amended

**SUMMARY:**

This bill makes nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature. This bill would repeal sections 6731.1, 6731.2, 8726.1, and 8761.1 of the Business and Professions Code.

**COMMENT:**

The sections that Legislative Counsel determined to be eliminated from our B&P Code are needed and should be left in our law. The sponsor of the bill has been contacted and the above mentioned sections are being removed from the bill.

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL: AB 1210**

**AUTHOR: Garrick**

**TOPIC:** Civil engineering

**DATE OF INTRODUCTION:** 2/18/11

**MOST RECENT VERSION:** 3/31/11

**ANALYSIS DATE:** 5/3/11

**BILL'S LEGISLATIVE HISTORY:** Scheduled to be heard in Assembly Business, Professions and Consumer Protection Committee 5/3/11

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Watch (position was taken on previous version of the bill)

**SUMMARY:**

This bill would require all civil engineering activities performed in preparation, submission, execution, and enforcement of storm water pollution prevention plans pursuant to a specified general permit for storm water discharges to be prepared and performed under the responsible charge of a licensed civil engineer.

**COMMENT:**

This bill clarifies the definition of civil engineering found in Section 6731 by clearly stating that all civil engineering work performed with respect to storm water pollution prevention plans (SWPPP) must be done by a civil engineer. It seems that Section 6731 already covers this, in addition to the language that was included in the SWRCB Order stating that all engineering work must be performed by a civil engineer, however, apparently the language can be misinterpreted. This bill does clarify the situation with respect to SWPPP.

This bill is being sponsored by American Council of Engineering Companies (ACEC - CA).

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL:** SB 541

**AUTHOR:** Price

**TOPIC:** Regulatory boards: expert consultants

**DATE OF INTRODUCTION:** 2/17/11

**MOST RECENT VERSION:** 4/13/11

**ANALYSIS DATE:** 5/4/11

**BILL'S LEGISLATIVE HISTORY:** Passed out of Senate Business and Professions and Economic Development Committee on 5/2/11.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:**

**SUMMARY:** This bill would allow DCA boards to enter into agreements to utilize the services of expert consultants without having to go through the formal state contracting process. Specifically, this bill would require boards to establish policies and procedures for the selection and use of expert consultants and would allow boards to enter into agreements with these consultants for enforcement or exam-related services. These agreements would be exempt from the arduous requirements of the State Contract Act.

**COMMENT:** This is an urgency bill, and would take effect immediately. It is sponsored by the Medical Board and the Contractors State License Board.

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL: SB 543**

**AUTHOR: Price**

**TOPIC:** Business and Professions: regulatory boards

**DATE OF INTRODUCTION:** 2/17/11

**MOST RECENT VERSION:** 4/14/11

**ANALYSIS DATE:** 5/4/11

**BILL'S LEGISLATIVE HISTORY:** Passed out of Senate Business and Professions and Economic Development Committee on 5/2.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Support

**SUMMARY:** This bill is the "sunset bill" for the Senate Committee on Business, Professions and Economic Development. Among other things, this bill extends the operation date for this Board until January 1, 2016.

This bill would:

Extend the sunset date for this Board to January 1, 2016.

Add this Board to the list of boards authorized to collect fingerprints from applicants for the purpose of a criminal history record check.

Delete the requirement for a state-specific structural exam.

Merge the funds of the engineers and land surveyors with that of the geologists and geophysicists by creating a new "Professional Engineer's, Land Surveyor's, Geologist's, and Geophysicist's Fund."

Delete the provision that states that the fee charged for a Geology exam is limited to \$450.

**COMMENT:** Although this bill requires the Board to fingerprint applicants, it does not provide any funds or staffing to meet this new mandate.

**Board for Professional Engineers and Land Surveyors**  
**Bill Analysis**  
**2011 Legislative Session**

**BILL:** SB 692

**AUTHOR:** Walters

**TOPIC:** Professional Engineers

**DATE OF INTRODUCTION:** 2/18/11

**MOST RECENT VERSION:**

**ANALYSIS DATE:** 5/4/11

**BILLS LEGISLATIVE HISTORY:** Passed Senate Business, Professions & Economic Development Committee

**BOARD POSITION:** Watch

**SUMMARY:** This bill would prohibit the practice of agricultural, chemical, control system, fire protection, industrial, metallurgical, nuclear, petroleum, and traffic engineering by any person who has not passed a specified examination and who is not appropriately licensed by the Board for Professional Engineers and Land Surveyors in the particular discipline. In other words, this bill converts "title act" disciplines to "practice act" disciplines.

**HISTORY:** The issue of title acts and what should be done about them has been a concern of the Board for over 25 years. After various studies, task forces, and legislation, the Board continues to arrive at the same conclusion that it would be best to leave "title acts" as they are or to leave some of them as they are and to eliminate others. In 2000, the Joint Legislative Sunset Review Committee (JLSRC), the Department of Consumer Affairs (DCA), and the Board decided that the best way to address the "title act" issue was to contract with an independent consultant to perform a review of all of the title act branches of engineering. The report that was prepared by the independent consultant (ISR) was completed in November of 2002. The report concluded, among other things, that the state should eliminate title protection and offer practice protection to all regulated disciplines. A Task Force was then appointed by the Board consisting of two members of the Board, Committee consultants of the Legislature, a representative from DCA, and other various members of the public and two professional engineers (not members of the Board). The Task Force began meeting in August of 2003 and held five meetings throughout the state to discuss the ISR recommendations and receive public comment regarding those recommendations or others being considered by the Task Force. The Task Force completed its work in January of 2004 and made its recommendations to the Board. The Board, with minor changes, approved the Task Force recommendations in May of 2004. The JLSRC met in June 2004, adopted all the Board's recommendations and the next year, on June 20, 2005, placed them into a bill, SB 246. SB 246 included language that established chemical, control systems, fire protection, nuclear, petroleum, and traffic engineering as "practice acts" and discontinued examinations for the title disciplines of agricultural, industrial, and metallurgical engineering. Among other things, SB 246 provided that the professional practice of engineering in the branches recognized by the Board may overlap, but with specified provisions. SB 246 was met with vigorous opposition and was having difficulty making it through the Legislature. In July 2005, it was scheduled to be heard in the Assembly Committee on Business and Professions (B&P), but due to the opposition it was "held" in Committee.

In 2005/2006, the Assembly B&P Committee held a number of meetings regarding the issue of converting the "title act" disciplines to "practice acts." The meetings were comprised of numerous

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

groups and individuals who expressed an interest – both pro and con – to the language in SB 246 to make such conversions. The goal of the meetings was to arrive at language that was acceptable to most, if not all, of the parties. Agreeable language could not be reached, so after much discussion between the Board and the JLSRC, the decision was made that the language to convert “title act” disciplines to “practice acts” should be dropped from the bill. The Board voted at its March 17, 2006, meeting to support the removal of the language to convert “title act” disciplines to “practice act” disciplines.

In 2009, SB 275, which was virtually identical to SB 692 was introduced. It was sponsored by the Farm Bureau and Chemical Industry Council. American Council of Engineering Companies (ACEC CA) and Professional Engineers in California Government (PECG) were opposed to the bill. The Board had a “watch” position. SB 275 failed passage out of its first Committee hearing.

**COMMENT:** Many people who are currently licensed in “title act” disciplines were grandfathered (licensed without examination) into those disciplines, although it is becoming fewer and fewer each year. This brings up another issue: most of the “title act” disciplines are shrinking (see below) and may eventually go away on their own through attrition. The Board needs to consider that many unlicensed people are currently legally doing work that would suddenly become protected if “title acts” are converted to “practice acts”; these people would no longer be able to do their jobs. Therefore, SB 692 could be seen as a “job killer” and, in this economy, may reflect poorly on this bill.

Branch of Engineering	Number of Licensees FY 1999/2000	Number of Licensees As of 6/30/2010	Number of Licensees As of 3/6/11
Agricultural	309	193	175
Chemical	2140	1954	1977
Control System	2410	1416	1264
Fire Protection	883	760	750
Industrial	854	467	426
Metallurgical	417	277	260
Nuclear	1038	613	556
Petroleum	482	389	373
Traffic	1398	1512	1522

**Board for Professional Engineers and Land Surveyors  
Bill Analysis  
2011 Legislative Session**

**BILL: SB 944**

**AUTHOR: Senate B,P&E D Committee**

**TOPIC:** Business and professions

**DATE OF INTRODUCTION:** 3/31/11

**MOST RECENT VERSION:**

**ANALYSIS DATE:** 5/3/11

**BILL'S LEGISLATIVE HISTORY:** Passed out of Senate Business and Professions and Economic Development Committee on 5/2/11

**RECOMMENDED POSITION:** Support

**BOARD POSITION:**

**SUMMARY:**

This bill, one of the Committee's non-health omnibus bill, will make noncontroversial changes affecting various boards and bureaus within the Department of Consumer Affairs.

**COMMENT:**

As introduced, this bill does not carry any provisions that would pertain to this Board. It is expected that when amended, this bill will carry provisions that will:

- 1) Add statutory language that would require the Board to establish relations with other states' and countries' licensing bodies for engineering and land surveying.
- 2) Amend various sections to correct the name of the Board.
- 3) Amend Section 6712(c) to add the geologist or geophysicist member of the Board to the professional members that are to be appointed by the Governor.
- 4) Amend Sections 6711 and 8805 to correct typographical errors.

**ADOPTION OF PROPOSED LEGISLATION TO ADD  
BUSINESS AND PROFESSIONS CODE SECTION 7841.2  
[QUALIFICATIONS AS A GEOLOGIST-IN-TRAINING]**

Staff is proposing to seek adoption of Business and Professions Code Section 7841.2 to establish qualifications for the Geologist-in-Training examination.

The former Board for Geologists and Geophysicists (BGG) had recommended adopting legislation for a newly established Geologist-In-Training (GIT) examination and certification in 2003. The GIT would be established in 2005 as a component of the requirement for an applicant to obtain licensure as a Professional Geologist, but could also be taken independently if an applicant chose only to be certified as a GIT. Effective January 1, 2005, Business and Professions Code Section 7843 was added to statute.

The language of Business and Professions Code Section 7843 was intended to be borrowed from Business and Professions Code Sections 6751 and 6756, which outline the qualifications and restrictions for certification as an Engineer-In-Training. While Business and Professions Code Section 7843 explains the restrictions of the GIT certification, it does not indicate the qualifications required for the GIT examination. The Geologist and Geophysicist Act, and its related regulations, does not contain any language stating the qualifications required for taking the GIT examination. If adopted, Business and Professions Code Section 7841.2 would outline the required qualifications for the GIT examination.

Since Business and Professions Code Section 7843 was enacted, the BGG has required that applicants for the GIT examination have graduated from a college or university with a major in geological sciences. The reason for needing a degree to take the GIT examination appears to be in the fact that the GIT is intended to be the first step in the licensure process and a degree is required when an applicant applies for licensure as a Professional Geologist. Once a degree is attained and the GIT examination is successfully passed, the applicant would then need to obtain the required work experience before he or she can apply for licensure through the Practice of Geology examination and California-specific examination. This requirement of a degree would be written in Business and Professions Code Section 7841.2 as a qualification for the GIT.

The issue of needing to adopt qualifications for the GIT examination was discussed during the Strategic Planning Meeting conducted at the March 24, 2011 Board Meeting and the recommended adoption of proposed legislation to add Business and Professions Code Section 7841.2 is included in this agenda.

**RECOMMENDED MOTION:**

Direct staff to pursue legislation to add Section 7841.2 to the Business and Professions Code Section and Professions Code regarding the qualifications needed to obtain a Geologist-in-Training certificate.

**Proposed statutory changes:**

**7841.**

An applicant for registration 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 with a major in geological sciences from college or university.

(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 examinations that incorporates a national Fundamentals of Geology examination and a national Practice of Geology examination for geologists ~~and~~ a 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.

**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 registration under Section 480.

(b) Successfully pass the Fundamentals of Geology examination. The applicant shall be eligible to sit for the Fundamentals of Geology examination after graduation with a degree in a geological science from a college or university the curriculum of which has been approved by the board.

**7843.**

(a) An applicant for certification as a geologist-in-training shall, upon making a passing grade in the ~~National Association of State Boards of Geology's~~ Fundamentals of Geology examination created by a nationally recognized entity approved by the board, be issued a certificate as a geologist-in-training. A renewal or other fee, other than the application fee and examination fees, may not be charged for this certification. The certificate shall become invalid when the holder has qualified as a professional geologist as provided in Section 7841.

(b) A geologist-in-training certificate does not authorize the holder thereof to practice or offer to practice geology, in his or her own right, or to use ~~the~~ title specified in Section 7804.

(c) It is unlawful for anyone other than the holder of a valid geologist-in-training certificate issued under this chapter to use the title of "geologist-in-training" or any abbreviation of that title.

**7844.**

Examination for registration shall be held at the times and places within the state as the board shall determine. The scope of examinations and the methods of procedure may be prescribed by rule of the board. The board may make arrangements with a public or private organization to conduct examinations for licensure. The board may contract with a public or private organization for materials or services related to the examination.

**7887.**

The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a geologist or a geophysicist or certification as a specialty geologist or a specialty geophysicist and for administration of the examination at not more than two hundred and fifty dollars (\$250).

(b) The registration fee for a geologist or for a geophysicist and the fee for the certification in a specialty shall be fixed at an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that, with respect to certificates that will expire less than one year after issuance, the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The duplicate certificate fee at not more than six dollars (\$6).

(d) The temporary registration fee for a geologist or for a geophysicist at not more than eighty dollars (\$80).

(e) The renewal fee for a geologist or for a geophysicist shall be fixed by the board at not more than four hundred dollars (\$400).

(f) The renewal fee for a specialty geologist or for a specialty geophysicist at not more than one hundred dollars (\$100).

(g) Notwithstanding Section 163.5, the delinquency fee for a certificate is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date.

(h) The fee to take an examination administered by a public or private organization pursuant to Section 7844 or by the board itself shall be no greater than the actual cost of the development and administration of the examination and may be paid directly to the organization by the applicant. ~~Each applicant for registration as a geologist shall pay an examination fee fixed by the board at an amount equal to the actual cost to the board to administer the examination described in subdivision (d) of Section 7844 that shall not exceed four hundred fifty dollars (\$450).~~

~~(i) Each applicant for registration as a geophysicist or certification as an engineering geologist or certification as a hydrogeologist shall pay an examination fee fixed by the board at an amount equal to the actual cost to the board for the development and maintenance of the written examination, and shall not exceed one hundred dollars (\$100).~~

12. Enforcement

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FY2010/2011 SUMMARY OF ENGINEERING AND LAND SURVEYING ENFORCEMENT CASES  
Through April 2011

	IN-HOUSE					DIV. OF INVEST.			ATTORNEY GENERAL				
	Cases Opened	Cases Closed	Cases Pend.	Mean/Median Age of Cases Pending (in days)	Pending Cases Over 365 Days	Cases Subm.	Cases Ret'd	Cases Pend.	Cases Subm.	Cases Closed	Cases Pend.	SOIs Pend.	ACCs Pend.
JULY	34	37	295	317/166	92	3	9	23	9	0	126	1*	126*
AUG	26	61	260	355/232	94	1	1	23	9	0	135	1*	135*
SEPT	21	25	256	359/227	94	7	4	26	0	11	124	1*	124*
OCT	24	16	264	356/251	90	2	2	26	2	3	123	1*	123*
NOV	17	19	265	364/254	94	4	3	27	4	1	126	1*	126*
DEC	58	29	294	333/229	92	1	3	25	2	18	110	1*	110*
JAN	47	45	296	328/221	94	2	3	24	2	2	110	1*	110*
FEB	17	19	295	335/231	105	4	3	25	8	2	116	1*	116*
MARCH	54	19	330	300/210	104	2	1	26	5	6	115	1*	115*
APRIL	60	28	362	252/129	95	2	5	23	3	9	109	0	109
MAY													
JUNE													
TOTALS	358	298				28	34		44	52			

\*Some of the cases pending at the Attorney General's Office involve both a Statement of Issues (denial of licensure) and an Accusation (disciplinary action against a license or certificate). Therefore, the number of SOIs Pending and the number of ACCs Pending total more than the number of Cases Pending at the Attorney General's Office.

Explanation of Terms:

"In-House" totals represent the number of complaints opened, closed, and pending in a given month. In addition, the mean and median age of pending cases and the number of pending cases over 365 days are provided.

"Div. Of Invest." totals represent the number of complaints which are referred to, returned from, and still pending with the Division of Investigation in a given month. These cases are a subset of the "In-House" cases.

"Attorney General" totals represent the number of cases submitted to, closed, and pending with the Office of the Attorney General, as well as a breakdown of how many cases are Statements of Issues (SOIs), which are not generated by enforcement/complaint activity, and how many cases are Accusations (ACCs), which are generated by enforcement/complaint activity. (SOIs are generated by denials of applications for registration or licensure.)

ENGINEERING AND LAND SURVEYING COMPLAINT CATEGORY STATISTICS  
Through April 2011

Because the Professional Engineers Act and Professional Land Surveyors' Act have general/all-inclusive statutes which address violations (for example, Section 6775 includes fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, aiding/abetting, and violating the Code of Professional Conduct in the practice of professional engineering, and Section 8780 includes fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, aiding/abetting, and violating the Code of Professional Conduct in the practice of professional land surveying), the Enforcement Unit does not classify complaints by the specific type of violation; in general, we investigate the complaint as if all of these violations have been alleged. However, the Department of Consumer Affairs (DCA) has standard category types for complaint statistics which we use when a complaint case is initially opened. These categories are contractual, fraud, health and safety, non-jurisdictional, competence/negligence, other category, personal conduct, product quality, unprofessional conduct, and unlicensed or unregistered activity. Therefore, when a complaint is received and opened as a formal complaint the information provided by the complainant is reviewed and one or two of the DCA categories are chosen for statistical purposes.

CATEGORY	FY03/04	FY04/05	FY05/06	FY06/07	FY07/08	FY08/09	FY09/10	FY10/11
Competence/Negligence	119	84	110	114	105	159	124	144
Contractual*	79	72	96	87	84	78	60	70
Fraud	34	33	68	56	49	53	41	35
Unlicensed Activity	124	84	105	98	103	108	82	73
Other Category	29	6	7	6	28	22	18	16
Record of Survey**	32	35	52	29	23	74	55	86
Delinquents**	10	1	1	2	0	2	2	1
Examination Subversion**	63	31	106	271	149	94	167	65
Code of Professional Conduct	7	5	16	9	16	10	8	6
Reporting of Legal Actions Program**	N/A	N/A	N/A	N/A	1	18	38	56

\* Contractual includes failure to use a written contract or failure to include all required elements in the written contract as well as breach of contract.

\*\* These are not DCA categories; they are Board categories.

(Please note: These numbers may total more than the number of complaints we opened in a given year because a complaint may fall within more than one category.)

ENGINEERING & LAND SURVEYING COMPLAINT INVESTIGATION CASE RESOLUTION STATISTICS  
Through April 2011

This table shows the general closing categories used by the Enforcement Unit when closing a complaint investigation case; these categories are based on categories from the Department of Consumer Affairs.

Fiscal Year	No Violation & Insufficient Evidence	Compliance Obtained	Mediated	RAIN	Warning Letter	Citation to be Issued	Referred to		Other
							DA	AG	
03/04	53	71	4	23	9	18	12	52	4
04/05	62	83	7	11	12	32	2	32	11
05/06	92	86	28	19	25	52	5	61	9
06/07	171	199	7	10	34	70	12	48	18
07/08	135	183	9	8	76	113	11*	63*	12
08/09	130	112	11	17	91	112	3	77	5
09/10	150	104	2	5	59	98	5	103	14
10/11	87	35	5	10	45	48	10*	49*	11

\* In FY07/08, two cases were submitted to both the District Attorney and the Attorney General. In FY10/11, one case was submitted to both the District Attorney and the Attorney General.

<sup>40</sup> “No Violation & Insufficient Evidence” also includes “No Jurisdiction” (the alleged violations do not fall within the Board’s Jurisdiction). “RAIN” stands for “Resolved After Initial Notification.” “Other” includes such categories as Subject Deceased, Unable to Locate Subject, Non-Cooperation of Complainant, No Response from Exam Subversion Subjects (Applications Voided).

In addition to investigating formal complaints, the Enforcement Unit staff assists consumers and licensees in resolving problems before they actually become complaints. Most of these matters involve a breakdown of communication between the licensee and the client. The Enforcement Analysts assist both parties in re-opening the lines of communication; the analysts act only as mediators, not arbitrators. In these situations, it is generally the parties involved who resolve the problem rather than the analysts. Most of these matters are generally handled through telephone contact rather than with correspondence.

ENGINEERING AND LAND SURVEYING CITATION ORDER STATISTICS  
Through April 2011

Month	Number Issued	Violation Type of Citations Issued*										Informal Conferences and/or Appeal Hearings Requested	Informal Conferences and/or Appeal Hearings Held	Number Modified, or Affirmed, or Dismissed	Number Final	Order of Final Citations	
		Unlicensed					Licensed									Abate Only	Abate & Fine (w/amt of fine)
		Title	Rep as able to practice	Offer	Practice	Other	Failure to File	Neg	Misrep	Other							
FY04/05	16	1	0	3	6	3	6	0	0	4	4	23	21	N/A	\$10,850		
FY05/06	9	1	1	5	3	0	0	2	0	3	6	4	5	N/A	\$11,500		
FY06/07	9	1	1	5	6	4	1	3	0	2	2	2	4	N/A	\$11,250		
FY07/08	71	1	3	30	27	7	22	13	3	36	29	21	16	N/A	\$89,600		
FY08/09	60	0	0	21	20	7	7	15	6	29	35	6	27	N/A	\$43,350		
FY09/10	38	5	0	19	15	11	11	10	0	24	13	15	16	N/A	\$38,750		
July	2	0	0	1	1	1	0	0	0	0	1	0	3	N/A	\$5,250		
August	5	1	1	3	2	2	1	2	0	0	0	0	0	N/A	\$500		
September	14	1	2	3	4	1	1	5	0	11	0	0	1	N/A	\$14,250		
October	0	0	0	0	0	0	0	0	0	0	7	0	0	N/A	\$17,000		
November	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A		
December	0	0	0	0	0	0	0	0	0	0	0	0	0	N/A	N/A		
January	6	0	0	2	2	0	0	3	1	3	1	0	0	N/A	N/A		
February	9	0	0	0	0	0	2	2	0	7	2	5	1	N/A	N/A		
March	10	0	0	0	0	0	4	2	1	13	10	0	4	N/A	\$1,000		
April	9	0	0	0	0	0	7	4	0	8	3	0	0	N/A	\$4,250		
May																	
June																	
Totals	55	2	3	9	9	4	15	18	2	42	24	5	5	N/A	\$42,250		

\*Violation Type of Citations Issued - a single citation may include multiple violations

Unlicensed - Title = Use of any restricted title

Unlicensed - Rep as able to practice = Representing self as able to practice one of the 4 practice acts (CE/SE/GE; EE; ME; & LS) by using any of the titles associated with those practice acts or in any other way representing that one is authorized to practice in those areas

Unlicensed - Offer = Offering to perform any of the 4 practice acts (includes offers in advertisements)

Unlicensed - Practice = Actually practicing any of the 4 practice acts

Unlicensed - Other = Any other violations involving unlicensed activity

Licensed - Failure to File = Failure to file records of survey/corner records in the time and/or manner required by law

Licensed - Neg = Negligence in the professional practice

Licensed - Misrep = Misrepresentation in the professional practice

Licensed - Other = Any other violations in the professional practice

A citation order is final 30 days after it is issued unless a request for an informal conference and/or an appeal hearing is received. Following an informal conference, the citation order may be modified, affirmed, or dismissed. An informal conference may be commenced and continued to provide for the receipt and review of additional information. The cited person may also withdraw his/her request for an informal conference and/or appeal hearing; the citation then becomes final 30 days after the date of issuance.

OUTCOME OF ENGINEERING & LAND SURVEYING CASES SUBMITTED TO THE ATTORNEY GENERAL'S OFFICE

Through April 2011

Based on the Effective Date of the Decision  
(Including Proposed Decisions, Stipulations, Defaults, and Decisions After Reconsideration)

Fiscal Year	Total	Revoked or Voluntary Surrender	Rev/Stay (with probation)	Susp/Stay (with probation)	Other (i.e., Suspension Only, Probation Only)	Dismissed**	Withdrawn*	
							Acc Filed	No Acc Filed
03/04	17	4	11	0	1	0	0	1
04/05	27	3	15	3	5	0	1	0
05/06	24	7	10	1	3	1	0	2
06/07	28	10	8	0	3	0	3	4
07/08	7	2	1	0	3	1	0	0
08/09	12	4	5	0	1	0	0	2
09/10	38	11	11	0	8	0	1	7
10/11	52	19	20	0	4	0	4	5

\* For statistical tracking purposes, we use the term "Withdrawn" to apply to both cases which are returned by the AG's Office with the recommendation that an Accusation not be filed as well as cases in which an Accusation is filed and then formally withdrawn (through a Notice of Withdrawal signed by the Executive Officer as the Complainant in the Accusation) prior to the issuance of a Final Decision by the Board. Generally, the DAG will recommend that an Accusation not be filed if he believes, after reviewing all of the evidence provided, the case is too old or there is insufficient evidence or if the subject/respondent complies with the law (such as filing the Record of Survey or completing the terms of the contract). Additionally, Accusations are withdrawn (after filing) if additional evidence indicates that the respondent is in compliance with the law.

\*\* An Accusation is dismissed (with or without prejudice) through a Final Decision by the Board (generally, by adopting a Proposed Decision which orders dismissal or by granting a Petition for Reconsideration and ordering dismissal).

(It is rare that a case will be opened as a complaint, submitted to the AG's Office, and have a final decision issued in the same fiscal year. In addition, multiple complaint cases against the same individual are combined into one case when submitted to the AG's Office.)

**13. Exams/Licensing**

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- A. Report on April 2011 PELS Examination Administration
- B. Report on March 2011 Geology Examination Administration
- C. October 2011 Examination (Possible Action)



**ENGINEERS AND LAND SURVEYORS  
FY 2010-11**

**SUMMARY OF EXAMS AND LICENSING STATISTICS**

Through March 31, 2011

	YTD as of March 31, 2011	YTD as of March 31, 2010	Increase / Decrease #	Increase / Decrease %
Applications	15,809	19,296	(3,487)	-18%
Comity Applications	494	401	93	23%
License Renewals	27,261	31,906	(4,645)	-15%
Active Licenses (PE & PLS)	95,576	94,524	1,052	1%
Active Certifications (FE & FS)	38,469	34,982	3,487	10%
Retired Status Licenses	3,477	3,118	359	12%
	<b>FY 2010-11 Exams</b>	<b>FY 2009-11 Exams</b>		
October	13,328	14,948	(1,620)	-11%
April	11,899	13,720	(1,821)	-13%

ENGINEERS AND LAND SURVEYORS

FY 2010-11

Exam Applicants Through March 31, 2011

DISCIPLINE	Exam Applications						Comity		
	Month		Year to Date		Increase/ Decrease	Year to Date	Year to Date		Increase/ Decrease
	March '11	March '10	March '11	March '10			March '11	March '10	
<b>Practice Acts</b>									
Civil	23	34	5,610	7,624	(11)	220	149	71	
Electrical	3	8	642	602	(5)	113	107	6	
Mechanical	3	8	581	635	(5)	105	49	56	
Land Surveyor	3	6	446	508	(3)	6	50	(44)	
<b>Title Authority Acts</b>									
Structural	3	10	392	421	(7)	16	8	8	
Geotechnical	3	2	78	79	1	0	0	0	
<b>Title Acts</b>									
Agricultural	0	0	3	2	0	0	0	0	
Control Systems	0	0	22	18	0	2	0	2	
Fire Protection	1	0	25	30	1	8	6	2	
Chemical	0	0	99	104	0	5	12	(7)	
Industrial	0	0	4	2	0	0	0	0	
Metallurgical	1	0	6	12	1	0	0	0	
Nuclear	0	0	1	3	0	0	0	0	
Petroleum	0	0	4	5	0	0	0	0	
<b>Title Acts (California Specific)</b>									
Traffic	2	2	87	93	0	2	0	2	
Quality	0	0	0	0	0	0	0	0	
Safety	0	0	0	0	0	0	0	0	
Corrosion	0	0	0	0	0	0	0	0	
<b>SUBTOTAL (PE/PLS)</b>	<b>42</b>	<b>70</b>	<b>8,000</b>	<b>10,138</b>	<b>(28)</b>	<b>477</b>	<b>381</b>	<b>96</b>	
<b>In-Training</b>									
Fundamentals of Engineering	255	66	7,447	8,708	189	16	20	(4)	
Fundamentals of Surveying	15	3	362	450	12	1	0	1	
<b>SUBTOTAL (FE/FS)</b>	<b>270</b>	<b>69</b>	<b>7,809</b>	<b>9,158</b>	<b>201</b>	<b>17</b>	<b>20</b>		
<b>TOTALS</b>	<b>312</b>	<b>139</b>	<b>15,809</b>	<b>19,296</b>	<b>173</b>	<b>494</b>	<b>401</b>	<b>93</b>	
% + / - Change					<b>124%</b>			<b>23%</b>	

EXECUTIVE REPORT

ENGINEERS AND LAND SURVEYORS

FY 2010-11

Active Licenses Through March 31, 2011

DISCIPLINE	Licenses & Certifications <sup>(1)</sup>				Retired Status	
	Year to Date As Of:		Increase/Decrease		Year to Date As Of:	
	March '11	March '10	Increase/Decrease	March '11	March '10	Increase/Decrease
<b>Practice Acts</b>						
Civil	52,696	51,626	1,070	1,111	1,014	97
Electrical	9,242	9,159	83	334	300	34
Mechanical	14,845	14,819	228	478	463	16
Land Surveyor	4,220	4,260	(40)	120	102	18
<b>Title Authority Acts</b>						
Structural	3,807	3,734	73	86	72	14
Geotechnical	1,416	1,388	28	32	27	5
<b>Title Acts</b>						
Agricultural	175	182	(7)	129	26	103
Control Systems	1,280	1,386	(106)	209	193	16
Fire Protection	757	759	(2)	50	47	3
Manufacturing	557	600	(43)	157	147	10
Chemical	1,963	1,998	(15)	62	60	2
Industrial	427	466	(39)	117	106	11
Metallurgical	260	278	(18)	35	34	1
Nuclear	557	580	(23)	96	93	3
Petroleum	375	382	(7)	16	15	1
<b>Title Acts (California Specific)</b>						
Traffic	1,521	1,518	3	78	73	5
Quality	684	756	(72)	212	198	13
Safety	514	565	(51)	119	112	7
Corrosion	260	268	(8)	36	35	1
<b>SUBTOTAL (PE &amp; PLS)</b>	<b>95,576</b>	<b>94,524</b>	<b>1,052</b>	<b>3,477</b>	<b>3,118</b>	<b>359</b>
Total % Growth			1%			12%
<b>In-Training</b>						
Fundamentals of Engineering	36,082	32,747	3,335	n/a	n/a	n/a
Fundamentals of Surveying	2,387	2,235	152	n/a	n/a	n/a
<b>SUBTOTAL (FE &amp; FS)</b>	<b>38,469</b>	<b>34,982</b>	<b>3,487</b>			
Total % Growth			10%			n/a
<b>TOTALS</b>	<b>134,045</b>	<b>129,506</b>	<b>4,539</b>	<b>3,477</b>	<b>3,118</b>	<b>359</b>

Notes:

(1) Excludes licenses cancelled, deceased, revoked, suspended, and denied.



EXECUTIVE REPORT

**GEOLOGISTS AND GEOPHYSICISTS  
FY 2010-11**

**SUMMARY OF EXAMS AND LICENSING STATISTICS**

	YTD March 31, 2011	YTD March 31, 2010	Increase / Decrease #	%
Applications	218	232	(14)	-6%
License Renewals/Certifications	2,794	2,727	67	2%
Active Licenses	5,249	5,230	19	0.4%
Active Certifications	2,496	2,469	27	1.1%
March 2011 Exams Scheduled	288	327	(39)	-12%
October 2010 Exams Scheduled	497	358	139	39%

Notes:

(1) Geophysicist, Certified Hydrogeologist, and Certified Engineering Geologist Exams not administered in FY 2009-10

EXECUTIVE REPORT

Fiscal Year 2010-11  
Exam Applicants Through March 31, 2011

DISCIPLINE	Exam Applications							Increase/ Decrease
	Month		Increase/ Decrease	Year to Date		Increase/ Decrease		
	March '11	March '10		March '11	March '10			
<b>Professional Licenses:</b>								
Professional Geologist <sup>(1)</sup>	4	1	3	206	158	48		
Professional Geophysicist	0	0	0	0	7	(7)		
<i>Subtotal</i>	4	1	3	206	165	41		
<b>Certifications:</b>								
Engineering Geologist	3	1	2	7	34	(27)		
Hydrogeologist	2	0	2	5	33	(28)		
<i>Subtotal</i>	5	1	4	12	67	(55)		
<b>TOTALS</b>	9	2	7	218	232	(14)		

(1) Includes the ASBOG national Geology Practice Exam, Fundamentals Exam and the California State-Specific Geology exam.

# GEOLOGISTS AND GEOPHYSICISTS

FY 2010-11

## Active Licenses as of March 31, 2011

DISCIPLINE	ACTIVE LICENSES <sup>(1)</sup>		
	Year to Date		Increase/ Decrease
	March '11	March '10	
<b>Licenses:</b>			
Geologist	5,057	5,032	25
Geophysicist	<u>192</u>	<u>198</u>	<u>(6)</u>
<i>Subtotals</i>	5,249	5,230	19
<b>Certifications:</b>			
Engineering Geologist	1,609	1,603	6
Hydrogeologist	<u>887</u>	<u>866</u>	<u>21</u>
<i>Subtotals</i>	2,496	2,469	27
<b>TOTAL</b>	7,745	7,699	46
Total % Growth			0.60%

**Notes:**

(1) Excludes licenses cancelled, licensees deceased, licenses revoked, suspendi




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

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## March 2011 Examination Attendance

Examination	Applied	Approved	In-eligible	Re-takes	Post-poned	No Show	Sat	Pass	Fail	% Pass
Geologist-In-Training*	33	29	4	7	5	4	20	13	7	65%
ASBOG Fundamentals* of Geology	62	58	4	21	6	7	45	24	21	53.3%
ASBOG Practice of Geology	78	72	6	25	5	3	64	41	22	65.1%
California Supplemental	135	129	6	73	10	9	110	55	55	50%
<b>Total</b>	<b>308</b>	<b>288</b>	<b>20</b>	<b>126</b>	<b>28</b>	<b>22</b>	<b>239</b>	<b>133</b>	<b>105</b>	<b>55.9</b>

- **GIT examination is the same examination as the ASBOG Fundamentals of Geology.**

Examination	Applied	Approved	In-eligible	Re-takes	Post-poned	No Show	Sat	Pass	Fail	% Pass
*Combined total for ASBOG Fundamentals of Geology	95	87	8	28	11	11	65	37	28	56.9


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

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**Professional Geologists  
March 2011 Examination Summary**

Examination	Examinations Taken	Pass	Fail	Total Pass %
Geologist-In-Training Candidates	20	13	7	65%
ASBOG® Fundamentals of Geology	45	24	21	53.3
ASBOG® Practice of Geology	63	41	22	65.1%
California Specific Examination	110	55	55	50%
*ASBOG Fundamentals of Geology Including Geologist-In-Training	65	37	28	56.9%

**14. Consideration of Rulemaking Proposals, as follows:**

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- A. Proposed Amendments to Title 16, California Code of Regulations Sections 419, 443, and 444 – Examination Appeals (Possible Action)
- B. Adoption of Proposed Amendments to Title 16, California Code of Regulations section 3005 – [Geology & Geophysics Regulations] (Possible Action)



**APPROVAL AND ADOPTION OF RULEMAKING PROPOSALS  
RELATING TO  
GEOLOGY PROGRAM EXAMINATION FEES  
[Title 16, California Code of Regulations section 3005]**

The proposed amendment to the above Regulation was noticed for public comment on March 25, 2011. The 45-day period for the submittal of written comments will end on May 9, 2011. A public hearing, at which both written and oral comments may be presented, will be held on May 12, 2011.

As of April 29, 2011, the Board has not received any written comments. If no written or oral comments are received by the hearing date of May 12, 2011, staff recommends the Board adopt the proposed changes to Title 16, California Code of Regulations section 3005 and direct staff to finalize the rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law for review and approval.

**RECOMMENDED MOTION**

Adopt the proposed changes to Title 16, California Code of Regulations section 3005 and direct staff to finalize the rulemaking file for submittal to the Department of Consumer Affairs and the Office of Administrative Law for review and approval.

**NOTE:**

If written or oral comments are received by the hearing date of May 12, 2011, this agenda item will be referred to a later Board meeting.

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

**PROPOSED LANGUAGE**

**§ 3005. Fees.**

(a) All fees required by provisions of the code and rules of the board shall be transmitted by money order, bank draft, or check, payable to the Department of Consumer Affairs.

(b) ~~Fees.~~ The following is the prescribed application fee for: ~~schedule of fees is hereby adopted pursuant to Section 7887 of the Code:~~

(1) ~~Each application for registration as a~~ Licensure as a Professional ~~g~~Geologist or a Professional ~~g~~Geophysicist \$250.00;

(2) ~~Each application for registration~~ Certification as a specialty geologist or specialty geophysicist \$250.00;

(3) ~~The~~ Temporary registration licensure fee for as a geologist, geophysicist, ~~or~~ specialty geologist, or specialty geophysicist \$80.00.

(4) ~~Each examination including both sections of the national examination and the California-specific supplemental examination for registration as a geologist~~ \$300.00

(c) The following is the prescribed examination fee for:

(5)(1) ~~Each examination including only~~ The ~~p~~Practice of ~~g~~Geology ~~portion of the national examination for registration as a geologist~~ \$150.00 \$250;

(6) ~~Each examination including only the fundamentals of geology portion of the national examination for registration as a geologist~~ \$150.00

(7)(2) ~~Each examination including only the practice of geology portion of the national examination and the supplemental examination covering~~ The California specific subjects for registration as a geologist examination \$250.00 \$150;

(8)(3) ~~Each examination including only~~ The ~~f~~Fundamentals of ~~g~~Geology ~~portion of the national examination and the supplemental examination covering~~ California specific subjects for registration as a geologist \$250.00 \$150;

(9) ~~Each supplemental examination covering California-specific subjects for registration as a geologist~~ \$100.00

- ~~(10)~~(4) Each ~~e~~Examination for ~~registration~~ licensure as a geophysicist \$100.00;
- ~~(11)~~(5) Each ~~e~~Examination for ~~registration~~ certification as a specialty geologist or specialty geophysicist \$100.00.
- ~~(12)~~(d) The duplicate certificate fee \$6.00.
- ~~(13)~~(e) The following is the prescribed renewal fee for:
- (1) Licensure as a geologist or ~~for~~ a geophysicist \$270.00;
- ~~(14)~~(2) The Certification ~~renewal fee for~~ as a specialty geologist or ~~for~~ a specialty geophysicist \$67.50.
- ~~(15)~~(f) The delinquency fee for renewal of ~~certificate of registration~~ licensure as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist is 50% of the renewal fee in effect on the last regular renewal date.
- (e)(g) When transmitted through the mail, fees required under provisions of this rule shall be deemed filed on the date shown by the post office cancellation mark appearing on the envelope containing the fee.
- ~~(d) An applicant for registration as a geologist or geophysicist or an applicant for certification as a specialty geologist or specialty geophysicist who fails an examination shall pay only the examination fees pursuant to subsections (b)(4), (5), (6), (7), (8), (9), (10) and (11) to reapply to take the examination within four years of the failed examination.~~

Note: Authority cited: Section 7818, Business and Professions Code.

Reference: Section 7887, Business and Professions Code.



15. Approval of Delinquent Reinstatements (Possible Action)

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## APPROVAL OF DELINQUENT REINSTATEMENTS

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

### CIVIL

**RICE, JOHN**

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

### GEOTECHNICAL

**RICE, JOHN**

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

### MECHANICAL

**AHMED, ABDULLAH Y.**

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.



**16. Information Technology Updates**

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- A. On-Line Renewals/Credit Card Renewals (Possible Action)



17. **Adoption of a Precedential Decision Regarding the Provisions of the Professional Land Surveyors' Act (Business and Professions Section 8700, et seq.) and Division 5 of Title 16 of the California Code of Regulations Relating to the Filing of Records of Survey and Corner Records**
- 

Handout will be provided



**18. Administration**

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- A. Fund Condition (Possible Action)
- B. FY 2010/11 Budget (Possible Action)
- C. FY 2011/12 Budget Change Proposals (Possible Action)
- D. FY 2012/13 Budget Change Proposals (Possible Action)



**a. Fund Condition (Possible Action):**

The fund conditions for the Engineers/Land Surveyor's and Geology/Geophysicists' are identified in **Attachments A and B**.

Engineers and Land Surveyors' (PELS) received \$8,570,550 through March 31, 2011 of this FY which is a \$1,134,339 or 12% decline as compared to the prior FY. The license renewal revenue follows a cyclical pattern in which the number of licenses that renew each FY drop by up to 15% every other FY, as it has this FY, while examination application revenue increases and/or decreases by the number of applications received each FY. As of March 31, 2011, application fee revenue is down by 9% and license renewal revenue is down by 12%. The fiscal impact of the proposed Board Rule 407 fee regulations are now included in the fund condition. The PELS fund reserve is currently projected to reduce to less than 1-month's reserve in FY 2012-13 as a result of the required \$5 million general fund loan.

Geologist and Geophysicists' (GG) received \$763,050 through March 31, 2011 which is a \$33,473 decline as compared to the prior FY. The GG Fund license renewal revenue and initial license revenue also follow a cyclical pattern in which it increases by up to 10% every other FY. This FY is the higher-revenue FY and it is up by 5%. The application fee revenue, however, has declined each FY since FY 2008-09 with application revenue currently down by 32% from last FY as of March 31, 2011. The GG fund reserve is currently projected to remain above a 3-month reserve until FY 2013-14.



**ATTACHMENT A**

**Professional Engineers and Land Surveyors  
FUND CONDITION  
As of May 4, 2011**

	<b>Prior Actual</b>		<b>Current</b>		
<b>FUND CONDITION:</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
Total Reserves, July 1	\$ 4,266	\$ 5,638	\$ 5,861	\$ 628	\$ 476
Revenue:					
License Renewal Fees	\$ 6,308	\$ 5,503	\$ 6,434	\$ 5,613	\$ 6,563
Exam Application Fees	\$ 3,775	\$ 3,600	\$ 3,775	\$ 3,775	\$ 3,775
Delinquent Fees	\$ 64	\$ 56	\$ 59	\$ 6	\$ 5
<b>Revenue Reduction - Proposed Board Rule 407 Fee Regulations</b>				\$ (2,129)	\$ (2,129)
Surplus Money Investment Income	\$ 44	\$ 55	\$ 50	\$ 50	\$ 57
Other Miscellaneous	\$ 32	\$ 35	\$ 38	\$ 35	\$ 35
<b>Total Revenue</b>	<b>\$ 10,223</b>	<b>\$ 9,249</b>	<b>\$ 10,356</b>	<b>\$ 7,350</b>	<b>\$ 8,306</b>
Unreimbursed Loans to GF	\$ -	\$ -	\$ (5,000)	\$ -	\$ -
<b>Total Resources:</b>	<b>\$ 14,489</b>	<b>\$ 14,887</b>	<b>\$ 11,217</b>	<b>\$ 7,978</b>	<b>\$ 8,782</b>
<b>Expenditure Budget:</b>					
Projected Expense Budget Savings	\$ 8,845	\$ 9,132	\$ 9,414	\$ 9,602	\$ 9,794
State Controller's Office	\$ 6	\$ (106)	\$ 10		
Financial Information System for CA			\$ 41		
<b>Expense Reduction - Proposed Board Rule 407 Fee</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (2,100)</b>	<b>\$ (2,100)</b>
FY 2011-12 SFL Nat'l Exam Administration	\$ -	\$ -	\$ 1,124	\$ -	\$ -
<b>Total Expenditures</b>	<b>\$ 8,851</b>	<b>\$ 9,026</b>	<b>\$ 10,589</b>	<b>\$ 7,502</b>	<b>\$ 7,694</b>
Reserve, June 30	\$ 5,638	\$ 5,861	\$ 628	\$ 476	\$ 1,087
<b>MONTHS IN RESERVE</b>	<b>7.5</b>	<b>6.6</b>	<b>1.0</b>	<b>0.7</b>	<b>1.7</b>

**Notes:**

- A. Assumes FY 2011-12 exam application revenue projections will lower based upon March 31, 2011 revenue projections.
- B. Assumes interest rate at 1% of fund balance.
- C. Assumes appropriation growth of 2% per year.
- D. Assumes FY 2010-11 projected expenditures, based upon March 31, 2014 expenditures, will be realized.



**ATTACHMENT B**

**Geology and Geophysicists Fund  
FUND CONDITION  
As of May 4, 2011**

	<u>Prior Actual</u>		<u>Current</u>		
<b>FUND CONDITION:</b>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>
Total Reserves, July 1	\$ 828	\$ 724	\$ 915	\$ 694	\$ 487
Revenue:					
License Renewal Fees	\$ 758	\$ 820	\$ 784	\$ 828	\$ 792
Application & Exam Fees	\$ 186	\$ 183	\$ 183	\$ 183	\$ 183
<i>Revenue Increase - Board Rule 3005 Proposed Regulations</i>			\$ 39	\$ 39	\$ 39
Delinquent Fees	\$ 14	\$ 14	\$ 14	\$ 14	\$ 14
Surplus Money Investment Income	\$ 5	\$ 7	\$ 9	\$ 7	\$ 5
Other Miscellaneous	\$ 3	\$ 6	\$ 6	\$ 6	\$ 8
<b>Total Revenue:</b>	<u>\$ 966</u>	<u>\$ 1,030</u>	<u>\$ 1,035</u>	<u>\$ 1,077</u>	<u>\$ 1,041</u>
Unreimbursed Loans to GF	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Resources:</b>	\$ 1,794	\$ 1,754	\$ 1,950	\$ 1,771	\$ 1,528
<b>Expenditure Budget:</b>					
Projected Expense Budget Savings	\$ 1,070	\$ 1,330	\$ 1,357	\$ 1,384	\$ 1,411
<b>Total Expenditures:</b>	<u>\$ -</u>	<u>\$ (491)</u>	<u>\$ (100)</u>	<u>\$ (100)</u>	<u>\$ (100)</u>
Reserve, June 30	\$ 1,070	\$ 839	\$ 1,257	\$ 1,284	\$ 1,311
	\$ 724	\$ 915	\$ 694	\$ 487	\$ 217
<b>MONTHS IN RESERVE</b>	<b>10.4</b>	<b>8.7</b>	<b>6.5</b>	<b>4.5</b>	<b>1.9</b>

**Notes:**

- A. Assumes workload and revenue projections are realized for FY 2010-11 & 2011-12 with renewal fees increasing by 1%.
- B. Assumes interest rate at 1% of fund balance.
- C. Assumes appropriation growth of 2% per year.
- D. Assumes FY 2010-11 projected expenditures, based upon March 31, 2014 expenditures, will be realized.
- E. Assumes FY 2011-12 and ongoing FY budget expense savings of \$100,000.



**b. FY 2010-11 Budget (Possible Action)**

The FY 2010-11 budgets and projected expenditures are listed below. As of January 31, 2011, Engineers/Land Surveyors have expended \$7,623,077 and the Geologists/Geophysicists expended \$589,588 including the full amount of contracts encumbered for this FY. Projected FY expenditures are:

<b>Expense Description</b>	<b>Budget Allotment</b>	<b>Expense Projection</b>	<b>Balance</b>
<b>ENGINEERS/LAND SURVEYORS:</b>			
Personal Services <sup>(1)</sup>	\$ 3,024	\$ 2,991	\$ 33
General Operating Expenses <sup>(2)</sup>	2,062	2,034	28
Equipment	33	5	28
Exams Program	3,047	2,805	242
Enforcement Program	<u>982</u>	<u>1,207</u>	<u>(225)</u>
<i>Subtotal Expenditures</i>	9,148	9,042	\$ 106
<i>Less: Reimbursements</i>	<u>(16)</u>	<u>(16)</u>	
<b>NET TOTAL</b>	\$ 9,132	\$ 9,026	\$ 106
<b>GEOLOGISTS/ GEOPHYSICISTS:</b>			
Personal Services <sup>(1)</sup>	\$ 299	\$ 289	\$ 10
General Operating Expenses <sup>(2)</sup>	292	156	136
Equipment	15	5	10
Exams Program	475	355	120
Enforcement Program	<u>249</u>	<u>34</u>	<u>215</u>
<i>Subtotal Expenditures</i>	1,330	839	491
<i>Less: Reimbursements</i>	<u>-</u>	<u>-</u>	
<b>NET TOTAL</b>	\$ 1,330	\$ 839	\$ 491

**Notes:**

(1) Includes required 5% workforce cap salary savings.

(2) Includes DCA and Statewide Prorata.



**c. FY 2011-12 Budget Change Proposal (BCPs) (Possible Action):**

The Board responded on April 26, 2011 to questions received mid-April 2011 from both Senate and Assembly consultants regarding the Board's Exams FY 2011-12 Spring Finance Request.

**d. FY 2012-13 Budget Change Proposals - (Possible Action):**

The FY 2012-13 Budget Change Proposal (BCP) concepts are due to the DCA mid-May 2011. The Board expects to submit concepts for the following BCPs:

- 1) Geologist Registrar Position
- 2) Enforcement Program Attorney General & Evidence Witness Fees



**19. Technical Advisory Committees (TACs)**

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- A. Board Assignments to TACs (Possible Action)
- B. Appointment of TAC Members (Possible Action)
- C. Reports from the TACs (Possible Action)
  - 1. Report from Structural TAC meeting
  - 2. Report from the Land Surveying TAC
    - a. Recommendation to Amend Business and Professions Code Section 8762  
(b)(4) (Possible Action)



## **Recommendation to Amend the Business and Professions Code Section 8762**

### **(b)(4)**

During recent meetings, the Land Surveying Technical Advisory Committee (LSTAC) has discussed the intent of “establishes” and “reestablishes” as used in Business & Professions Code, §8726(a) & (c) and the intent of “establishment” as used in Business & Professions Code, §8762(b)(4):

### **8726.**

A person, including any person employed by the state or by a city, county, or city and county within the state, practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth’s surface, or the position of fixed objects above, on, or below the surface of the earth by applying the principles of mathematics or photogrammetry.

(c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

### **8762.**

(a) Except as provided in subdivision (b), after making a field survey in conformity with the practice of land surveying, the licensed surveyor or licensed civil engineer may file with the county surveyor in the county in which the survey was made, a record of the survey.

(b) Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

(1) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record of survey previously recorded or properly filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

(4) The establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey.

### **RECOMMENDED MOTION:**

The LSTAC recommends that the Board directs staff to pursue legislation to amend Business and Professions Code, §8762(b)(4) as follows:

(4) ~~Locates, relocates, establishes, reestablishes, or retraces the establishment~~ of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey.



## 20. Liaison Reports

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- A. ASBOG (Possible Action)
- B. ABET (Possible Action)
- C. NCEES (Possible Action)
  - 1. Appointment of Emeritus Members (Possible Action)
- D. Technical and Professional Societies (Possible Action)



**21. President's Report/Board Member Activities**

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

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A. Date of Next Board Meeting: July 14 or 21, 2011, Sacramento, California



**23. Approval of Consent Items (Possible Action)**

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

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A. Approval of the Minutes of the March 24 & 25, 2011, Board Meeting

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

**2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, California, 95833**

**Thursday, March 24 and 25, 2011**

**Board Members Present:** Mike Modugno, President; Jerry Silva, Vice President; James Foley; Carl Josephson; Ray Satorre; Patrick Tami; Michael Trujillo; Paul Wilburn; and Erik Zinn.

**Board Members Absent:** Kim Blackseth; David Luzuriaga; Philip Quartararo; Hong Beom Rhee

**Board Staff Present:** Joanne Arnold (Acting Executive Officer); Linda Brown (Administrative Manager); Paula Bruning (Board Liaison); Celina Calderone (Board Liaison); Susan Christ (Staff Civil Engineer); Tiffany Criswell (Enforcement Analyst); Mike Donelson (Staff Electrical Engineer); Nancy Eissler (Enforcement Manager); Joyce Hirano (Staff Civil Engineer); Ric Moore (Staff Land Surveyor); Debbie Thompson (Budget Analyst); and Gary Duke (Legal Counsel).

**Thursday, March 24, 2011**

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

The meeting was called to order by President Mike Modugno at 9:06 a.m. Roll call was taken, and there was a quorum.

**II. Public Comment**

Roger Hanlin, representing CLSA spoke about current legislation to deregulate the Land Surveying board in Florida. Thomas Barry, Technical Advisory Committee member also indicated that geologists were also on list of licensing boards that would be affected by this legislation.

**III. Strategic Planning**

The Board conducted a Strategic Planning session

At 9:23 a.m. President Modugno acknowledged that Mr. Satorre had arrived.

**V. Closed Session**

Closed session was called to order by President Modugno at 3:02 p.m. Roll call was taken, and there was a quorum.

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)]

**The Board recessed at 5:00 p.m.**

**Friday, March 25, 2011**

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

The meeting was called to order by President Mike Modugno at 9:03 a.m. Roll call was taken, and there was not a quorum.

At 9:05 a.m. President Modugno acknowledged that Mr. Satorre had arrived, and Ms. Bruning confirmed that a quorum had been established.

**II. Public Comment**

Craig Copelan, representing PECG, discussed three items. He indicated that many of their members have English as a second language (ESL), and a concern had been raised the amount of time given to complete exams. The members requested that he address the possibility to be given additional time. Mr. Copelan inquired as to whether there could be translation of exams so those with ESL would not be impeded by the examination itself. He added that there are similar examples, such as the Department of Motor Vehicles, which provides translations of vehicle code tests. Mr. Copelan's second item was in regards to the retired licensure status. He understands that someone can retire a license, continue to use the title "Engineer" but is not allowed to practice. The inquiry was from a person considering retirement, who is looking into future if the licensee's life situation changed and he needed to return to work if he would be able to return to active status after electing to retire his license. Currently this is not allowed. This licensee would like to know if this would be a possibility. Mr. Copelan's third item was in reference to a discussion that took place during the Strategic Plan meeting. It was mentioned that the Board would like to add a Professional Geologist to Board staff to assist with exam development and enforcement issues. This is an item that PECG is in favor of and encourages the addition of a Professional Geologist on staff.

Mr. Foley commented that when a person retires from a job that does not mean that they should necessarily retire their license. He explained that the Board added a retired license status for people who were retired and no longer wished to have their license but did not want it to be in a delinquent status. Mr. Foley suggested that a delinquent status may appear in credit reporting and consider it to be a delinquency. The Board looked at this and decided that a retired status be granted to those who chose to do so. However, if they wanted to reinstate their license, they would have to take the exams again. The retired license is not a method of putting a license on hold; it is a method of not ending up with something on the record that indicates that the licensee is delinquent and it is an

honorable way of letting the license expire. That was the intent behind the retired status.

Mr. Tami indicated that NCEES, which develops the national exams, looked into the translation of exams; however, the psychometricians cannot create an equivalent translatable exam. Therefore, NCEES does not provide or allow for translations of its exams. Mr. Copelan asked if they had ever been approached regarding the request of additional time. Ms. Calderone indicated that such a request would have to be made under the Special Accommodations provisions and fall within ADA guidelines to be considered a disability; ESL is not considered a disability.

Bob DeWitt, representing ACEC of California, addressed their concerns over the SWPPP regulations that they believe are going to prevent civil engineers from continuing to practice preparations of SWPPP plans if they do not get an additional certification from another State agency. He indicated ACEC is still studying the issue and expects to have information back to the Board perhaps for the next meeting. Mr. DeWitt also mentioned that they still have a pending item with Mr. Duke regarding the letter from Mr. Corn responding to the questions that were raised on the reporting requirements. Mr. Duke confirmed that he is working on the response.

Curt Burfield introduced himself and advised that he has just been appointed to represent the Office of Land Surveys for the Department of Transportation and act a liaison to the Board.

Mr. Trujillo joined the meeting at 9:25 a.m.

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

Ms. Eissler reported that the Board, in Closed Session, adopted four stipulations, four default decisions, and three proposed decisions. Mr. Duke indicated the Board also discussed a personnel matter

#### **IV. DCA Director Updates**

Kim Kirchmeyer, Acting Chief Deputy Director, provided an update of projects and matters of concern currently before the Department of Consumer Affairs. Ms. Kirchmeyer indicated that the Department is working to address the Governor's Executive Order relating to the use of state vehicles and home storage permits for those vehicles; she advised that she believes this Order does not affect this Board. Ms. Kirchmeyer believes we will see more Executive Orders as the year progresses that address cost savings for the boards and all the departments within state government, such as the cell phone Order which was the first one that affected this Board. Ms. Kirchmeyer stated that one thing that is affecting this Board is the hiring freeze. On Tuesday, February 15, 2011, Governor Brown issued an Executive Order for a statewide hiring freeze, and the Order prohibits

the hiring of employees and the entering into personal service contracts to compensate for the effects of the hiring restrictions. The Order did provide an exemption process for positions that are essential to carry out certain responsibilities including core functions of the department's statutory missions. This is broader than the prior hiring freeze directive that did not include that term. The department received a budget letter from the Department of Finance, and DCA identified the process for submitting freeze exemption requests. The requests require a justification as to how the request meets the criteria related to the Board's statutory mission and also the consequences if those positions are not filled. DCA will work with the boards, and the budget office is already working with the boards to get these freeze exemptions prepared so that they can be submitted. The most important items are the justifications that are needed to explain the consequences if these positions are not filled, specifically what type of consumer harm might occur. These exemptions will be reviewed by the department, State and Consumer Services Agency, the Department of finance, and to the Governor's office for approval. Ms. Kirchmeyer stressed the importance of showing how critical the positions are to meet the mission of the Board. Ms. Kirchmeyer added that there was a new State and Consumer Services Agency Secretary appointed this week, and this will help speed up the process.

President Modugno questioned the status of the exemption requests to appoint the Interim Executive Officer and a permanent Executive Officer. Ms. Kirchmeyer explained that, as of March 11 they were able to process internal promotions. Because the Board had appointed Ms. Arnold as the Interim EO, and it is a promotion for her, they were able to process it; however, they are not able to backdate it to December as promotions were not available at the time. Ms. Kirchmeyer indicated that she is aware they have an exemption request to backdate the appointment to December so that will be moving forward; it is still at the Department but will be submitted to Agency within the next two weeks if not the next week. She added that they have advised the budget office that the Interim EO and permanent EO requests need to be moved along to Agency as quickly as possible.

Ms. Arnold inquired about 15 proctor hire requests to meet the requirements of the contract with NCEES for the Board's April 8 and 9 examinations. She added that there will be a person from NCEES at each exam site to ensure compliance with the contract. Ms. Arnold stated that the request has been submitted with changes to the budgets. Mr. Foley stated that the Board would have to cancel the exams if the request was not approved. Mr. Tami indicated that because the needs of the contract were not being met, that the exams would have to be cancelled. Mr. Moore added that the paperwork is ready for submittal. Ms. Arnold inquired if it would be acceptable to submit the paperwork to personnel prior to receiving the exemption approval, and Ms. Kirchmeyer agreed. Ms. Kirchmeyer indicated that she would note that this request has the highest priority for the Director's meeting with the new Agency Secretary to be held next week.

President Modugno stressed the financial impact would be great if the Board were to lose an exam because it did not have sufficient proctors.

Mr. Josephson inquired about Subject Matter Experts (SMEs) and whether or not they would also have to go through this exemption process. Ms. Kirchmeyer stated that they would not. The contracts that the Executive Order is referring to are for contracts that would be used to fill vacant positions.

Ms. Kirchmeyer addressed the Consumer Protection Enforcement Initiative (CPEI). The department has posted the second set of performance measurements on the department's website; she encourages members to review these measurements that are available to the public as it shows how long it is taking for the Board's enforcement timelines. Ms. Kirchmeyer will also be asking for the enforcement program update from all boards so we can be aware of the improvements that have been made. She added that they will be providing a more extensive enforcement report that will include an overview of the enforcement statistics that have been gathered with other information regarding enforcement processes and a side by side with comparable boards.

She also added that the BreEZe project achieved another milestone with the receipt of final proposals in March. Currently the proposals are being evaluated for technical and administrative merit as well as how well they meet DCA's business needs. A winning contract will be awarded in April and between April and August, the project will be securing the final contract approvals from the Department of General Services and the legislature, and it is anticipated to start in August 2011. She also is encouraging the boards to webcast meetings to make them more transparent to the public. It is free and is provided by the department.

Mr. Tami asked about the status of credit card processing. Mr. Donelson said there had been some contracting issues; however, the Board will begin testing in the next couple of months and, hopefully, start in June. Mr. Tami stated that there are 100,000 licensees and if they renew every two years, that is 50,000 per year, which equates to approximately two PYs for workload and costs; therefore, not implementing this is a huge cost to the Board. Ms. Kirchmeyer advised that it is not that prevalent for licensees to use the online tools and, she encourages the Board to do outreach to licensees to use the online function. Mr. Foley asked if it will accommodate debit or credit cards, and Ms. Kirchmeyer confirmed as long as it has the Visa or MasterCard logo that it is acceptable.

#### **VII. Update on Recruitment/Appointment of a New Executive Officer**

Mr. Wilburn stated that the final filing date is April 1, 2011. He indicated that the plan is for the sub-committee to review the applications and then for the full Board to conduct interviews with the top candidates at the May Board meeting.

### VIII. Temporary Authorization Applications

Susan Christ explained that Steven Napolitano, who had been granted a temporary authorization at the August Board meeting, had requested another temporary authorization for the same project because there were some delays on the project and they were not able to complete it in the 180-day time period allowed by the statute for temporary authorizations. Ms. Christ stated that Mr. Napolitano took the seismic principles and engineering surveying examinations in October of 2010 and failed them both; she indicated that Mr. Napolitano intends on taking the April 2011 examinations. Mr. Foley questioned how issue a license to someone to design a building who failed the seismic portion of the examination. Mr. Duke reminded the Board that it was not granting him a license; it would just be a continuation of a temporary authorization that was approved at the August meeting. Mr. Foley pointed out that it has been determined that through testing that Mr. Napolitano is not minimally competent. Mr. Duke stated that there is not a requirement for an examination, which is the whole point of the temporary authorization. Mr. Tami indicated that he looks at what type of project this is and the number of licensees we have in California, specifically in this area, and he believes they can find someone else with this specialty that could design it. Ms. Christ stated that Mr. Napolitano is only the back-up and that his company has another California licensed civil engineer in responsible charge of this project.

**MOTION:** Mr. Tami/Mr. Foley moved to deny,

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

### IX. Executive Officer's Report

#### A. Legislation

1. **Discussion of Legislation for 2011: AB 275, AB 958, AB 1023, AB 1210, SB 543, and SB 692 (Possible Action)**

**AB 275** Rainwater Capture Act of 2011. This bill would enact the Rainwater Capture Act of 2011, which would, among other things, authorize landscape contractors, holding a specified classification, to design and install all exterior components of a rainwater capture system.

Mark Smith, lobbyist for the American Council for Engineering Companies (ACEC), addressed the Board regarding this bill. They are concerned about intrusion into the scope of civil engineering and have not figured out the correct approach to solve this matter. There have been some amendments offered; however, they are not entirely comfortable with those. They have looked at the exemptions that exist in the PE Act for certain types of residential structures and are considering incorporating that into what this proposal is. He stated that ACEC is opposed unless amended on this particular bill, and the amendments are a work in progress.

Richard Markuson, representing ASCE, stated that the language that they have proposed has been rejected; however, the sponsor and author have been willing to try and resolve any concerns either by narrowing the scope of the capture system to only a single or multifamily dwelling or incorporating language to require that projects that require special engineering expertise be designed by a civil engineer. The sponsor's desire is only to provide the systems for residential dwellings, not for large commercial or industrial projects.

Mr. Smith indicated that they would like the bill to clearly state that civil engineers can perform the work on all matter of construction so they are not locked out of providing services for residential construction. Mr. Smith stated that they are willing to work with the Board on the appropriate language and a solution.

**MOTION:** Mr. Josephson/Mr. Silva moved to oppose unless amended.

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

**AB 958**

Regulatory boards: limitations periods. Existing law requires some boards within the Department of Consumer Affairs to file disciplinary action accusations against licensees for various violations within a specified time. This bill would delete those specified limitations periods for each board and would instead impose a specified limitations period on all boards within DCA.

Mr. Smith indicated that ACEC has taken a support position on this bill.

Ms. Eissler indicated that the accusation is the pleading document that is filed when the Board is pursuing formal disciplinary action against a license. Once the Enforcement Unit completes the investigation and determines that formal disciplinary action should be pursued, the case is submitted to the Attorney General's Office, and the Deputy Attorney General prepares the legal accusation document which is then signed by the Executive Officer; once it is signed by the Executive Officer, it is considered filed. The statute of limitations imposed by this bill does not include the time once the accusation is filed to go through the hearing or settlement negotiation process to reach a final disciplinary decision, but it does put time limits from when the Board receives the complaint or from when the action occurred that caused the violation. There is a four-year statute from when it occurred, and in many cases, we do not receive the complaint until after the four-year period from when the incident occurred. The statute of limitations would prevent the filing an accusation which would leave very little action that the Board

could pursue; the Board could not take formal disciplinary action against a licensee if it was decided their work was incompetent and posed a threat to the public; the only enforcement action that could be taken would be the issuance of a citation. The Board could not revoke the license nor place the licensee on probation.

**MOTION:** Mr. Foley/Mr. Silva moved to Oppose.

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

**AB 1023** Maintenance of the codes. This bill would make nonsubstantive changes to various provisions of law based on the recommendations made by the Legislative Counsel to the Legislature. This bill repeals Sections 6731.1, 6731.2, 8726.1 and 8761.1 of the Business and Professions Code.

Mr. Smith indicated that ACEC has taken an opposed unless amended position on this bill.

**MOTION:** Mr. Tami/Mr. Silva moved to oppose unless amended.

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

**AB 1210** Civil Engineering. This bill (currently) would make nonsubstantive changes to the Engineer's Act (Section 6731.1 of the B&P Code).

Mr. Smith indicated that ACEC is sponsoring this legislation. ACEC has had conversations with the Board about the implementation of a State Water Resources Control Board (SWRCB) general construction permit. The preparation and development of Storm Water Prevention Pollution Plan (SWPPP). ACEC wrote a letter to the Board and the State Water Resources Control Board in June/July 2009 with concerns that the SWRCB was proposing to allow the practice of civil engineering by non-licensed people. The regulations have since come out, and ACEC remains convinced that portions of the preparation of a storm water pollution prevention plan fall under the scope of civil engineering, and the State Water Resources Control Board has created a certification of a QSD and a QSP and the achievement of that certification allows anybody, including people who are not civil engineers to develop any storm water pollution prevention plan. Mr. Smith advised that this legislation will be amended to address that situation. They feel it is absolutely inappropriate for another board to impose on this Board and professional engineers who can and cannot do the work of a professional engineer. The other item they are considering tackling is that the SWRCB is still requiring the certification if a civil

engineer wants to prepare a SWPPP. The QSD/QSP certification, which costs \$2,500 to \$5,000 for a 2-3 day training course, is an additional requirement on the practice of a licensed civil engineer, and SWRCB should not be able to do that. It should remain a jurisdiction of this Board. ACEC would like the support of the Board in addressing these issues because they feel it is important to defend the scope and practice of civil engineering. Ms. Arnold explained to the Board that this bill is a spot bill, and the issues Mr. Smith is referring to are not yet addressed in the bill; therefore, the Board should not take a position until it is able to review the language once it is amended into the bill. Ms. Christ indicated that during the regulatory process, the Board submitted language to SWRCB that was accepted and included in the regulations; this language specifies that any work that constitutes professional engineering must be done by an appropriately-licensed professional engineer. She explained that she has yet to be provided with any evidence that the work being done crosses into the practice of civil engineering; from what she has reviewed, it is sediment control and not hydrology. Mr. Foley indicated that it is hydrology because they are calculating flows, etc. that are causing erosion, and the whole point is to minimize erosion control at construction sites and what is being done involves calculations. Ms. Christ pointed out that if the individuals performing the work are practicing civil engineering without being licensed or working under the responsible charge of a licensed civil engineer, then they are in violation of not only the Professional Engineers Act, but also the SWRCB regulations, and complaints should be submitted to the Board's Enforcement Unit. Mr. Smith indicated that ACEC is not opposed to someone with a QSD/QSP certification who is not licensed as a civil engineer doing this work if they are under the responsible charge of a civil engineer; ACEC does not want to mandate that only civil engineers can do this work as long as the work is done under the responsible charge of a civil engineer.

**MOTION:** Mr. Josephson/Mr. Satorre moved to take a watch position.

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

**SB 543**

Business and professions: regulatory boards. This bill extends the sunset date to 2016 for various DCA regulatory boards and bureaus, including this Board, that are being evaluated by the Joint Sunset Review Committee.

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

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

**SB 692** Professional Engineers. This bill would change the disciplines currently licensed as "title act" engineers to "practice act" engineers.

Mr. Smith noted that ACEC opposes this bill

**MOTION** Mr. Foley/Mr. Josephson moved to watch this bill.

**VOTE:** 8-1-0, motion carried. Mr. Modugno voted no.

2. **Legislative Proposals for 2011** – No report was given
  3. **Regulation Status Report** – Ms. Eissler advised that the Approved Curricula and Waiver of Fundamentals Examination regulatory proposal has been submitted to Office of Administrative Law for the final review and approval. OAL has 30 working days to do the review. She added that the Board had approved moving forward with regulations to adjust the geology examination and application fees to conform to statute and that notice would be published on March 25, 2011; a public hearing will be held on Thursday, May 12, 2011, at 9 a.m. She advised that Debbie Thompson is working on the rulemaking package regarding Board Rule 407 relating to the engineering and land surveying fees, which the Board approved at its January meeting.
- B. Sunset Review 2010** - Ms. Arnold indicated than Mr. Foley made a presentation on Monday, March 21, 2011, to the Senate Business, Professions and Economic Development Committee relating to the Board's Sunset Review. She added that the Committee is very supportive of the Board. She advised that some of the issues addressed involved the elimination of the state-specific structural engineer examination and the issue of how to regulate the practice of geophysics. She noted that the geophysicist examination costs \$50,000 to develop and administer; however, in the last several years, only two people have taken the examination. Mr. Foley acknowledged staff's efforts in preparing the Sunset Report and his presentation. Mr. Zinn would like to discuss at the next TAC meeting of possible solutions for the Geophysicist exam. Mr. Tami and Ms. Arnold indicated that it was a positive hearing.
- C. Personnel** – Ms. Arnold reminded Board members to complete and submit their Form 700s by April 1, 2011, and Mr. Duke added that they would be subject to daily fines if not the forms are not completed and submitted by the April 1 date. In addition, Ms. Arnold advised the Board members of the ethics and sexual harassment prevention courses that have to be taken within six months of appointment and every two years thereafter.

Ms. Arnold continued onto personnel changes within the office by stating that Vania Sevilla who has worked in the Licensing Unit since 2007 took a position in the Geology program, effective December 2010; Linda Bronson replaced Ms. Sevilla in the Licensing Unit; Sarah Peters, from the Medical Board, took a half-time position in the Examination Unit on February 2, 2011; Venessa Martinez, from the Contractors State Licensing Board in San Diego, will be joining the Board as of Monday, March 28, 2011; Paula Bruning will be returning to the Court Reporter Board; and Celina Calderone will be the new Board liaison.

- D. **Enforcement** - Ms. Eissler indicated that there has been reorganization in the Enforcement Unit; Jackie Jenkins is handling the unlicensed citation cases, and Christine Doering is handling citations to licensed people. She added that the Enforcement Unit is getting back on track with holding informal conferences for the people who request those upon receiving the citations and also sending the cases to the Attorney General's Office if the people ask for a formal appeal hearing.

She advised that there were concerns with how the Geology Program cases had been handled in the past and whether all the appropriate due process rules have been followed during the investigations; therefore, it was necessary to reinvestigate most of the cases. Ms. Eissler indicated that the analyst assigned to work the Geology Program cases worked for the former Geology Board and also has other enforcement experience from other boards and bureaus within DCA. In addition, Larry Kereszt has been assigned to work with the Geology Program on their enforcement cases to resolve old cases, ensuring that they are fully and appropriately investigated.

E. **Exams**

Linda Brown reported that she attended the Geology examinations on March 4 and 5 in Long Beach with Patty Smith and Chief Proctor Judy Tomlinson and Tom Kelty, an associate professor of Geology, who worked tirelessly to transport staff and candidates to/from exam with no compensation. Ms. Brown requested that the Board present a certificate of acknowledgment to Mr. Kelty; the Board agreed to do so.

Ms. Brown added that Geology would be going to computer based testing most likely this fall for State Specific exams only.

1. Release of Examination Results – No report was given
2. Status of April 2011 Examinations

Mr. Moore indicated that the number of candidates taking the PELS exams is down 1,800 exams, which has been the trend for the last few years; the majority of the decline is with the EIT examination; however, civil exams are down 250, and the land surveying continues to go down on all levels, for both national and state exams; chemical is up by four candidates; and

the new structural exam is up by one candidate. Mr. Moore reported that there are slightly fewer than 12,000 exams scheduled for April 2011. Vice-President Silva inquired if the decline was due to the economy; Mr. Moore stated that he attributes the decline to two items: the economy and the NCEES registration process. Registration opened December 6, 2010, and closed February 18, 2011; the Board's final filing date was December 17, 2010, for brand new PE and PLS applications and January 21, 2011, for the brand new EIT and LSIT applications and for all refiles. The Board received about 600 EIT applications after the final filing date. Mr. Moore said there seems to be some confusion with registering with NCEES versus filing the application and fee with the Board; some candidates think they have until NCEES registration closes to submit the application to the Board, even though the Board's website specifies the different dates, and the NCEES website directs the candidates to check the final filing dates on the Board's website. Mr. Moore explained that by having the final filing date before the registration cut-off date, Board staff is able to contact applicants who have not registered with NCEES or who have not registered for the correct examinations so that the applicants can correct these errors and still sit for the examinations; if the Board's final filing date was on or after the NCEES registration cut-off, there would be no way to correct these errors.

Annette Lockhart, representing CLSA, stated that Mr. Moore has done outreach and that the Board staff has been very responsive with questions and concerns from applicants regarding the registration process.

Mr. Moore indicated that the Board now offers a flow chart on the Board's website to assist with the application process.

Mr. Copelan reiterated that in addition to having the exam available in other languages, the Board needs to have the application available in other languages as well for ESL candidates.

Mr. Moore added that the Board is set up to offer the historical 8-hour state structural exam one more time in October 2011; the exam is ready, and it will be offered to those who have previously passed the Structural II; a list is being compiled to notify those candidates so they have the opportunity to sit one more time for this exam.

Mr. Moore explained that has also begun on the replacement state structural exam; however, the content, size, and length of the exam has yet to be determined. Mr. Josephson indicated that it will be reviewed by the Structural Engineering Technical Advisory Committee.

**F. Licensing** – Ms. Brown advised that the new wall certificates were sent out two weeks ago.

**G. Publications - No updates**

**H. Website** - Mr. Tami asked if License Lookup could be changed to have the ability to look up licensees by discipline. Ms. Eissler explained that License Lookup is not a feature that the Board staff has control over; any changes must be done by DCA. She advised that, even though the license discipline is a separate field that is displayed for each record, the programmers have indicated that it would be too difficult to program it as a searchable field. Ms. Kirchmeyer said that if it is not a quick fix, the department will not look at it as staff is limited, and it may have to wait until BreEZe is introduced in 2014.

Ms. Eissler added that there are links to two pdf documents that contain the numerical listing of civil engineers and land surveyors so that interested parties can at least find the person's name that is associated with that number and the approximate timeframe of when that license was issued. The Board has the two pdf documents available on the website so that people could look up those historical tag numbers.

Mr. Modugno asked if a licensee is deceased will it show on the website, and Ms. Eissler confirmed it would if the Board had been notified of the licensee's death and if the licensee had a renewable license at the time the Board converted to its current database in the mid-1980s.

**X. Consideration of Rulemaking Proposals, as follows:**

Update on Proposed Amendments to Title 16, California Code of Regulations Section 407 – Fees – Ms. Thompson is planning to submit the rulemaking package to OAL for notice by the end of the month, with a possible hearing date at the end of May or the beginning of June. She indicated that it would be beneficial to have a Board member present at the hearing.

**XVI. Administration**

**A. Fund Condition** - Ms. Thompson distributed an updated fund condition. She indicated

The Engineers and Land Surveyors' Fund revenue received through January 31, 2011, of this Fiscal Year was \$7,438,388 which is a \$214,111 reduction from the prior Fiscal Year revenue received at this time. This revenue drop is a result of both the normal renewal revenue decline that occurs every other Fiscal Year and the reduction in exam applications received in FY 2010-11.

The Geologist and Geophysicists' Fund revenue received through January 31, 2011, was \$630,502 which is a \$15,278 increase as compared to the prior Fiscal Year. This includes a \$49,155 increase in license renewal revenue and a drop of \$34,889 in exam applications and initial license fee revenue from the prior Fiscal Year.

**B. FY 2010/11 Budget**

Ms. Thompson reported that, as of January 31, 2011, the Engineers and Land Surveyors Fund expended \$4,540,305 and the Geologists and Geophysicists Fund expended \$340,493.

**C. FY 2011/12 Budget Change Proposals**

Ms. Thompson reported that, in January, the Board submitted Spring Finance Budget Change Proposals for FY 2011/12 relating to Enforcement Attorney General Expenses and NCEES examination administration costs. The Department of Finance denied the Attorney General BCP and has requested further information from Board staff for the NCEES Exams Administration BCP. An update regarding approval/denial will be reported at the Board meeting.

**XI. Approval of Delinquent Reinstatements**

**MOTION:** Mr. Foley/Mr. Satorre moved to approve the Delinquent Reinstatements in the agenda as follows:

**CIVIL**

**CALLAS, BASHAR**

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

**IRWIN JR., THOMAS W.**

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

**MECHANICAL**

**RICCARDELLA, PETER C.**

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

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

**XII. Information Technology Updates**

**On-Line Renewals/Credit Card Renewals**

Mr. Donelson discussed the on-line renewal process. He is hoping that it will take only three months for the test phase so that credit card payments for license renewals could begin in June. He reported that contracts with the vendors have been approved. He indicated that the system will be "Blind Payments" which means that licensees can insert any fee in the fee field; if a licensee inserts \$1, they will be charged \$1, and it will later be reconciled by Board staff, who will send a letter to the licensee indicating that the payment was deficient and the correct amount to pay. Mr. Donelson indicated that he knows of only one other board on this system today, and he did not receive much feedback with licensees having that type of issue. The Board will start off with a small pool of candidates in

a specific licensee discipline first to see what the implications are, and then introduce it to the entire licensee population.

**XIII. Address of Record Available to the Public via website**

Ms. Eissler indicated that there have been some concerns expressed ever since License Lookup became available on the website that it includes the licensee's address of record as part of the information. Ms. Eissler explained that the Board is required by law to include the licensee's address of record as part of the information available through License Lookup. She further explained that the address of record does not have to be a home or personal address; it can be a work address, a post office box, or any other address at which the licensee will receive official mailings from the Board. She also indicated that the licensee does not have to advise the Board whether the address of record is a personal or business address. Ms. Eissler advised that the License Lookup database is not a database that is searchable through standard internet search engines, such as Google; the address of record is only shown when someone searches for a licensee through the Licensee Lookup database. Ms. Eissler informed the Board that if it wanted to no longer include the address of record as part of the information that is available via License lookup, it would require statutory change to the Business and Professions Code to indicate that the Board will not disclose the address of record through its website. She added that Mr. Duke had indicated if the law was changed so that the Board no longer had to include the address of record through License Lookup, it would then become discretionary to the Board whether the Board were to disclose addresses of record to the public and in what manner they were disclosed. Mr. Tami indicated there are several boards that do not have address of records available to the public. Ms. Eissler stated that if the Board chose not to disclose addresses of record, there could be situations where someone is trying to find that licensee for legitimate reasons, and Board staff would have to decline the public's request.

Ms. Lockhart indicated that it is a personal problem for her as she was affected by someone's ability to acquire her address. She asked if the public could contact the licensees via e-mail addresses or some other means of contact other than actual physical addresses. Mr. Copelan with PEGG indicated that he supports what Ms. Lockhart has said, and there are concerns with licensees who do not want people finding them for safety reasons.

Ms. Eissler said that the licensees would still have to provide the Board with a mailing address for correspondence; the issue would be whether or not the Board would give this information out to the public. Ms. Eissler also noted that the laws would probably have to be changed to require licensees to provide the Board with an e-mail address or phone number to give to the public.

Mr. Tami stated that the Board's mission is to protect the health, safety, and welfare of the public, including of the licensees. He suggested investigating what the Nurses Board is doing and possibly opt out of providing an address.

Mr. Foley noted that building departments will not release copies of permitted plans to the property owners unless the original design engineer consents to the release. Ms. Eissler indicated that consumers and building departments often contact the Board seeking the address of record of a licensee so that permission can be obtained to release plans; if the Board chose not to release the address of record, the consumers would have a more difficult time obtaining copies of the plans.

Ms. Eissler stated that Business and Professions Code Section 27 indicates that the Board must include the address of record for its licensees as part of License Lookup. She advised that the first step would be to amend the statute to remove the requirement that the Board include the address of record in License Lookup; once that was done, then the Board could decide when and how to disclose the address.

Mr. Duke indicated that the primary purpose of the address of record is for purposes of the Board to be able to contact licensees. A secondary purpose of disclosure of the address of record is much more recent. Section 27 of the Business and Professions Code is relatively new and was developed after the development of the internet. The purpose of that law is to help out consumers in locating licensees. However, the primary purpose is for the Board to have a means of contact. The Information Practices Act, which is part of the Civil Code, provides that personal information cannot be disclosed unless there is an exemption; there is an exemption which provides the discretionary authority for this Board to release address of record information to the public. The Board for Registered Nurses elects not to do that; however, it is discretionary.

President Modugno suggested the Board discuss this further at the next meeting. Ms. Eissler indicated that she would provide the actual language from Section 27 with suggested revisions and information from other boards on their procedures at the next meeting.

#### **XIV. California's New Green Building Code**

Ms. Christ indicated that information was provided by the California Society of Professional Engineers (CSPE) questioning whether the local building departments could require certifications for individuals beyond a professional engineer license. Ms. Christ explained that, under the new Green Building Code, there is a PERS program, which is a home energy rating system; in order to be a PERS certified rater, a person has to go through a certification program. Under this program, the rater can certify that homes are energy efficient and meet the requirements of California Building Code. This certification is being enforced by local building departments. She added that she and Mr. Donelson spoke to William Schock, a past Board member, who is the Chief Building Official with the City of San Leandro and the Chair of CALBO's Green Building Committee, regarding these requirements. She explained that, in the past mechanical engineers provided these rating certifications; however, the work itself does not fall with the definitions of civil, electrical, or mechanical engineering. Since the

work itself is not professional engineering, it does not have to be done by a professional engineer, and it would not encroach on professional licensure for local building departments or other state agencies to require additional certifications for the individuals who provide these ratings. Ms. Eissler stated that the board has not received any complaints or inquiries from engineers indicating that they are not being allowed to complete this task without the proper certification. Ms. Christ indicated that no action is necessary, but she will keep the Board apprised.

**XV. Proposed Changes to the Written Contract Requirements**

Ms. Eissler advised that there had been some discussion at the November meeting as to what could be done to require licensees to provide information to their clients about the Board so that consumers would know to verify with the Board that the licensee is in good standing; the suggestion was made that maybe it should be included in the written contract as a notification to check the Board to make sure the person the consumer is contracting with is licensed. Ms. Eissler advised that she researched this issue and learned that several boards and bureaus within DCA require their licensees to provide detailed information to consumers as to how to verify a license; for example, contractors are required to include a lengthy statement in their contracts about licensure and how to contact the Contractors State License Board to verify the license status. Ms. Eissler noted that there are provisions in the PELS and Geology regulations that require licensees to provide notice to their clients that they are licensed by this Board, and while there are a variety of ways to do so, it does not require the licensees to provide information on how to contact the Board. She noted that there are statutes for professional engineers and professional land surveyors that require the use of a written contract except in certain situations; these statutes also list the minimum elements that must be included in the written contract; however, there are no similar written contract requirements for geologists and geophysicists. Ms. Eissler advised that if the Board wishes to move forward with this more research should be done to determine whether statutory or regulatory changes would need to be made and what language should be included.

Mr. Duke commented that the Geologist and Geophysicist Act definitely would have to be amended in order to require a written contract to begin with. He also indicated that the statutes in the Professional Engineers Act and the Professional Land Surveyors' Act state that the information to be included in the contract is "not limited to" the items listed; therefore, the Board could adopt regulations to require other items.

The Board directed that staff provide further information and suggested language for this item at the next meeting.

**XVII. Technical Advisory Committees (TACs)**

**A. Board Assignments to TACs – No updates**

**B. Appointment of TAC Members**

**MOTION:** Mr. Foley/Mr. Josephson moved to appoint Mr. Phil Ball to Mechanical TAC

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

**C. Reports from the TACs**

Mr. Foley indicated that he would hand over the Geology TAC to Erik Zinn as professional member liaison.

**XVIII. Liaison Reports**

**A. ASBOG – No Updates**

**B. ABET – No Updates**

**C. NCEES**

Mr. Tami indicated that there are two people running for NCEES treasurer; Dave Widemer from Pennsylvania and Dan Parker from Washington. He recommends that California support Dave Widemer, PLS from Pennsylvania.

**MOTION:** Mr. Tami/Mr. Foley moved to support Dave Widemer for NCEES Treasurer.

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

Mr. Foley indicated that in order for him to continue with NCEES once his term with the Board expires, he recommends the Board provide him with emeritus status. This will added to the May agenda.

**D. Technical and Professional Societies**

President Modugno would like to send a letter of appreciation to the professional organizations for their efforts and support to the Board.

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

President Modugno thanked Ms. Bruning for her work for the Board and suggested that Board members contact her to make sure they have fulfilled their training requirements.

President Modugno added that the Board needs to create a subcommittee for the nomination and election of the President and Vice President of the Board at the May meeting. He stated that in the past, the subcommittee has been made up of past presidents. Mr. Foley and Mr. Tami volunteered to be on the subcommittee.

President Modugno also announced that the Board, in Closed Session, had decided to designate one of the disciplinary decisions as a Precedential

Decision. Mr. Duke advised that he would present this matter, including an explanation of the process and meaning of Precedential Decisions, at the May Board meeting.

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

Date of Next Meeting: May 12 & 13, 2011, Sacramento, California [Board Meeting]

Mr. Foley indicated that he would like to order lapel pins with the Board seal for \$750 for 500 pins. The Board members' personal voluntary funds would be used to purchase these pins. Board members would have to contribute additional funds towards the cost and possibly include staff as well. These pins would be for Board members and future Board members or recognition of staff or other people for services to the Board.

Vice-President Silva would like the Strategic Plan to be a standard item under the Executive Officer's Report at future meetings.

Mr. Satorre suggested arranging a face-to-face meeting with the Governor.

Ms. Arnold announced that Dr. Hong Boem Rhee as new board member. The Board will formally welcome him at the next Board meeting.

**XXI. Approval of Consent Items**

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

Approval of the Minutes of the January 28, 2011 Board Meeting

**MOTION:** Mr. Silva/Mr. Foley moved to approve the Board minutes.

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

**XXII. Adjourn**

Meeting adjourned at 1:09 p.m.

**PUBLIC PRESENT**

Kim Kirchmeyer, Department of Consumer Affairs  
Roger Hanlin, California Land Surveyors Association  
Annette Lockhart, California Land Surveyors Association  
Bob DeWitt, ACEC  
Mark Smith, ACEC  
Joan Al-Kazily, ASCE  
Richard Markuson, ASCE  
Curt Burfield, CalTrans  
Steven Hao, CalTrans  
Craig Copelan, PEGG



24. Adjourn



