

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

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Sacramento, CA 95833
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Thursday, July 28, 2011

Board Members Present: Jerry Silva, President; Paul Wilburn Vice President; Carl Josephson; Mike Modugno; Hong Boem Rhee; Ray Satorre; Patrick Tami; and Erik Zinn.

Board Members Absent: Philip Quartararo; Michael Trujillo

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

1. Roll Call to Establish a Quorum

The meeting was called to order by President Jerry Silva at 9:10 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

Dr. Gerald Williams spoke and indicated that he is a registered engineer in Oregon, Washington, and Idaho. He was originally registered in California in 1985. His registration lapsed in late 1980's due to non-payment when he was in graduate school. He indicated that he has asked the Board for reinstatement or waiver and has not received any response from the Board. He pointed out that 6755(d) states that the Board may provide a waiver of the examination. He has been attempting to reinstate his license since 2004. He took the examination and stated that he is not a structural engineer and has not done a design project since the 1980's. His practice consists of assisting attorneys that represent owners, contractors and engineers in complex construction disputes. Dr. Williams indicated that staff has responded; however, staff cannot take action; statute states that the Board must take action. Dr. Williams stated that he flew from Portland to seek reinstatement or obtain a waiver as the Board has the authority to do so. It is not his intent to design any structure in the rest of his career. He has offered to retire his license if the Board will not waive the examination and

reinstate his license and allow him to move forward. He asks that the Board take it under advisement.

Gary Duke recommends moving item number 8 to Closed Session as authorized under Government Code section 11126(e)(1) & (2) because of potential significant exposure to litigation.

Motion: Mr. Zinn and Mr. Satorre moved to move item 8 to Closed Session.

Vote: 8-0, motion carried

5. **Temporary Authorization Applications**

Muzaffar Sajjad with Bechtel Power Corporation gave an overview of the job description for which he is seeking a temporary authorization. Bechtel has been awarded a contract in Hayward at the Russell City Energy Center. He explained there are California Civil Engineers working on the project but not in his division. Bechtel procedures require specific experience to perform this type of work. He is requesting temporary authorization for a duration of 6 months. Mr. Sajjad is scheduled to take the seismic and engineering surveying examinations in October.

Motion: Mr. Wilburn and Mr. Satorre moved to grant the temporary authorization.

Vote: 8-0, motion carried

6. **Executive Officer's Report**

A. Legislation

1. Discussion of Legislation for 2011:

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.

The Board has a **support** position.

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

The Board has a **watch** position.

AB 1210 Garrick. Civil Engineering. This bill adds Section 6730.4 to the Engineer's Act, relating to water quality. Clarifies that all civil engineering activities performed

in the preparation of storm water pollution plans be performed by a licensed civil engineer.
Did not make it out of Committee.

AB 1424 Perea. Franchise Tax Board: delinquent tax debt. This bill would permit a state agency that issues professional licenses, to suspend, revoke, or refuse to issue a license if the licensee's name is included on the list of the 500 largest tax delinquencies of the State Board of Equalization and the Franchise Tax Board.
Staff recommends that the Board take an opposed position.

Motion: Mr. Tami and Mr. Josephson moved to oppose.

Vote: 8-0, motion carried

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.
The Board has a **support** 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 Act, Land Surveyor's Act, and Geologist and Geophysicist Act.
The Board has a **support** position.

SB 692 Walters. Professional Engineers. This bill would change the disciplines currently licensed as "title act" engineers to "practice act" engineers.
The Board has a **watch** position.

SB 944 Senate. Business Professions & Economic Development Committee. This is one of the Committee's Omnibus bills. It includes some minor changes to the Engineer's Act, the Land Surveyor's Act, and the Geologist and Geophysicist Act.
The Board has a **support** position.

B. Strategic Plan Goals for 2011-2012

Mr. Moore discussed that President Silva asked staff to determine goals for implementing the new Strategic Plan for Fiscal Year 2011-12. Mr. Moore advised that the managers met and discussed the goals and objectives to determine the priorities. It was recognized by the group that the objectives listed under each of the five primary goals could be categorized in one of three distinct groups for the purposes of implementation timelines, and some could be considered as belonging to more than one category:

Continuous – objective that could be either active or future and that would be implemented on a continuous operational basis.

Active – objective that would be considered as already implemented and in an active state, either as a continuous operation or special project.

Future – objective that could be implemented at a future date during the life of the 2011-14 Strategic Plan.

It was also recognized that implementation of several of the objectives would be dependent upon outside agencies or resources in order for those objectives to be considered successful (i.e. DCA, DOF, DOI, Legislature, etc).

Mr. Moore indicated that one of the objectives that the Board is considering is changing the Board's web address to closely reflect the name of the Board. It would be www.bpelsq.ca.gov.

Mr. Satorre suggested identifying the highest and lowest priorities.

President Silva asked that Mr. Moore enlist the help of Evin Van Outryve to work with staff to help break out the priorities and report back at the next Board meeting. Mr. Modugno explained that the Board must figure out ways to implement this plan with the current budget and existing personnel.

C. Personnel

Mr. Moore highlighted several changes in personnel. Sarah Peters who worked in the Examination Development and Administration Unit left to work full time with the Medical Board. Vincent Somma came to us from the Bureau of Automotive Repair; he is our application review specialist for the Geology and Geophysicist Program. Debbie Thompson will be retiring September 30, 2011, and Denise Tomlinson will retire November 28, 2011. Susan Christ will oversee the Licensing/Applications Unit, and Joyce Hirano will take over the Examination Administration and Development Unit. Currently the Board is advertising for the Senior Registrar examination in order to fill the vacant Land Surveyor position. A hiring freeze exemption has been submitted to DCA to fill the Land Surveyor vacancy as it would be coming from outside the department. The Board was mandated by DCA to meet a 5% workforce cap, and has

submitted its plan and is currently meeting the 5% workforce cap.

7. Enforcement

Ms. Eissler discussed that staff is developing more extensive statistical information for the Geology and Geophysics program. She hopes to present those at the next Board meeting. She also pointed out that there were less than 100 cases over a year old for engineering and land surveying for the entire fiscal year. She added that the Enforcement Unit is also focusing its efforts on getting the citation program back on track. There was a backlog due to staffing resources. There are now 2 ½ staff assigned instead of just 1 staff member to work the citation program. In the fiscal year, 71 citations were issued compared to 36 the previous year. She explained that many of these citations are appealed via requests for informal conferences; 33 informal conferences were held during the fiscal year, with 28 of those in May and June. She noted that 52 cases were referred to the Attorney General's Office for formal disciplinary action. She also explained that when a case is closed, they notify the complainant and send a complainant satisfaction survey form. They have received several positive comments, and she gave a brief overview of those comments.

Ms. Eissler stated that at the next Board meeting she will provide statistics that are provided to DCA in another manner than what she provides currently to the Board that indicates the aging of cases and added that DCA is putting quarterly performance measures on their website.

8. Exams/Licensing

A. October 2011 Examinations

Mr. Moore explained that the Board had released the Structural Engineer results and that it is the first administration of the new 16 hour Structural examination. There were 115 applicants approved to take the examination; 91 examinations were scored, and 22 candidates passed both components for a 24% pass rate which is slightly less than the National 27%. He added that both components must be passed for an applicant to be considered to have passed the overall examination.

Mr. Moore reported that for the April State specific Land Surveyor results, the Board had 340 applicants approved to sit for the examination, and 334 were scored in which 72 passed, for a pass rate of 22%, which is similar to last year's results.

Mr. Moore advised that the Geology and Geophysicist examinations will be held September 30 and October 1 in Sacramento with 7 applicants for the Professional Geophysicist examination. He added that a Geophysicist has been enlisted as a Subject Matter Expert to assist in the application review process. He advised that the Engineer and Land Surveyor examinations will be held October 28 and 29, 2011.

9. **Outreach**

A. Recognition of 50 years of Licensure

Mr. Donelson indicated that Mr. Tami suggested a commendation to those licensees who have been licensed for 50 or more years. The oldest licensee has been licensed for 67 years. President Silva was pleased with the idea and would like this done on an annual basis.

Motion: Mr. Satorre and Mr. Josephson moved to approve.

Vote: 8-0, motion carried

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

A. Proposed Amendments to Board Rule 407, Engineers and Land Surveyors Fees

Mr. Moore indicated we did not receive any comments from the public.

Motion: Mr. Satorre and Mr. Tami moved to adopt the final amended language for Board Rules 407 and 428.

Vote: 8-0, motion carried

Motion: Mr. Wilburn and Mr. Tami moved to delegate to Executive Officer the authority to finalize the rulemaking file.

Vote: 8-0, motion carried

11. **Address of Record Available to the Public via website and Possible Amendments to Business and Professions Code section 27**

Ms. Eissler indicated that there is a general provision in Business and Professions Code section 27 that requires that the Board provide information about our licensees on the Board's website including their address of record. The way this is accomplished is through the license look-up database. There were concerns expressed by licensees about providing the address of record to the public for safety reasons. Ms. Eissler explained that in order for the Board to not provide address of record through the license look-up on the website, this Code section would have to be amended. Ms. Eissler advised that the solution would be for the provision that relates to the Board to be changed to indicate that we would disclose information excluding the address of record; in order to accomplish this; we would need to go through the legislative process. If the Board were to approve, staff would work to get legislation through during the next legislative session to amend this section.

Motion: Mr. Tami and Mr. Satorre moved to direct staff to pursue legislation to amend Business and Professions Code section 27.

Vote: 8-0, motion carried

12. **Proposal to Require Written Contracts for Geologists and Geophysicists**

Ms. Eissler advised that there is currently no statutory requirement that professional geologists and geophysicists execute written contracts with their clients prior to performing services. She explained that the Board would need to pursue legislation through the legislative process next session in order to act sections; she recommended that the language mirror the language currently in the law for professional engineers and professional land surveyors.

Motion: Mr. Zinn and Mr. Modugno moved to direct staff to pursue legislation to add statutory provisions to the Geologist and Geophysicist Act to require professional geologists and geophysicists to execute written contracts with their clients.

Vote: 8-0, motion carried

13. **Approval of Delinquent Reinstatements**

Motion: Mr. Wilburn and Mr. Satorre moved to approve the delinquent reinstatements.

Vote: 8-0, motion carried

14. **Information Technology Updates**

A. On-Line Renewals/Credit Card Renewals

Mr. Donelson indicated that the contract was approved, but the actual processing of credit card renewals is still several months out from actual implementation. He anticipates the year 2013 for BrEZe implementation and added that DCA's I.T. staff is focused on BrEZe. He is actively involved; however, timelines are difficult to pin down. Mr. Tami reminded the Board that the delay is fiscally irresponsible.

15. **Administration**

A. Fund Condition

Ms. Thompson indicated that the Board received year-end reports. The final revenue for engineers was \$9,660,473 which is \$1,480,000 less than the previous year due to normal cycles. For geology and geophysicists, the final revenue was \$1,017,367 which was \$50,000 more than previous year due to normal cycles. For geologist applications in 2010-2011, made \$178,000 compared to \$186,000 for fiscal year 2009-2010.

B. Fiscal Year 2010/11 Fiscal Year 2011/12 Budgets

Ms. Thompson pointed out that there was cost savings prorata from Division of Investigation and DCA.

- C. **Fiscal Year 2011/12 Budget Change Proposals**
The Board's Spring Finance Letter was approved in the 2011 Governor's budget for a one-time budget augmentation in the current fiscal year 2011-12 to fund the additional costs for NCEES to administer the national examinations.
 - D. **Fiscal Year 2012/13 Budget Change Proposals**
There were 3 Budget Change Proposals submitted to DCA. The first, regarding the enforcement program attorney general and evidence witness fees, the Department suggested the Board absorb the increase in expenses in 2011-12 with the savings the Board will receive from switching to NCEES administering the National examinations; the examination program savings will cover enforcement costs. The two additional Budget Change Proposals, the Geologist Registrar Position and the Enforcement Analyst Position, are still with DCA for review.
3. **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)]
4. **Open Session to Announce the Results of Closed Session**
The Board discussed various items related to examination administration and procedures. The Board adopted 9 stipulations and 1 proposed decision and discussed pending litigation.
16. **Technical Advisory Committees (TACs)**
- A. Board Assignments to TACs
No action taken.
 - B. Appointment of TAC Members

Motion: Mr. Zinn and Mr. Satorre moved to appoint Bill Owen and Mark Riches to the Geology and Geophysics TAC.
Vote: 8-0, Motion carried
 - C. Reports from the TACs
 - 1. Report from the Geology TAC
Mr. Zinn explained that the Geology and Geophysics TAC will be focusing on geophysicist issues for the next year and how to boost the numbers of geophysicist candidate population. Mr. Tami suggested working with the Land Surveyor TAC regarding overlap on ground penetrating radar (GPR) and utility location.

17. **Liaison Reports**

A. ASBOG

Mr. Moore received an e-mail from ASBOG recently for a November meeting in San Antonio, TX. Ms. Thompson is currently working on an out-of-state travel request to attend.

B. ABET

No report given.

C. NCEES

Mr. Tami indicated that NCEES will host their Annual Meeting in Rhode Island in which he will attend but will not be able to represent the Board. He added that NCEES will have its Western Zone meeting in San Francisco, CA in April of 2013. The Board staff will work with NCEES to organize the meeting. Mr. Tami inquired as to whether professional organizations can provide donations to offset the cost of attendees. Mr. Duke will research the issue and report back.

D. Technical and Professional Societies

No report given.

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

President Silva stated that 86 out of 100 DCA hiring exemptions were approved. Mr. Moore added that the 5% reduction is in addition to efforts made within the last two years. He is hoping to receive clear language in the next two weeks.

President Silva announced that it is Ric Moore's first Board meeting as Executive Officer, and Mr. Moore announced that it is President Silva's first meeting as President.

President Silva would like to capture the 50 years recognition in a newsletter along with the new Executive Officer information.

Mr. Moore indicated that Ms. Thompson would like to assemble a flow chart of how the budgeting process works internally and how it interacts externally and possibly explained at a future Board meeting.

Mr. Modugno suggests meeting each year to discuss roles and responsibilities within the Board.

President Silva would like to see a presentation by the various professional organizations to better understand their roles and responsibilities.

President Silva also added that he would like to thank the Board for the opportunity to serve as President and thanked Joanne Arnold for the work she

did as Interim Executive Officer.

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

A. Date of Next Board Meeting: September 8, 2011 will be the date of the next Board meeting, in Sacramento, California

20. **Approval of Consent Items**

A. Approval of the Minutes of the May 12-13, 2011, Board Meeting

Motion: Mr. Satorre and Mr. Zinn moved to approve.

Vote: 8-0, Motion carried

21. **Adjourn**

Meeting adjourned at 2:45 p.m.

PUBLIC PRESENT

Peter Thams, AEG Southern California Section

Annette Lockhart

Muzaffar Sajjad, Bechtel

Roger Hanlin, CLSA

Gerald Williams

Craig Copelan, PECG

Sierra Nelmes, Taber Consultants and CalGEO

Garry Manrath, AEG Sacramento Section

Brian Clifford, DCA

Steve Hao, Caltrans

Richard Markuson, ASCE