

TITLE 16, CALIFORNIA CODE OF REGULATIONS, DIVISION 5

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

NOTICE IS HEREBY GIVEN that the Board for Professional Engineers, Land Surveyors, and Geologists is proposing to take the action described in the Informative Digest. The Board does not intend to hold a hearing in this matter. If an interested party wishes that a hearing be held, he or she must make the request in writing to the Board no later than 5 p.m. on September 26, 2011. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in the Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on October 10, 2011, or must be received by the Board immediately following the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text.

With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as Contact Person and will be mailed to those persons who submit written testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 6716 and 8710 of the Business and Professions Code, and to implement, interpret, or make specific sections 6754, 6755, 6755.1, and 6756 of said Code, the Board is considering changes to Division 5 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

- Repeal Section 443(c)(1)

Currently, applicants who have taken an examination prepared by National Council of Examiners for Engineering and Surveying (NCEES) are eligible to inspect or appeal an examination if their score is no more than 8 points below the passing score on a NCEES examination, as stated in Section 443(c)(1). Examinations containing “multiple-choice type problems,” however, cannot be reviewed, as stated in Section 443(b).

The Board is proposing to repeal Section 443(c)(1) since the NCEES examinations used by the Board consist substantially of multiple-choice type problems and are not eligible for review or appeal. NCEES problems, which do contain design essay questions use a method of scoring that does not allow the Board to determine if the applicant is eligible to appeal their score. On the new NCEES Structural Examination, for example, the design essay portion will be scored together with the multiple choice portion as a combined score. This hybrid grading system was created with the intention of taking as much subjectivity out of the examination grading as possible. This method of scoring will make it very difficult, if not impossible, for NCEES to determine who is eligible under the conditions specified in the regulation to review and appeal their examination.

Also, since by contractual policy, NCEES does not provide applicants’ scores to the Board, the Board does not receive or have knowledge of the actual passing score for any NCEES examination. When results are released, NCEES provides the Board with a list of the applicants eligible to review and appeal their score examination, according to our laws. After the applicants are notified of their right to appeal, NCEES sends the deficient examination problems to the Board office and allows the applicants to review and appeal the questions. The Board then returns the information to NCEES for consideration. This process requires the Board to assume monetary liability while the national examinations are in the Board’s possession.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Requires Reimbursement:

None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting

business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have an impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The Board does not license businesses; the Board licenses individuals.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposal described in this Notice.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Larry Kereszt
Address: 2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2240
Fax No.: (916) 263-2246
E-Mail Address: Larry.Kereszt@dca.ca.gov

The backup contact person is:

Name: Nancy Eissler
Address: 2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833
Telephone No.: (916) 263-2240
Fax No.: (916) 263-2246
E-Mail Address: Nancy.Eissler@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at <http://www.pels.ca.gov>.