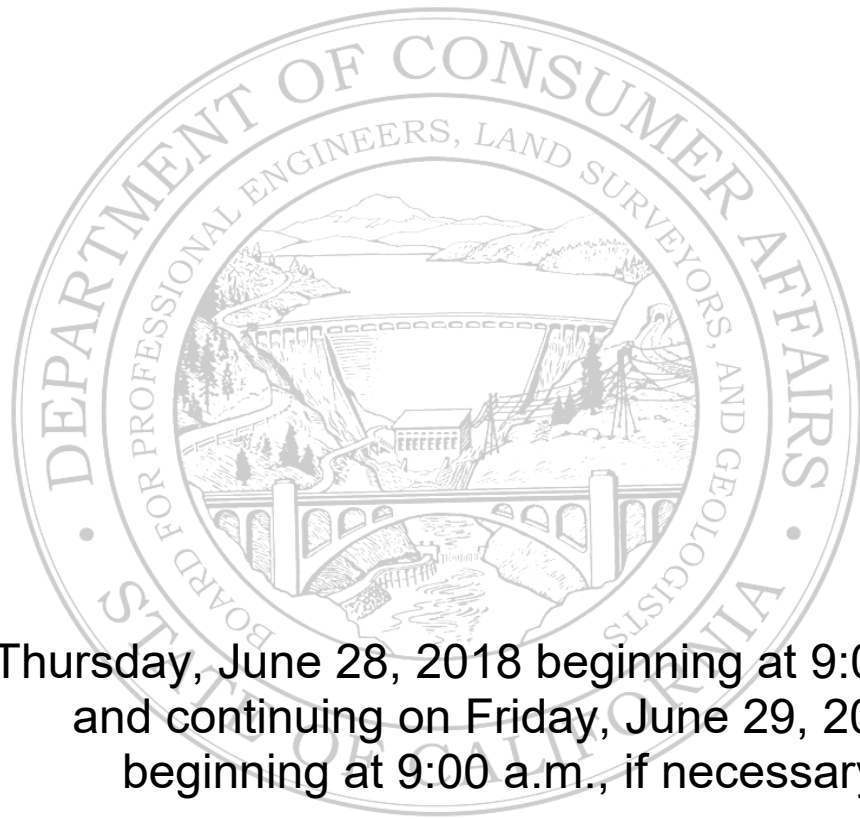




Governor Edmund G. Brown

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

Board for Professional Engineers,
Land Surveyors, and Geologists



Thursday, June 28, 2018 beginning at 9:00 a.m.
and continuing on Friday, June 29, 2018
beginning at 9:00 a.m., if necessary

CalTrans District 11
4050 Taylor Street, Wallace Room #134
San Diego, CA 92110-2737

TABLE OF CONTENTS

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

BOARD MEETING

JUNE 28 29, 2018

CalTrans District 11
4050 Taylor Street, Wallace Room #134
San Diego, CA 92110-2737

BOARD MEMBERS

Eric Johnson, President; Betsy Mathieson, Vice President; Natalie Alavi; Fel Amistad; Alireza Asgari; Andrew Hamilton; Kathy Jones Irish; Coby King; Asha Lang; Mohammad Qureshi; Frank Ruffino; Jerry Silva; Robert Stockton; and Steve Wilson

I. Roll Call to Establish a Quorum	7
II. Public Comment for Items Not on the Agenda NOTE: The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda. Please see the last page of this Official Notice and Agenda for additional information regarding Public Comment.	9
III. Hearing on the Petition for Early Termination of Probation of Dilip Mulchand Khatri This hearing will be held on Thursday, June 28, 2018, beginning at 9:00 a.m., or as soon thereafter as the matter may be heard.	11
IV. Closed Session – Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)] NOTE: The Board will meet in Closed Session immediately following the Hearing on the Petition for Early Termination of Probation to decide that matter.	13
V. Open Session to Announce the Results of Closed Session	15
VI. Administration A. Fiscal Year 2017/18 Budget Review	17
VII. Legislation A. Legislative Calendar B. Discussion of Legislation for 2018 (Possible Action): <ul style="list-style-type: none"> AB 767 Master Business License Act. AB 2138 Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction. AB 2483 Indemnification of public officers and employees: antitrust awards. SB 920 Engineering, land surveying, and architecture: limited liability partnerships. SB 1098 Geologists and geophysicists: fees. 	23 25 139 27 68 77 132
VIII. Update from the Department of Consumer Affairs (DCA)	153

IX. Enforcement	155
A. Enforcement Statistical Reports	
1. Fiscal Year 2017/18 Update	
X. Exams/Licensing	163
A. Update on 2018 - First and Second Quarter Examinations	
XI. Executive Officer's Report	167
A. Rulemaking Status Report	
B. Update on Board's Business Modernization Report	
C. Sunset Review (Possible Action)	
D. Personnel	
E. ABET	
F. Association of State Boards of Geology (ASBOG)	
G. National Council of Examiners for Engineering and Surveying (NCEES)	169
1. Annual Meeting Motions & Resolutions (Possible Action)	
a. Advisory Committee on Council Activities (ACCA) Motions 6 and 7 – Relating to Financial Policies 3B and 3C, Travel Expenses	
b. ACCA Motion 8 – Relating to Bylaws 7.02, Advisory Committee on Council Activities	
c. Committee on Examination Policy and Procedures (EPP) Motion 1 – Relating to Bylaws 7.08, Committee on Examination Policy and Procedures	
d. Committee on Examinations for Professional Engineers (EPE) Motion 1 – Relating to Bylaws 7.06, Committee on Examinations for Professional Engineers	
e. Committee on Examinations for Professional Surveyors (EPS) Motion 1 – Relating to Bylaws 7.07, Committee on Examinations for Professional Surveyors.	
f. Committee on Finances Motion 3 – Relating to Member Board Membership Fees	
g. Committee on Member Board Administrators (MBA) Motion 1 – Relating to Bylaws 7.11, Committee on Member Board Administrators	
h. Committee on Uniform Procedures and Legislative Guidelines (UPLG) Motion 6 – Relating to Model Law 120.20, Board Qualifications	
i. UPLG Motion 20 – Relating to Model Laws and Model Rules Sections Pertaining to Structural Engineering Licensure	
j. Technology Task Force Motion 3 – Relating to Building Information Modeling (BIM) Guidelines	
k. Board of Directions Motion 1 – Relating to the Term of Office of NCEES Treasurer Timothy Rickborn, P.E.	
l. Northeast Zone Motion 1 – Relating to NCEES Examination Fees for the Fundamentals of Engineering and Fundamentals of Surveying Examinations	
H. Update on Outreach Efforts	187
XII. Technical Advisory Committees (TACs)	195
A. Assignment of Items to TACs (Possible Action)	
B. Appointment of TAC Members (Possible Action)	197
C. Reports from the TACs (Possible Action)	

XIII.	President's Report/Board Member Activities	199
XIV.	Nomination and Election of President and Vice President for Fiscal Year 2018/19	201
XV.	Approval of Meeting Minutes (Possible Action) A. Approval of the Minutes of the May 3, 2018, Board Meeting	203
XVI.	Discussion Regarding Proposed Agenda Items for Next Board Meeting A. September 6-7, 2018, Board Meeting will be held in Santa Rosa at the Judge Joseph Rattigan Building, 50 D Street, Conference Room 410 Santa Rosa, CA 95404	215
XVII.	Other Items Not Requiring Board Action	217
XVIII.	Closed Session – The Board will meet in Closed Session to discuss, as needed: A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)] B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)] C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)] D. Pending Litigation [Pursuant to Government Code section 11126(e)] 1. <u>Mauricio Jose Lopez v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, San Bernardino County Superior Court Case No. CIVDS1718786</u>	219
XIX.	Open Session to Announce the Results of Closed Session	221
XX.	Adjourn	223

I. Roll Call to Establish a Quorum

II. Public Comment for Items Not on the Agenda

NOTE: The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda. Please see the last page of this Official Notice and Agenda for additional information regarding Public Comment.

III. Hearing on the Petition for Early Termination of Probation of Dilip Mulchand Khatri

This hearing will be held on Thursday, June 28, 2018, beginning at 9:00 a.m., or as soon thereafter as the matter may be heard.

IV. Closed Session – Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]

NOTE: The Board will meet in Closed Session immediately following the Hearing on the Petition for Early Termination of Probation to decide that matter.

V. Open Session to Announce the Results of Closed Session

VI. Administration

A. Fiscal Year 2017/18 Budget Review

**0770- Professional Engineers, Land Surveyors and Geologist
Financial Statement**

Date Prepared
June 19, 2018

	FY 2016-17 Month 10 (7/16-4/17)	FY 2017-18 Month 10 (7/17-4/18)	% Change	FY 2017-18 FM 1 Projections	FY 2017-18 Updated Projections	% Change
Revenue						
¹ Applications/Licensing Fees (125700)	1,673,996	1,213,988	-27%	2,829,000	1,456,786	-49%
² Renewal fees (125800)	5,923,055	6,734,818	14%	6,138,000	6,883,845	12%
Delinquent fees (125900)	69,982	73,905	6%	81,000	88,686	9%
Interest	29,982	95,798	220%		95,798	
Other	215,893	108,816	-50%	134,000	130,579	-3%
Total Revenue:	7,912,908	8,227,325	4%	9,182,000	8,655,694	-6%
Expense						
Personnel Services:						
Civil Service Perm.	2,262,622	2,352,612	4%	2,962,803	2,862,382	-3%
Temp Help	121,046	112,263	-7%	206,002	211,283	3%
Exam Proctor	2,732			5,082	4,948	-3%
Board Members	6,000	6,500	8%	6,433	9,100	41%
Committee Members	1,500			2,250	2,250	0%
³ Overtime/Other	862	62,857	7192%	1,483	62,857	4138%
Total Salaries and Wages	2,394,762	2,534,231	6%	3,184,053	3,152,820	-1%
Total Benefits	1,266,981	1,327,078	5%	1,528,585	1,614,993	6%
Total Personnel Services	3,661,743	3,861,309	5%	4,712,638	4,767,813	1%
Operating Expense and Equipment:						
Fingerprints	39,756			61,802	0	-100%
General Expense	47,520	55,582	17%	62,716	76,589	22%
Printing	25,081	17,411	-31%	50,332	20,893	-58%
Communication	20,362	22,358	10%	27,525	26,830	-3%
Postage	39,040	26,406	-32%	83,707	31,687	-62%
Travel Out-of-State	3,360	1,425	-58%	5,188	1,710	-67%
Travel In State	66,398	63,204	-5%	113,054	75,845	-33%
Training	209	290		430	348	-19%
Facilities Operations	358,640	344,878	-4%	368,931	413,854	12%
⁴ C & P Services - Interdept.	400,000	321,006	-20%	179,840	321,006	78%
C & P Services - External	510,289	343,782	-33%	375,299	376,461	0%
Minor Equipment	17,642	246	-99%	5,533	328	-94%
Prorata	1,471,678	1,811,076	23%	2,236,987	2,204,000	-1%
Other Expense	63	19,373		5,177	19,373	274%
Total General Expenses:	3,000,038	3,027,037	1%	3,576,518	3,568,923	0%
Examinations:						
Exam Rent - Non State				245	0	-100%
⁵ External Exam Contract Services	857,115	986,919	15%	713,143	937,407	31%
⁶ C/P Svs - Ext Expert Examiners	152,253	386,355	154%	177,185	475,607	168%
Total Examinations:	1,009,368	1,373,274	36%	890,573	1,413,014	59%
Enforcement:						
Attorney General	276,827	295,790	7%	438,759	382,000	-13%
Office Admin. Hearing	45,476	84,940	87%	92,113	145,000	57%
Evidence / Witness Fees	164,210	169,126	3%	241,016	238,901	-1%
Court Reporters	3,776	7,216	91%	3,531	9,427	167%
DOI - Investigation	264,170	335,000		235,675	402,000	71%
Total Enforcement:	754,459	892,072	18%	1,011,094	1,177,328	16%
Total OE&E	4,763,865	5,292,383	11%	5,478,184	6,159,265	12%
Total Expense:	8,425,608	9,153,692	9%	10,190,822	10,927,078	7%
Total Revenue:	7,912,908	8,227,325		9,182,000	8,655,694	
Total Expense:	8,425,608	9,153,692		10,190,822	10,927,078	
Difference:	-512,700	-926,367		-1,008,822	-2,271,384	

Financial Statement Notes

Notations:

- 1 Applications/Licensing Fees (125700): Data retrieved from the FI\$Cal report indicates disparities in revenue generated versus last year at the same point in time. Revenue collected is for the processing of applications, collection of exam fees for development and administration, issuance of initial licenses, and issuance of retired licenses. There is a drop off in application numbers versus last year due to open filing process and the change in the refile process.
- 2 Renewal fees (125800): Data retrieved from the FI\$Cal reports shows a significant increase in renewal revenue for Fiscal Month (FM) 10 versus prior FM reports. Board staff is working with DCA Budgets to confirm data.
- 3 Overtime/other: Data included in this expense line item includes a retirement payout for a Senior Registrar and overtime.
- 4 C & P Services - Interdepartmental: Expense line item includes all expert contract services with other California State agencies for exam development. The majority of these contracts have not been encumbered on the FI\$Cal report.
- 5 External Exam Contract Services: All exam development and administration contracts are identified in this line item. That includes NCEES, ASBOG, and Prometric.
- 6 C/P Svs - Ext Expert Examiners - This line item includes all expert consultant contracts outside of state agency expert agreements.

0770 - Professional Engineer's, Land Surveyor's and Geologist's Fund

Prepared 6/19/18

Analysis of Fund Condition

(Dollars in Thousands)

Historical Reversions not included in BY's
Average over last five FY's is \$1.5 Million

	Actuals 2016-17	Budget Act CY 2017-18	Governor's Budget BY 2018-19	BY +1 2019-20	BY +2 2020-21
BEGINNING BALANCE					
Prior Year Adjustment	\$ 8,263	\$ 10,042	\$ 7,072	\$ 5,210	\$ 922
Adjusted Beginning Balance	\$ 8	\$ -	\$ -	\$ -	\$ -
	\$ 8,271	\$ 10,042	\$ 7,072	\$ 5,210	\$ 922
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	\$ 139	\$ 118	\$ 108	\$ 108	\$ 108
125700 Other regulatory licenses and permits	\$ 2,423	\$ 1,457	\$ 2,357	\$ 1,471	\$ 2,381
125800 Renewal fees	\$ 6,189	\$ 6,884	\$ 6,310	\$ 6,953	\$ 6,373
125800 Delinquent fees	\$ 91	\$ 89	\$ 98	\$ 90	\$ 99
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 62	\$ 96	\$ 10	\$ 3	\$ -
150500 Interest Income from interfund loans	\$ 70	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 13	\$ 9	\$ 9	\$ 9	\$ 9
161400 Miscellaneous revenues	\$ 1	\$ 4	\$ 10	\$ 10	\$ 10
Totals, Revenues	\$ 8,988	\$ 8,656	\$ 8,902	\$ 8,644	\$ 8,980
Transfers from Other Funds					
Revenue Transfer from Geology Fund	\$ -	\$ -	\$ 1,131	\$ -	\$ -
Transfers to Other Funds					
TO0001 GF Loan per item 1110-011-0770 Budget Act of 2008	\$ -	\$ -	\$ -	\$ -	\$ -
TO0001 GF Loan per item 1110-011-0770 Budget Act of 2011	\$ 3,200	\$ -	\$ 800	\$ -	\$ -
Totals, Revenues and Transfers	\$ 12,188	\$ 8,656	\$ 10,833	\$ 8,644	\$ 8,980
Totals, Resources	\$ 20,459	\$ 18,698	\$ 17,905	\$ 13,854	\$ 9,901
EXPENDITURES					
Disbursements:					
1110 Program Expenditures (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
1111 Department of Consumer Affairs (State Operations)	\$ 9,853	\$ 10,927	\$ 11,843	\$ 12,080	\$ 12,321
8840 SCO (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 13	\$ 15	\$ 1	\$ 1	\$ 1
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ 98	\$ 98	\$ 98
9900 Statewide Admin. (State Operations)	\$ 551	\$ 684	\$ 753	\$ 753	\$ 753
	\$ -	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 10,417	\$ 11,626	\$ 12,695	\$ 12,932	\$ 13,173
FUND BALANCE					
Reserve for economic uncertainties	\$ 10,042	\$ 7,072	\$ 5,210	\$ 922	\$ -3,272
Months in Reserve	10.4	6.7	4.8	0.8	-2.9

VII. Legislation

A. Legislative Calendar

B. Discussion of Legislation for 2018 (Possible Action):

AB 767 Master Business License Act.

AB 2138 Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

AB 2483 Indemnification of public officers and employees: antitrust awards.

SB 920 Engineering, land surveying, and architecture: limited liability partnerships.

SB 1098 Geologists and geophysicists: fees.

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

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

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

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

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

DEADLINES

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** **Legislature Reconvenes** (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 12** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the **odd-numbered year** (J.R. 61(b)(1)).
- Jan. 15** Martin Luther King, Jr. Day.
- Jan. 19** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year (J.R. 61(b)(2)). Last day to **submit bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to **pass bills introduced** in that house in the odd-numbered year (J.R. 61(b)(3), (Art. IV, Sec. 10(c)).

- Feb. 16** Last day for bills to be **introduced** (J.R. 61(b)(4), (J.R. 54(a)).

- Feb. 19** Presidents’ Day.

- Mar. 22** **Spring Recess** begins upon adjournment of this day’s session (J.R. 51(b)(1)).

- Mar. 30** Cesar Chavez Day observed.

- Apr. 2** **Legislature Reconvenes** from Spring Recess (J.R. 51(b)(1)).

- Apr. 27** Last day for **policy committees** to hear and report to **fiscal committees** **fiscal bills** introduced in their house (J.R. 61(b)(5)).

- May 11** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).

- May 18** Last day for **policy committees** to meet prior to June 4 (J.R. 61(b)(7)).

- May 25** Last day for **fiscal committees** to hear and report to the floor bills introduced in their house (J.R. 61(b)(8)).
Last day for **fiscal committees** to meet prior to June 4 (J.R. 61(b)(9)).

- May 28** Memorial Day.

- May 29- June 1 Floor Session only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61 (b)(10)).

*Holiday schedule subject to Senate Rules committee approval

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

- June 1** Last day for each **house to pass bills** introduced in that house (J.R. 61(b)(11)).
- June 4** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).
- June 28** Last day for a legislative measure to qualify for the Nov. 6 General Election ballot (Elections code Sec. 9040).
- June 29** Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

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

- July 4** Independence Day.
- July 6** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)). **Summer Recess** begins upon adjournment provided Budget Bill has been passed (J.R. 51(b)(2)).

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

- Aug. 6** **Legislature Reconvenes** (J.R. 51(b)(2)).
- Aug. 17** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).
- Aug. 20-31** **Floor Session only.** No committees, other than Conference and Rules Committees, may meet for any purpose (J.R. 61(b)(16)).
- Aug. 24** Last day to **amend** on the floor (J.R. 61(b)(17)).
- Aug. 31** Last day for **each house to pass bills**, except bills that take effect immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c), (J.R. 61(b)(18)). **Final Recess** begins upon adjournment (J.R. 51(b)(3)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

- 2018**
- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor’s possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Nov. 6 General Election
- Nov. 30 Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 3 12 Noon convening of the 2019-20 Regular Session (Art. IV, Sec. 3(a)).
- 2019**
- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Opposed Legislation

AB 2138 (Chiu D & Low D) San Francisco & Campbell

Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

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

Status: 6/13/2018-Referred to Senate Business, Professions and Economic Development and Public Safety.

Location: 6/13/2018- Senate Business, Professions and Economic Development.

Last Amend: 5/25/2018

Updated 6/15/18

Staff Analysis: AB 2138

Bill Summary: Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has been convicted of a crime that is substantially related to the qualifications, functions, and duties of the profession. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license, as well as defining what is meant by “substantially related” in regulation.

This bill would authorize a board to deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in existing laws.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to follow certain procedures when requesting or acting on an applicant’s or licensee’s criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified information regarding actions taken by a board based on an applicant or licensee’s criminal history information.

This bill would prohibit a board from denying a license based solely on an applicant’s failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

This bill would repeal the authorization for a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

This bill would prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

The bill would limit probationary terms or restrictions placed on a license by a board to two years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

Staff Comment: This bill could create more work for staff and increase application processing times and would severely hamper the Board's ability to appropriately protect the public. Currently, when an applicant submits their application for licensure they are required to disclose their criminal history and submit the appropriate certified court documentation and a statement of explanation for each criminal conviction. This bill would prohibit the Board from requiring an applicant to self-disclose criminal history information. Moreover, if AB 2138 were signed into law, the Board would no longer be permitted to consider only non-violent felony convictions to deny an applicant licensure or take disciplinary action against a licensee. This bill would also establish a five-year statute of limitations from the date of the conviction on the Board's ability to consider non-violent felony convictions. Given the professions this Board regulates, there are often crimes that are directly related to the professions that are "non-violent," such as embezzlement and fraud. There are times when the Board does not learn of the conviction for several years after it has occurred, and staff must then conduct an investigation and process the denial or disciplinary action throughout the administrative process, all of which could exceed the five-year period. Furthermore, the Board has had cases in the past where the person has been placed on supervised criminal probation or parole for more than five years; Administrative Law Judges have determined that being on supervised probation or parole is not sufficient evidence of rehabilitation to allow the person to obtain or maintain a license with due regard to the protection of the public. Additionally, this bill would specify that the Board could place a licensee on probation for only two years or less. Historically, two years has not been sufficient time for the person to comply with terms and conditions of probation, such as taking educational courses or reimbursing the Board's costs; restricting the period of probation to only two years or less would be setting the person up to fail and violate probation. The bill also provides that the person can petition the Board for reduction, modification, or termination of probation after one year and would require the Board to issue a decision on the petition within 90 days of receipt; if the Board failed to issue a decision within that time period, the petition would be deemed granted. It is unclear how this provision would work considering that other laws, specifically the Administrative Procedure Act (Chapters 4, 4.5, and 5 of Part 1 of Division 3 of Title 2 of the Government Code, govern the conduct of hearings on such petitions. Additionally, this bill requires the boards to collect and publish demographic data regarding applicants who are denied licensure or who have licenses revoked/suspended. In conclusion, staff believes this bill would negatively impact the Board's ability to consider all factors and evidence involved in a case and to determine the appropriate action based on those specific facts with due regard to public protection relating to the professions this Board is charged with regulating.

Staff Recommendation: : Staff recommends the Board vote to Oppose AB 2138 as amended 5/25/2018. On 5/3/18 the Board voted to Oppose AB 2138 as amended 4/2/2018. On 5/25/18 AB 2138 was amended in Assembly Appropriations Committee. At the 6/18/2018 Appropriations Hearing, the Author stated acceptance of all of the suggestions included within the Senate B. P. & E. Committee's 6/15/2018 analysis (Page 44). While many of the Board's main issues of concern were addressed in that acceptance, this further proposed version of AB 2138 still restricts the Board's discretion to deny, suspend or revoke a license.

Laws: An act to amend Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 of, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

AMENDED IN ASSEMBLY MAY 25, 2018

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend Sections 7.5, 480, 481, 482, 488, 490, 492, 493, ~~4005~~, and 11345.2 of, *and* to add Section 481.5 to, ~~and to repeal Section 490.5 of~~, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to

determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

~~Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.~~

~~This bill would repeal that authorization.~~

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

This bill would also make necessary conforming changes.

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

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

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a plea of nolo
- 5 contendere or finding of guilt. Any action which a board is
- 6 permitted to take following the establishment of a conviction may
- 7 be taken when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

SEC. 2. Section 480 of the Business and Professions Code is amended to read:

480. (a) (1) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(A) The applicant has been convicted of a crime for which the applicant is presently incarcerated or for which the conviction occurred within the preceding five years. However, the preceding five year limitation shall not apply to a conviction for a violent felony, as defined in Section 667.5 of the Penal Code.

The board may deny a license pursuant to this subparagraph only if the crime is directly and adversely related to the qualifications, functions, or duties of the business or profession for which application is made.

(B) The applicant has been subjected to formal discipline by a licensing board within the preceding five years based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is directly and adversely related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding five years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable dismissal or expungement.

(2) Denial of a license includes denial of an unrestricted license by issuance of a restricted or probationary license.

1 (b) Notwithstanding any other provision of this code, a person
2 shall not be denied a license on the basis that he or she has been
3 convicted of a crime, or on the basis of acts underlying a conviction
4 for a crime, if he or she has obtained a certificate of rehabilitation
5 under Chapter 3.5 (commencing with Section 4852.01) of Title 6
6 of Part 3 of the Penal Code, has been granted clemency or a pardon
7 by a state or federal executive, or has made a showing of
8 rehabilitation pursuant to Section 482.

9 (c) Notwithstanding any other provision of this code, a person
10 shall not be denied a license on the basis of any conviction, or on
11 the basis of the acts underlying the conviction, that has been
12 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the
13 Penal Code, or a comparable dismissal or expungement. An
14 applicant who has a conviction that has been dismissed pursuant
15 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code
16 shall provide proof of the dismissal if it is not reflected on the
17 report furnished by the Department of Justice.

18 (d) Notwithstanding any other provision of this code, a board
19 shall not deny a license on the basis of an arrest that resulted in a
20 disposition other than a conviction, including an arrest that resulted
21 in an infraction, citation, or a juvenile adjudication.

22 (e) A board may deny a license regulated by this code on the
23 ground that the applicant knowingly made a false statement of fact
24 that is required to be revealed in the application for the license. A
25 board shall not deny a license based solely on an applicant's failure
26 to disclose a fact that would not have been cause for denial of the
27 license had it been disclosed.

28 (f) A board shall follow the following procedures in requesting
29 or acting on an applicant's criminal history information:

30 (1) A board shall not require an applicant for licensure to
31 disclose any information or documentation regarding the
32 applicant's criminal history.

33 (2) If a board decides to deny an application based solely or in
34 part on the applicant's conviction history, the board shall notify
35 the applicant in writing of all of the following:

36 (A) The denial or disqualification of licensure.

37 (B) Any existing procedure the board has for the applicant to
38 challenge the decision or to request reconsideration.

39 (C) That the applicant has the right to appeal the board's
40 decision.

1 (D) The processes for the applicant to request a copy of his or
2 her complete conviction history and question the accuracy or
3 completeness of the record pursuant to Sections 11122 to 11127
4 of the Penal Code.

5 (g) (1) For a minimum of three years, each board under this
6 code shall retain application forms and other documents submitted
7 by an applicant, any notice provided to an applicant, all other
8 communications received from and provided to an applicant, and
9 criminal history reports of an applicant.

10 (2) Each board under this code shall retain the number of
11 applications received for each license and the number of
12 applications requiring inquiries regarding criminal history. In
13 addition, each licensing authority shall retain all of the following
14 information:

15 (A) The number of applicants with a criminal record who
16 received notice of denial or disqualification of licensure.

17 (B) The number of applicants with a criminal record who
18 provided evidence of mitigation or rehabilitation.

19 (C) The number of applicants with a criminal record who
20 appealed any denial or disqualification of licensure.

21 (D) The final disposition and demographic information,
22 including, but not limited to, voluntarily provided information on
23 race or gender, of any applicant described in subparagraph (A),
24 (B), or (C).

25 (3) (A) Each board under this code shall annually make
26 available to the public through the board's Internet Web site and
27 through a report submitted to the appropriate policy committees
28 of the Legislature deidentified information collected pursuant to
29 this subdivision. Each board shall ensure confidentiality of the
30 individual applicants.

31 (B) A report pursuant to subparagraph (A) shall be submitted
32 in compliance with Section 9795 of the Government Code.

33 (h) "Conviction" as used in this section shall have the same
34 meaning as defined in Section 7.5.

35 (i) This section supersedes any contradictory provision in a
36 licensing act under this code or initiative act referred to in Division
37 2 (commencing with Section 500) that authorizes license denial
38 based on a criminal conviction, arrest, or the acts underlying an
39 arrest or conviction.

1 SEC. 3. Section 481 of the Business and Professions Code is
2 amended to read:

3 481. (a) Each board under this code shall develop criteria to
4 aid it, when considering the denial, suspension, or revocation of
5 a license, to determine whether a crime is directly and adversely
6 related to the qualifications, functions, or duties of the business or
7 profession it regulates.

8 (b) Criteria for determining whether a crime is directly and
9 adversely related to the qualifications, functions, or duties of the
10 business or profession a board regulates shall include all of the
11 following:

12 (1) The nature and gravity of the offense.

13 (2) The number of years elapsed since the date of the offense.

14 (3) The nature and duties of the profession in which the applicant
15 seeks licensure or in which the licensee is licensed.

16 (c) A board shall not deny a license based in whole or in part
17 on a conviction without considering evidence of rehabilitation.

18 (d) Each board shall post on its Internet Web site a summary of
19 the criteria used to consider whether a crime is considered to be
20 directly and adversely related to the qualifications, functions, or
21 duties of the business or profession it regulates consistent with this
22 section.

23 SEC. 4. Section 481.5 is added to the Business and Professions
24 Code, to read:

25 481.5. (a) Probationary terms or restrictions placed on a license
26 by a board shall be limited to two years or less. Any additional
27 conditions may be imposed only if the board determines that there
28 is clear and convincing evidence that additional conditions are
29 necessary to address a risk shown by clear and convincing
30 evidence.

31 (b) Each board under this code shall develop criteria to aid it
32 when considering the imposition of probationary conditions or
33 restrictions to determine what conditions may be imposed to
34 address a risk shown by clear and convincing evidence.

35 (c) (1) A licensee or registrant whose license or registration
36 has been placed on probation may petition the board for a change
37 to the probation, including modification or termination of
38 probation, one year from the effective date of the decision. The
39 board shall issue its decision on the petition within 90 days of
40 submission of the petition. The petition shall be deemed granted

1 by operation of law if the board does not file a decision denying
2 the petition within 90 days of submission of the petition.

3 (2) The one-year time period to petition for modification or
4 termination of penalty shall control over longer time periods under
5 a licensing act under this code or initiative act referred to in
6 Division 2 (commencing with Section 500).

7 SEC. 5. Section 482 of the Business and Professions Code is
8 amended to read:

9 482. (a) Each board under this code shall develop criteria to
10 evaluate the rehabilitation of a person when doing either of the
11 following:

12 (1) Considering the denial of a license by the board under
13 Section 480.

14 (2) Considering suspension or revocation of a license under
15 Section 490.

16 (b) Each board shall find that an applicant or licensee has made
17 a showing of rehabilitation if any of the following are met:

18 (1) The applicant or licensee has completed the criminal
19 sentence at issue without a violation of parole or probation.

20 (2) (A) The applicant or licensee documents that he or she has
21 worked in a related field continuously for at least one year prior
22 to licensure or successfully completed a course of training in a
23 related field, unless the board finds a public record of an official
24 finding that the applicant committed professional misconduct in
25 the course of that work.

26 (B) Work in a related field may include, but is not limited to,
27 work performed without compensation and work performed while
28 incarcerated.

29 (C) "Related field," for purposes of this paragraph, means a
30 field of employment whose duties are substantially similar to the
31 field regulated by the board.

32 (3) The applicant or licensee has satisfied criteria for
33 rehabilitation developed by the board.

34 SEC. 6. Section 488 of the Business and Professions Code is
35 amended to read:

36 488. Except as otherwise provided by law, following a hearing
37 requested by an applicant pursuant to subdivision (b) of Section
38 485, the board may take any of the following actions:

39 (a) Grant the license effective upon completion of all licensing
40 requirements by the applicant.

1 (b) Grant the license effective upon completion of all licensing
2 requirements by the applicant, grant the license and immediately
3 issue a public reproof pursuant to Section 495, immediately revoke
4 the license, stay the revocation, and impose probationary conditions
5 on the license, which may include suspension.

6 (c) Deny the license.

7 (d) Take other action in relation to denying or granting the
8 license as the board in its discretion may deem proper.

9 SEC. 7. Section 490 of the Business and Professions Code is
10 amended to read:

11 490. (a) (1) In addition to any other action that a board is
12 permitted to take against a licensee, a board may suspend or revoke
13 a license on the ground that the licensee has been convicted of a
14 crime for which the applicant is presently incarcerated or for which
15 the conviction occurred within the preceding five years. However,
16 the preceding five year limitation shall not apply to a conviction
17 for a violent felony, as defined in Section 667.5 of the Penal Code.

18 (2) The board may suspend or revoke a license pursuant to this
19 subdivision only if the crime is directly and adversely related to
20 the qualifications, functions, or duties of the business or profession
21 for which application is made.

22 (b) Notwithstanding any other provision of law, a board may
23 exercise any authority to discipline a licensee for conviction of a
24 crime that is independent of the authority granted under subdivision
25 (a) only if both of the following are met:

26 (1) The crime is directly and adversely related to the
27 qualifications, functions, or duties of the business or profession
28 for which the licensee's license was issued.

29 (2) The licensee was convicted of the crime within the preceding
30 five years or is presently incarcerated for the crime. However, the
31 preceding five year limitation shall not apply to a conviction for
32 a violent felony, as defined in Section 667.5 of the Penal Code.

33 (c) Notwithstanding any other provision of this code, a board
34 shall not suspend or revoke a license on the basis of a conviction,
35 or of the acts underlying a conviction, where that conviction has
36 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or
37 1203.42 of the Penal Code or a comparable dismissal or
38 expungement.

39 (d) Notwithstanding any other provision of this code, a board
40 shall not suspend or revoke a license on the basis of an arrest that

1 resulted in a disposition other than a conviction, including an arrest
2 that resulted in an infraction, citation, or juvenile adjudication.

3 (e) The board shall use the following procedures in requesting
4 or acting on a licensee's criminal history information:

5 (1) A board shall not require a licensee to disclose any
6 information or documentation regarding the licensee's criminal
7 history.

8 (2) If a board chooses to file an accusation against a licensee
9 based solely or in part on the licensee's conviction history, the
10 board shall notify the licensee in writing of the processes for the
11 licensee to request a copy of the licensee's complete conviction
12 history and question the accuracy or completeness of his or her
13 criminal record pursuant to Sections 11122 to 11127, inclusive,
14 of the Penal Code.

15 (f) (1) For a minimum of three years, each board under this
16 code shall retain all documents submitted by a licensee, notices
17 provided to a licensee, all other communications received from or
18 provided to a licensee, and criminal history reports of a licensee.

19 (2) Each board under this code shall retain all of the following
20 information:

21 (A) The number of licensees with a criminal record who received
22 notice of potential revocation or suspension of their license or who
23 had their license suspended or revoked.

24 (B) The number of licensees with a criminal record who
25 provided evidence of mitigation or rehabilitation.

26 (C) The number of licensees with a criminal record who
27 appealed any suspension or revocation of a license.

28 (D) The final disposition and demographic information,
29 including, but not limited to, voluntarily provided information on
30 race or gender, of any applicant described in subparagraph (A),
31 (B), or (C).

32 (3) (A) Each board under this code shall annually make
33 available to the public through the board's Internet Web site and
34 through a report submitted to the appropriate policy committees
35 of the Legislature deidentified information collected pursuant to
36 this subdivision. Each board shall ensure the confidentiality of the
37 individual licensees.

38 (B) A report pursuant to subparagraph (A) shall be submitted
39 in compliance with Section 9795 of the Government Code.

(g) (1) This section supersedes any contradictory provision in a licensing act under this code or initiative act referred to in Division 2 (commencing with Section 500) that authorizes action based on a criminal conviction, arrest, or the acts underlying an arrest or conviction.

(2) This section shall not prohibit any agency from taking disciplinary action against a licensee for professional misconduct in the course and scope of the licensee's profession that is based on evidence that is independent of an arrest.

~~SEC. 8. Section 490.5 of the Business and Professions Code is repealed.~~

~~SEC. 9.~~

SEC. 8. Section 492 of the Business and Professions Code is amended to read:

492. (a) Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, successful completion by a licensee or applicant of any nonstatutory diversion program, deferred entry of judgment, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall prohibit any board from taking disciplinary action against a licensee or from denying a license for professional misconduct.

(b) This section shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee for professional misconduct in the course and scope of the profession, which is based on evidence that is independent of an arrest.

~~SEC. 10.~~

SEC. 9. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime directly and adversely related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but
2 only of that fact.

3 (b) (1) Criteria for determining whether a crime is directly and
4 adversely related to the qualifications, functions, or duties of the
5 business or profession the board regulates shall include all of the
6 following:

7 (A) The nature and gravity of the offense.

8 (B) The number of years elapsed since the date of the offense.

9 (C) The nature and duties of the profession.

10 (2) A board shall not categorically bar an applicant based solely
11 on the type of conviction without considering evidence of
12 rehabilitation.

13 (c) As used in this section, "license" includes "certificate,"
14 "permit," "authority," and "registration."

15 ~~SEC. 11. Section 1005 of the Business and Professions Code~~
16 ~~is amended to read:~~

17 ~~1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,~~
18 ~~104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,~~
19 ~~143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 491, 494,~~
20 ~~495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716,~~
21 ~~730.5, 731, and 851 are applicable to persons licensed by the State~~
22 ~~Board of Chiropractic Examiners under the Chiropractic Act.~~

23 ~~SEC. 12.~~

24 ~~SEC. 10.~~ Section 11345.2 of the Business and Professions Code
25 is amended to read:

26 11345.2. (a) An individual shall not act as a controlling person
27 for a registrant if any of the following apply:

28 (1) The individual has entered a plea of guilty or no contest to,
29 or been convicted of, a felony. If the individual's felony conviction
30 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
31 of the Penal Code, the bureau may allow the individual to act as
32 a controlling person.

33 (2) The individual has had a license or certificate to act as an
34 appraiser or to engage in activities related to the transfer of real
35 property refused, denied, canceled, or revoked in this state or any
36 other state.

37 (b) Any individual who acts as a controlling person of an
38 appraisal management company and who enters a plea of guilty
39 or no contest to, or is convicted of, a felony, or who has a license
40 or certificate as an appraiser refused, denied, canceled, or revoked

- 1 in any other state shall report that fact or cause that fact to be
- 2 reported to the office, in writing, within 10 days of the date he or
- 3 she has knowledge of that fact.

O

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

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.bpelsg.ca.gov

May 22, 2018

The Honorable David S. Chiu
Member, California State Assembly
State Capitol, Room 4112
Sacramento, CA 95814

The Honorable Evan Low
Member, California State Assembly
State Capitol, Room 4126
Sacramento, CA 95814

RE: AB 2138 – Oppose, as amended April 2, 2018

Dear Assembly Members Chiu and Low:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted at its May 3, 2018, meeting to oppose AB 2138, as amended April 2, 2018. The Board is mandated to protect the public by regulating the practices of professional engineering, land surveying, geology, and geophysics in California.

The Board is strongly opposed to AB 2138 because it removes the Board's discretion to consider all applicable and pertinent information when deciding whether to deny issuing a license or to seek disciplinary action against a license. The provisions of AB 2138 also interfere with the Board's discretion to issue appropriate disciplinary orders by limiting the amount of time the Board could place a license on probation. The Board believes this proposal fails to give appropriate priority to the protection of the public.

The Board is mandated by Business and Professions Code sections 6710.1, 7810.1, and 8710.1 to give the highest priority in all decisions to the protection of the public; these laws state "...whenever protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." The provisions of AB 2138 that would prohibit the Board from considering all criminal convictions of applicants and licensees in determining whether to deny issuance of a license or to seek disciplinary action against a licensee and from inquiring of the applicants and licensees directly regarding any convictions places the interests of the applicants and licensees ahead of those of the public, in direct contradiction to the clear intent of the Legislature when it enacted these sections. Furthermore, the removal of the Board's ability to consider acts by applicants that do not lead to convictions also places the interests of the individual applicants above the protection of the public as a whole.

Prohibiting the Board from requiring that the applicant provide information, such as court documents, regarding the conviction, would cause the Board to have to expend additional resources, including court fees and staff time, to obtain the documents directly. In addition to increasing the Board's workload and costs, it would also delay the processing of applications and the issuance of licenses. Additionally, prohibiting the Board from considering convictions relating to non-violent crimes that are over five years old would exclude many crimes that are not only substantially related, but also "directly and adversely" related, to the professions the

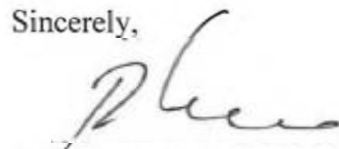
Board regulates, such as fraud, embezzlement, diversion of public funds, and submittal of false or forged documents to public agencies.

The Board believes strongly that individuals seeking to obtain or maintain a professional license should be able to present evidence of rehabilitation to demonstrate that they can practice their chosen profession without posing a threat to the health, safety, and welfare of the public. It is for this reason that the Board has established by regulation a criteria for evaluating rehabilitation that the Board must consider before denying licensure or taking disciplinary action against a license. This criteria includes such things as the length of time that has elapsed since the commission of the act or crime, any prior or subsequent acts or crimes, the individual's compliance with any criminal sanctions, evidence of expungement pursuant to Penal Code 1203.4, and any other evidence of rehabilitation that the individual may submit. Because of these existing regulations, the Board believes the provisions of AB 2138 that preclude the Board from considering crimes or acts and that mandate what the Board must consider as evidence of rehabilitation are unnecessary.

Furthermore, precluding the Board from being able to place a license on probation for more than two years would be setting the probationer up to fail since most cannot complete the typical terms and conditions, such as completion of courses, within a two-year period. Not only does this prevent the Board from monitoring the individual for an appropriate amount of time to ensure they do not pose a continuing threat to the health, safety, and welfare of the public, it also is unfair to the probation because it does not allow them sufficient time to demonstrate rehabilitation.

In closing, the Board believes AB 2138 fails to provide sufficient protections for the public and, in fact, removes many of the existing methods the Board may use to ensure applicants and licensees do not pose a threat to the health, safety, and welfare of the public.

Sincerely,



RICHARD B. MOORE, PLS
Executive Officer

cc **The Honorable Edmund G. Brown Jr., Governor, State of California**
 The Honorable Alexis Podesta, Secretary, Business, Consumer Services and
 Housing Agency, State of California
 Dean S. Grafilo, Director, Department of Consumer Affairs, State of California
 Dennis Cuevas-Romero, Deputy Director, Division of Legislative Affairs,
 Department of Consumer Affairs, State of California

**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Jerry Hill, Chair
2017 - 2018 Regular

Bill No:	AB 2138	Hearing Date:	June 18, 2018
Author:	Chiu		
Version:	May 25, 2018		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Mason		

Subject: Licensing boards: denial of application: revocation or suspension of
licensure: criminal conviction

SUMMARY: Limits the current discretion provided to regulatory entities within the Department of Consumer Affairs (DCA) to apply criminal history background, as it relates to denial of an application for licensure and suspension or revocation of an existing license, by specifying that these actions can be taken if the applicant or licensee was formally convicted of a crime directly and adversely related to the qualifications, functions or duties for which the individual is seeking licensure or is licensed.

Existing law:

- 1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency with various regulatory boards, bureaus, committees, and commissions under the DCA's jurisdiction. (Business and Professions Code (BPC) §§ 100-101)
- 2) Specifies that "board" as used in BPC also includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." (BPC § 22)
- 3) Provides that all boards within the DCA are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. (BPC § 101.6)
- 4) Authorizes a board to deny a professional license issued under its jurisdiction if the applicant has any of the following:
 - a) Been convicted of a crime.
 - b) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
 - c) Done any act that if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license. (BPC § 480)

- 5) Limits a board's authority to deny a license to instances where the applicant's crime or act is substantially related to the qualifications, functions, or duties of the profession for which application is made. (*Id.*)
- 6) States that a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation. (*Id.*)
- 7) Permits a board to deny an application for a license on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. (*Id.*)
- 8) Prohibits a board from denying an application for a license solely based on a criminal conviction that has been dismissed. (*Id.*)
- 9) States that a person shall not be denied a license solely based on prior conviction of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license. (*Id.*)
- 10) Requires each board to develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates. (BPC § 481)
- 11) Requires each board to develop criteria to evaluate the rehabilitation of a person for purposes of considering the denial of a license application or considering suspension or revocation of a current license. (BPC § 482)
- 12) Authorizes a board to revoke or suspend a current license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. (BPC § 490)
- 13) Permits a board to suspend a license in the event that an applicant is not in compliance with a child support order or judgment. (BPC § 490.5)
- 14) States that successful completion of any diversion program or successful completion of an alcohol and drug problem assessment program shall not prohibit a board from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest. (BPC § 492)
- 15) Establishes that the record of conviction of a crime shall be conclusive evidence of the fact that the conviction occurred for purposes of a board's decision to deny an application for a license or suspend or revoke a current license, except a board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. (BPC § 493)

This bill:

- 1) Specifies that “conviction” for purposes of board actions means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt.
- 2) Narrows a board’s discretion to deny a professional license to the following cases:
 - a) The applicant has been convicted of a crime; limits denials based on a criminal conviction to convictions for which the applicant is presently incarcerated or that occurred within the preceding five years, except for convictions of a violent felony.
 - b) The applicant has been subjected to formal discipline by a licensing board within the preceding five years based on professional misconduct that would have been cause for discipline before the board for which the present application is made.
- 3) Requires that any criminal conviction or formal discipline be directly and adversely related to the qualifications, functions, or duties of the business or profession for which the present application is made in order to be the cause for denial of an application.
- 4) Removes the authority for a board to deny an application for licensure based on “acts” for which there has been no due process in a criminal or disciplinary proceeding.
- 5) Specifies that a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed.
- 6) Prohibits a board from denying a license on the basis of an arrest that resulted in a disposition other than a conviction.
- 7) States that a board shall not deny a license based solely on an applicant’s failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.
- 8) Requires that a board follow the following procedures in requesting or acting on an applicant’s criminal history information:
 - a) A board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant’s criminal history.
 - b) If a board decides to deny an application based solely or in part on the applicant’s conviction history, the board shall notify the applicant in writing of the denial of the application as well as the applicant’s right to challenge or appeal the board’s decision, as well as the process by which the applicant may secure a copy of their own rap sheet.
- 9) Requires boards to retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant for a minimum of three years.

- 10) Requires boards to retain the following statistical information:
- a) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.
 - b) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.
 - c) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.
 - d) The final disposition and demographic information, including, but not limited to, voluntarily provided information on race or gender, of any applicant.
- 11) Requires boards to annually make available to the public through the board's website and through a report submitted to the Legislature deidentified information collected that ensures confidentiality of the individual applicants.
- 12) Expressly supersedes any contradictory provision in a licensing act that authorizes license denial based on a criminal conviction, arrest, or underlying acts.
- 13) Requires each board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession a board regulates, including the following:
- a) The nature and gravity of the offense.
 - b) The number of years elapsed since the date of the offense.
 - c) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.
- 14) Requires each board to post on its website a summary of the criteria used to consider whether a crime is considered to be directly and adversely related to the qualifications, functions, or duties of the business or profession it regulates.
- 15) Requires a board to consider evidence of rehabilitation prior to denying or suspending or revoking a license based in whole or in part on a conviction.
- 16) Limits probationary terms or restrictions placed on a license by a board to two years or less unless the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence, per criteria developed by each board.
- 17) Requires a board to find that an applicant or licensee has made a showing of rehabilitation if any of the following are met:
- a) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.
 - b) The applicant or licensee documents that he or she has worked in a related field continuously for at least one year prior to licensure or successfully completed a

course of training in a related field, unless the board finds a public record of an official finding that the applicant committed professional misconduct in the course of that work, including work performed without compensation and work performed while incarcerated.

- c) The applicant or licensee has satisfied criteria for rehabilitation developed by the board.
- 18) In addition to other causes for discipline, narrows a board's discretion to revoke or suspend a professional license for criminal misconduct to cases where the licensee is presently incarcerated or the conviction occurred within the preceding five years, except for convictions of a violent felony, and the crime committed was directly and adversely related to the qualifications, functions, or duties of the business or profession.
- 19) Requires that any criminal conviction or formal discipline be directly and adversely related to the qualifications, functions, or duties of the business or profession for which the present application is made in order to be the cause for suspension or revocation of a license.
- 20) Specifies that a person shall not have his or her license suspended or revoked on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed.
- 21) Requires that a board follow the following procedures in requesting or taking disciplinary action based on an applicant's criminal history information:
- a) A board shall not require a licensee to disclose any information or documentation regarding the licensee's criminal history.
 - b) If a board decides to revoke or suspend a professional license solely or in part on the licensee's conviction history, the board shall notify the licensee in writing of the processes for the licensee to request a copy of the licensee's complete conviction history and question the accuracy or completeness of his or her criminal record.
- 22) Requires boards to retain all documents submitted by a licensee, notices provided to a licensee, all other communications received from or provided to a licensee, and criminal history reports of a licensee for a minimum of three years.
- 23) Requires boards to retain all of the following information:
- a) The number of licensees with a criminal record who received notice of potential revocation or suspension of their license or who had their license suspended or revoked.
 - b) The number of licensees with a criminal record who provided evidence of mitigation or rehabilitation.
 - c) The number of licensees with a criminal record who appealed any suspension or revocation of a license.

- d) The final disposition and demographic information, including, but not limited to, voluntarily provided information on race or gender, of any applicant.
- 24) Requires each board to annually make available to the public through the board's website and through a report submitted to the Legislature deidentified information, ensuring the confidentiality of the individual licensees.
- 25) Expressly supersedes any contradictory provision in a licensing act that authorizes license suspension or revocation based on a criminal conviction, arrest, or underlying acts.
- 26) States that limitations on suspending or revoking a license based on criminal convictions shall not prohibit a board from taking disciplinary action against a licensee for professional misconduct in the course and scope of the licensee's profession that is based on evidence that is independent of an arrest.

FISCAL EFFECT: This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations analysis dated May 23, 2018, this bill will result in annual special fund costs for pre-licensure and enforcement-related costs ranging from minor and absorbable to significant, to various boards of the DCA. For example, ongoing annual costs to the Contractors' State License Board of \$917,000, Medical Board of California of \$814,000, Board of Professional Engineers and Land Surveyors and Geologists of \$332,000, Board of Psychology of \$242,000, Board of Behavioral Sciences of \$203,000 and Veterinary Medical Board of \$88,000. The analysis also notes minor and absorbable costs to the Acupuncture Board, California Board of Occupational Therapy, and the Structural Pest Control Board. According to the analysis, this bill will result in annual costs to Office of the Attorney General of approximately \$200,000 in Fiscal Year 2018-19 and \$350,000 Fiscal Year 2019-20 ongoing, offset by direct billings to the client agency, for two positions to process an increased number of petitions filed by licensees for reinstatement or penalty relief within the 90-day timeframe.

COMMENTS:

1. **Purpose.** This bill is sponsored by the East Bay Community Law Center, Anti-Recidivism Coalition, Legal Services for Prisoners with Children, Root & Rebound and the Alliance for Boys and Men of Color. According to the Author, "In California, an estimated 7,955,500 people – approximately 1 in 3 adults – have arrest or conviction records. California has the highest recidivism rates in the nation, with many low-level criminal offenders committing new crimes within a year of release. These factors play a huge role in the prison and jail overcrowding crisis that the Legislature spent the past decade attempting to address.

"One of the reasons for high rates of recidivism is an inability of prior offenders to secure gainful employment upon reentry. Like all Californians, access to secure employment is critical for these 8 million individuals with a prior conviction to support their families and communities."

“California has already adopted robust policies that break down barriers for previously incarcerated individuals to access jobs in the private sector, including “ban the box” policies. Nevertheless, there continue to be barriers to employment for Californians with prior convictions.”

“Nearly 30 percent of California jobs require licensing, certification or clearance by an oversight board or agency for approximately 1,773 different occupations. All too often, qualified people can be denied licensure or have licenses revoked or suspended on the basis of prior arrests or convictions, many of which are old, unrelated to the job, or have been judicially dismissed.

Even people who receive job-specific training while incarcerated are kept out of these occupations by licensing barriers.”

“It is in the interest of public safety to assist in the rehabilitation of criminal offenders by removing impediments and restrictions upon their ability to obtain employment.”

2. **DCA Entities and Licensure.** The DCA notes in its *Who We Are and What We Do* booklet that California’s commitment to protecting consumers began with the passage of the Medical Practice Act of 1876, which was designed to regulate the state’s medical professionals who had operated virtually unchecked. Additional professions and vocations were brought under state authority over the following 30 years so that by the late 1920s, the Department of Vocational and Professional Standards was responsible for licensing or certifying accountants, architects, barbers, cosmetologists, dentists, embalmers, optometrists, pharmacists, physicians, and veterinarians. The Consumer Affairs Act was passed in 1970, giving the DCA its current name. Today, DCA issues almost 3 million licenses, certificates, and approvals to individuals and businesses in over 250 categories. This involves setting the qualifications and levels of competency for the professionals regulated by the Department’s boards and bureaus which license, register, or certify practitioners; investigate complaints; and discipline violators.

Within the DCA are 38 entities, including 26 boards, eight bureaus, two committees, one program, and one commission (hereafter “boards” unless otherwise noted). Collectively, these boards regulate more than 100 types of businesses and 200 different industries and professions. As regulators, these boards perform two primary functions: Licensing—which entails ensuring only those who meet minimum standards are issued a license to practice, and Enforcement—which entails investigation of alleged violations of laws and/or regulations and taking disciplinary action, when appropriate.

DCA entities are semiautonomous regulatory bodies with the authority to set their own priorities and policies and take disciplinary action on their licensees. Due to the unique nature of each individual profession licensed and regulated by entities under the DCA, the various professional practice acts contain their own standards and enforcement criteria for individuals applying for, or in receipt of, licensure. Boards adhere to general BPC provisions outlining discretion in determining how prior criminal history may be grounds for licensure denial. For example, BPC § 480 governs the authority of regulatory boards to deny applicants for licensure. Under

BPC § 480, a board may deny a license within the purview of the DCA on the grounds that the applicant has one of the following:

- Been convicted of a crime; boards may disqualify based on criminal history if the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence.
- Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- Done any act that if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

This section of law also specifies that a license may only be denied for prior misconduct if the disqualifying crime or act is *substantially* related to the qualifications, functions, or duties of the business or profession for which application is made. The statute also states that a person may not be denied a license solely based on a conviction if he or she possesses a certificate of rehabilitation. Statute further clarifies that a dismissed conviction may not be grounds for disqualification for licensure.

These provisions are echoed in BPC § 490, which deals with the discretion of a board to take disciplinary action against a current licensee for subsequent criminal activity. This code section makes specific reference to *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, a court decision dealing with licensees convicted of criminal misconduct. The Legislature has found and declared the holding in that case has “placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes.” The Legislature therefore further found and declared that “this section establishes an independent basis for a board to impose discipline upon a licensee.”

3. **Criticism of the Board’s Discretion To Deny Licensure and Studies on Occupational Licensing.** According to information provided by the Author, criticism has been made over the statutory authority for boards and bureaus to deny a license to an individual who has “done any act involving honesty, fraud, or deceit” for self-benefit or harm to others. Some believe that this broad discretion goes beyond criminal convictions, as well as non-criminal activity that is nevertheless afforded an element of due process, such as regulatory discipline. Interested parties have argued that this authority has opened the door for many licensure applications to be denied based purely on alleged misconduct that has not been determined to have occurred through standard due process.

The discretion for boards and bureaus to deny licensure to applicants with criminal histories has also been criticized, despite the guarantee of due process afforded to these applicants prior to a crime being reflected on their record. The National Employment Law Project (NELP) report *Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records* highlights “a lack of

transparency and predictability in the licensure decision-making process and confusion caused by a labyrinth of different restrictions” in regulatory schemes across the country. California is specifically graded as “Needs Improvement,” with recommendations including:

- Expand blanket ban prohibition to all occupations with one overarching law.
- Expand occupation-relatedness requirement to all.
- Require consideration of the time elapsed since conviction.
- Prohibit consideration of certain record information (e.g., arrests, lesser offenses, older offenses).
- Require consideration of the applicant’s rehabilitation.

Recent additional studies and reports have focused on the impacts of licensing requirements for employment and on individuals seeking to become employed. According to a July 2015 report on occupational licensing released by the White House, strict licensing creates barriers to mobility for licensed workers, citing several groups of people particularly vulnerable to occupational licensing laws, including former offenders, military spouses, veterans and immigrants.

In October 2016, the Little Hoover Commission released a report entitled *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*. The report noted that one out of every five Californians must receive permission from the government to work, and for millions of Californians that means contending with the hurdles of becoming licensed. The report noted that many of the goals to professionalize occupations, standardize services, guarantee quality and limit competition among practitioners, while well intended, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers. The study found that occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.

The report found that California compares poorly to the rest of the nation in the amount of licensing it requires for occupations traditionally entered into by people of modest means. According to the report, researchers from the Institute for Justice selected 102 lower-income occupations, defined by the Bureau of Labor Statistics as making less than the national average income, ranging from manicurist to pest control applicator. Of the 102 occupations selected, California required licensure for 62, or 61 percent of them. According to the report, California ranked third most restrictive among 50 states and the District of Columbia, following only Louisiana and Arizona. California ranked seventh of 51 when measuring the burden imposed on entrants into these lower- and moderate-income occupations: on average, California applicants must pay \$300 in licensing fees, spend 549 days in education and/or training and pass one exam. The report specifically noted improvements

that could be made in the information licensing entities provide applicants to ensure a smoother licensing process.

During the 2016-2017 sunset review oversight of the DCA, this Committee asked what steps DCA was taking to respond to the report and how the DCA is advising entities within the DCA on best practices to assist in the licensure process. The DCA responded that it has been working with the Business, Consumer Services, and Housing Agency to identify areas where unnecessary barriers to licensure can be reduced and noted that one key area of this work has been on the examination of possible barriers to licensure for individuals reentering the workforce after incarceration. The DCA stated that it had been assessing the criteria used by boards and bureaus to determine if a past conviction is substantially related, as well as how they consider rehabilitation. The DCA reported that clarifying criteria through regulations, through FAQs, or some combination of both could assist applicants and potentially encourage more individuals with prior convictions to apply and stated that it "intends to work with the various boards and bureaus to achieve more clarity and remove unnecessary barriers to licensure. Some of the avenues the Department is exploring include: providing clear descriptions of licensing criteria on each program's website, potentially re-drafting some regulations to create some consistency and additional clarity, and providing more hands-on guidance to licensees that inquire about these processes."

4. **Arguments in Support.** Supporters believe that the Department of Consumer Affairs has overly restrictive policies that deny qualified people occupational licenses and allow for revocation or suspension of licenses for arrests or convictions not directly related to the job. Supporters note that many individuals are denied occupational licenses on the basis of judicially dismissed convictions, even applicants who gained job-specific training while incarcerated, are still barred from working in their occupational field due to barriers. According to supporters, nearly 30 percent of California jobs require licensure, certification, or clearance. However, qualified people, including individuals who receive job-specific training while incarcerated are either denied occupational licenses or even have licenses suspended on the basis of prior arrests or convictions, many of which are old or unrelated to the job. Supporters believe this bill will reduce barriers to licensure for individuals with prior convictions.
5. **Arguments in Opposition.** A number of licensing boards within DCA oppose this bill. They believe it will have the opposite effect of the goals of occupational licensure by greatly increasing the time and resources needed to process applications for licensure. Boards are concerned about the bill's narrowing of their authority take disciplinary action for criminal convictions and actions by other states into account. Many boards state that the bill decreases their ability to meet their legislative mandate of consumer protection.

The Plumbing-Heating-Cooling Contractors Association of California; the Western Electrical Contractors Association; and the San Diego, Southern and Central California Chapters of Associated Builders and Contractors are opposed unless amended and note that "the number of applicants denied licensure at CSLB because of a criminal conviction is very low" and the request the CSLB to be exempt from the provisions of this bill

6. Policy Considerations and Suggested Amendments (as also outlined in mockup language beginning on page 15 below).

- a) *Should this bill apply to all entities within the DCA?* While many of the entities within DCA license individuals who will ultimately engage in certain occupations, two stand out as having a very different mission and focus. The California State Athletic Commission (Commission) is responsible for protecting the health and safety of its licensees; boxers, kickboxers and martial arts athletes. Established by initiative in 1924, stemming from concerns for athletes' injuries and deaths, the Commission provides direction, management, control of and jurisdiction over professional and amateur boxing, professional and amateur kickboxing, all forms and combinations of full contact martial arts contests, including mixed martial arts (MMA) and matches or exhibitions conducted, held or given in California. The Commission's licensure and enforcement decisions are intended to protect its licensees, not protect the public from its licensees as is the case with virtually every other entity within DCA. As such, the bill should not apply to the Commission.

Similarly, the Bureau for Private Postsecondary Education (BPPE) licenses education and training programs in order to protect consumers and students against fraud, misrepresentation, or other business practices at private postsecondary institutions that may lead to loss of students' tuition and related educational funds. BPPE licensees are not individuals attempting to meet the requirements to work in a specific occupation but rather operate schools. As such, the bill should not apply to BPPE.

- b) *Initial Licensure vs. Board Discipline Against a Licensee.* This bill applies the same standards for board discretion to decisions about initial licensure as decisions about discipline imposed on licensees. While much of the language in the bill to create clearer standards as to how boards will determine the relationship between an applicant's criminal history and his or her ability to safely be a licensed professional interacting with the public makes sense, the Legislature has taken deliberate steps to ensure timely disciplinary action for licensees who are convicted of crimes. Conviction of a crime when licensed should remain grounds for boards to consider discipline, including potential suspension and/or revocation. As such, the bill should be amended so that it only applies to initial licensure considerations and strike reference to suspension and revocation determinations.
- c) *Limitation on Time Elapsed For Consideration of a Crime.* This bill narrows a board's discretion to deny licensure to applicants convicted of a crime and limits denials based on a criminal conviction to convictions for which the applicant is presently incarcerated or that occurred within the preceding five years, except for convictions of a violent felony. The bill also narrows discretion for boards to consider formal discipline by another licensing board within the preceding five years. To maintain conformity with the ability for employers to take criminal history into consideration which we understand to be at least seven years, as well as the statute of limitation requirements which generally don't run shorter

than seven years, this bill should be amended to only allow boards to consider an applicant's convictions for the preceding seven years.

- d) *Violent Felonies versus Serious Felonies.* This measure also requires that the board only consider convictions of "violent felonies," as defined in the Penal Code, after the preceding five years has lapsed. This is a very restrictive list of felonies and is generally used for enhancement of prison terms for new offenses and has not be used to restrict consideration of what me be considered as more serious felony convictions. As such, the bill should be amended so that serious felonies as defined in the Penal Code may be considered which is more consistent with determinations made in the sentencing of a person for prior convictions.
- e) *Probationary Terms.* This bill limits probationary terms for initial probationary licenses as well as disciplinary terms against a licensee to two years. Boards currently issue probationary licenses for longer than two years for offenses like unprofessional conduct, not to mention the significant consumer and patient safety impacts that may arise if boards are limited to probationary terms of two years for licensees. As such, language narrowing probationary terms should be removed from the bill.
- f) *Substantially Related vs. Directly and Adversely Related.* Under current law, boards consider crimes that are "substantially related to the qualifications, functions, or duties of the profession for which application is made". This bill would establish a new standard for consideration, crimes that are "directly and adversely" related to the qualifications, functions, or duties of the profession for which application is made. The Sponsors of this bill argue that this standard provides no limit and that the conviction must be job related. Sponsors note that under the bill, employers and applicants can follow one standard for both private employment and public licensing. However, case law exists that guides boards on the substantially related consideration and it is appropriate for licensure by the state to meet a higher standard than employment. As such, the bill should be amended to revert to existing law by requiring that a crime be substantially related.

NOTE: *Double-referral to Senate Committee on Public Safety, second.*

SUPPORT AND OPPOSITION:

Support:

Anti-Recidivism Coalition (Sponsor)
 East Bay Community Law Center (Sponsor)
 Alliance for Boys and Men of Color (Sponsor)
 American Federation of State, County and Municipal Employees (AFSCME)
 Alameda County Public Defender
 All of Us or None
 American Civil Liberties Union

Anchor of Hope Ministries
Because Black is Still Beautiful
Bay Area Legal Aid
Bayview Hunters Point Foundation
California Immigrant Policy Center
California Labor Federatio
California Landscape Contractors Association
California Pan-Ethnic Health Network
Californians for Prop 57
Californians for Safety and Justice
California Workforce Organization
Center for Employment Opportunities
Center for Living and Learning
Center on Juvenile and Criminal Justice
Checkr
City and County of San Francisco
Courage Campaign
Downtown Women's Center
Ella Baker Center for Human Rights
Five Keys School and Programs
Hillview Mental Health Center
Homeboy Industries
Hunters Point Family
Lawyer's Committee for Civil Rights
Leadership for Urban Renewal Network
Legal Services for Prisoners with Children
Legal Services of Northern California
Los Angeles Regional Reentry Partnership
National Association of Social Workers - California Chapter
National Employment Law Project
New Door Ventures
Oakland Private Industry Council
Planting Justice
PolicyLink
Prisoner Reentry Network
Project Rebound: Expanded
REDF (Roberts Enterprise Development Fund)
Rise Together Bay Area
Root & Rebound
Rubicon Programs
San Francisco Adult Probation Department
San Francisco Conservation Corps
San Francisco Public Defender Jeff Adachi
San Francisco State University Project Rebound
San Jose State University Record Clearance Project
The Rock Found
The Young Women's Freedom Center

Opposition:

Board for Professional Engineers, Land Surveyors and Geologists
Board of Barbering and Cosmetology
Board of Behavioral Sciences
Board of Psychology
Board of Registered Nursing
Board of Vocational Nursing and Psychiatric Technicians
California Board of Accountancy
Contractors State License Board
Medical Board of California
Osteopathic Medical Board of California
Pacific Advocacy Group
Physician Assistant Board
Plumbing-Heating-Cooling Contractors Association of California
San Diego, Southern and Central California Chapters of Associated Builders and Contractors
Western Electrical Contractors Association

-- END --

Mockup of AB 2138 as suggested to be amended

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

P3 1 SECTION 1. Section 7.5 of the Business and Professions Code
 2 is amended to read:
 3 7.5. (a) A conviction within the meaning of this code means
 4 a judgment following a plea or verdict of guilty or a plea of nolo
 5 contendere or finding of guilt. Any action which a board is
 6 permitted to take following the establishment of a conviction may
 7 be taken when the time for appeal has elapsed, or the judgment of
 P4 1 conviction has been affirmed on appeal or when an order granting
 2 probation is made suspending the imposition of sentence. However,
 3 a board may not deny a license to an applicant who is otherwise
 4 qualified pursuant to subdivision (b) or (c) of Section 480.
 5 (b) Nothing in this section shall apply to the licensure of persons
 6 pursuant to Chapter 4 (commencing with Section 6000) of Division
 7 3.
 8 (c) Except as provided in subdivision (b), this section controls
 9 over and supersedes the definition of conviction contained within
 10 individual practice acts under this code.
 11 SEC. 2. Section 480 of the Business and Professions Code is
 12 amended to read:
 13 480. (a) (1) Notwithstanding any other provision of this code,
 14 a board may deny a license regulated by this code on the grounds
 15 that the applicant has been convicted of a crime or has been subject
 16 to formal discipline only if either of the following conditions are
 17 met:
 18 (A) The applicant has been convicted of a crime for which the
 19 applicant is presently incarcerated or for which the conviction
 20 occurred within the preceding ~~five~~ **seven** years. However, the preceding
 21 ~~five-seven~~ year limitation shall not apply to a conviction for a ~~violent~~
 22 ~~felony, as defined in Section 667.5 of the Penal Code.~~ **serious felony as defined in**
the Penal Code.
 23 The board may deny a license pursuant to this subparagraph only
 24 if the crime is ~~directly and adversely~~ **substantially** related to the qualifications,
 25 functions, or duties of the business or profession for which
 26 application is made.
 27 (B) The applicant has been subjected to formal discipline by a
 28 licensing board within the preceding ~~five-seven~~ years based on
 29 professional misconduct that would have been cause for discipline
 30 before the board for which the present application is made and that
 31 is ~~directly and adversely~~ **substantially** related to the qualifications, functions,
 32 or duties of the business or profession for which the present
 33 application is made. However, prior disciplinary action by a
 34 licensing board within the preceding ~~five-seven~~ years shall not be the
 35 basis for denial of a license if the basis for that disciplinary action
 36 was a conviction that has been dismissed pursuant to Section

1203.4, 1203.4a, or 1203.41 of the Penal Code or a comparable dismissal or expungement.

~~(2) Denial of a license includes denial of an unrestricted license by issuance of a restricted or probationary license.~~

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has ~~made a showing of~~ **provided evidence of** rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history.

(2) If a board decides to deny an application based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

P6 1 (D) The processes for the applicant to request a copy of his or
2 her complete conviction history and question the accuracy or
3 completeness of the record pursuant to Sections 11122 to 11127
4 of the Penal Code.

5 (g) (1) For a minimum of three years, each board under this
6 code shall retain application forms and other documents submitted
7 by an applicant, any notice provided to an applicant, all other
8 communications received from and provided to an applicant, and
9 criminal history reports of an applicant.

10 (2) Each board under this code shall retain the number of
11 applications received for each license and the number of
12 applications requiring inquiries regarding criminal history. In
13 addition, each licensing authority shall retain all of the following
14 information:

15 (A) The number of applicants with a criminal record who
16 received notice of denial or disqualification of licensure.

17 (B) The number of applicants with a criminal record who
18 provided evidence of mitigation or rehabilitation.

19 (C) The number of applicants with a criminal record who
20 appealed any denial or disqualification of licensure.

21 (D) The final disposition and demographic information,
22 including, but not limited to, voluntarily provided information on
23 race or gender, of any applicant described in subparagraph (A),
24 (B), or (C).

25 (3) (A) Each board under this code shall annually make
26 available to the public through the board's Internet Web site and
27 through a report submitted to the appropriate policy committees
28 of the Legislature deidentified information collected pursuant to
29 this subdivision. Each board shall ensure confidentiality of the
30 individual applicants.

31 (B) A report pursuant to subparagraph (A) shall be submitted
32 in compliance with Section 9795 of the Government Code.

33 (h) "Conviction" as used in this section shall have the same
34 meaning as defined in Section 7.5.

35 ~~(i) This section supersedes any contradictory provision in a~~
36 ~~licensing act under this code or initiative act referred to in Division~~
37 ~~2 (commencing with Section 500) that authorizes license denial~~
38 ~~based on a criminal conviction, arrest, or the acts underlying an~~
39 ~~arrest or conviction.~~

P7 1 SEC. 3. Section 481 of the Business and Professions Code is
2 amended to read:

3 481. (a) Each board under this code shall develop criteria to
4 aid it, when considering the denial, suspension, or revocation of
5 a license, to determine whether a crime is ~~directly and adversely~~ **substantially**
6 related to the qualifications, functions, or duties of the business or
7 profession it regulates.

8 (b) Criteria for determining whether a crime is ~~directly and adversely~~ **substantially**
9 related to the qualifications, functions, or duties of the
10 business or profession a board regulates shall include all of the
11 following:

12 (1) The nature and gravity of the offense.

13 (2) The number of years elapsed since the date of the offense.

14 (3) The nature and duties of the profession in which the applicant
15 seeks licensure or in which the licensee is licensed.

16 (c) A board shall not deny a license based in whole or in part
17 on a conviction without considering evidence of rehabilitation.

18 (d) Each board shall post on its Internet Web site a summary of
19 the criteria used to consider whether a crime is considered to be
20 ~~directly and adversely~~ **substantially** related to the qualifications, functions, or
21 duties of the business or profession it regulates consistent with this
22 section.

23 ~~SEC. 4. Section 481.5 is added to the Business and Professions~~
24 ~~Code, to read:~~

25 ~~481.5. (a) Probationary terms or restrictions placed on a license~~
26 ~~by a board shall be limited to two years or less. Any additional~~
27 ~~conditions may be imposed only if the board determines that there~~
28 ~~is clear and convincing evidence that additional conditions are~~
29 ~~necessary to address a risk shown by clear and convincing~~
30 ~~evidence.~~

31 ~~(b) Each board under this code shall develop criteria to aid it~~
32 ~~when considering the imposition of probationary conditions or~~
33 ~~restrictions to determine what conditions may be imposed to~~
34 ~~address a risk shown by clear and convincing evidence.~~

35 ~~(c) (1) A licensee or registrant whose license or registration~~
36 ~~has been placed on probation may petition the board for a change~~
37 ~~to the probation, including modification or termination of~~
38 ~~probation, one year from the effective date of the decision. The~~
39 ~~board shall issue its decision on the petition within 90 days of~~
40 ~~submission of the petition. The petition shall be deemed granted~~

~~by operation of law if the board does not file a decision denying the petition within 90 days of submission of the petition.~~

~~(2) The one-year time period to petition for modification or termination of penalty shall control over longer time periods under a licensing act under this code or initiative act referred to in Division 2 (commencing with Section 500).~~

SEC. 5 4. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall find **consider** that an applicant or licensee has made a showing of rehabilitation if any of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

~~(2) (A) The applicant or licensee documents that he or she has worked in a related field continuously for at least one year prior to licensure or successfully completed a course of training in a related field, unless the board finds a public record of an official finding that the applicant committed professional misconduct in the course of that work.~~

~~(B) Work in a related field may include, but is not limited to, work performed without compensation and work performed while incarcerated.~~

~~(C) "Related field," for purposes of this paragraph, means a field of employment whose duties are substantially similar to the field regulated by the board.~~

(3) The applicant or licensee has satisfied criteria for rehabilitation developed by the board.

SEC. 6 5. Section 488 of the Business and Professions Code is amended to read:

488. Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(a) Grant the license effective upon completion of all licensing requirements by the applicant.

~~(b) Grant the license effective upon completion of all licensing requirements by the applicant, grant the license and immediately issue a public reproof pursuant to Section 495, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.~~

~~(c) Deny the license.~~

~~(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.~~

~~SEC. 7 Section 490 of the Business and Professions Code is amended to read:~~

~~490. (a) (1) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime for which the applicant is presently incarcerated or for which the conviction occurred within the preceding five years. However, the preceding five year limitation shall not apply to a conviction for a violent felony, as defined in Section 667.5 of the Penal Code.~~

~~(2) The board may suspend or revoke a license pursuant to this subdivision only if the crime is directly and adversely related to the qualifications, functions, or duties of the business or profession for which application is made.~~

~~(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if both of the following are met:~~

~~(1) The crime is directly and adversely related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.~~

~~(2) The licensee was convicted of the crime within the preceding five years or is presently incarcerated for the crime. However, the preceding five year limitation shall not apply to a conviction for a violent felony, as defined in Section 667.5 of the Penal Code.~~

~~(c) Notwithstanding any other provision of this code, a board shall not suspend or revoke a license on the basis of a conviction, or of the acts underlying a conviction, where that conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.~~

~~(d) Notwithstanding any other provision of this code, a board shall not suspend or revoke a license on the basis of an arrest that~~

~~resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or juvenile adjudication.~~

~~(e) The board shall use the following procedures in requesting or acting on a licensee's criminal history information:~~

~~(1) A board shall not require a licensee to disclose any information or documentation regarding the licensee's criminal history.~~

~~(2) If a board chooses to file an accusation against a licensee based solely or in part on the licensee's conviction history, the board shall notify the licensee in writing of the processes for the licensee to request a copy of the licensee's complete conviction history and question the accuracy or completeness of his or her criminal record pursuant to Sections 11122 to 11127, inclusive, of the Penal Code.~~

~~(f) (1) For a minimum of three years, each board under this code shall retain all documents submitted by a licensee, notices provided to a licensee, all other communications received from or provided to a licensee, and criminal history reports of a licensee.~~

~~(2) Each board under this code shall retain all of the following information:~~

~~(A) The number of licensees with a criminal record who received notice of potential revocation or suspension of their license or who had their license suspended or revoked.~~

~~(B) The number of licensees with a criminal record who provided evidence of mitigation or rehabilitation.~~

~~(C) The number of licensees with a criminal record who appealed any suspension or revocation of a license.~~

~~(D) The final disposition and demographic information, including, but not limited to, voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).~~

~~(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure the confidentiality of the individual licensees.~~

~~(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(g) (1) This section supersedes any contradictory provision in a licensing act under this code or initiative act referred to in Division 2 (commencing with Section 500) that authorizes action based on a criminal conviction, arrest, or the acts underlying an arrest or conviction.~~

~~(2) This section shall not prohibit any agency from taking disciplinary action against a licensee for professional misconduct in the course and scope of the licensee's profession that is based on evidence that is independent of an arrest.~~

~~SEC. 8. Section 490.5 of the Business and Professions Code is repealed.~~

~~SEC. 9.~~

~~SEC. 8. Section 492 of the Business and Professions Code is amended to read:~~

~~492. (a) Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, successful completion by a licensee or applicant of any nonstatutory diversion program, deferred entry of judgment, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall prohibit any board from taking disciplinary action against a licensee or from denying a license for professional misconduct.~~

~~(b) This section shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee for professional misconduct in the course and scope of the profession, which is based on evidence that is independent of an arrest.~~

~~SEC. 10.~~

~~SEC. 9 6. Section 493 of the Business and Professions Code is amended to read:~~

~~493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime directly and adversely substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be~~

conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is ~~directly and adversely~~ **substantially**

related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

(B) The number of years elapsed since the date of the offense.

(C) The nature and duties of the profession.

(2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.

(c) As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

~~SEC. 11. Section 1005 of the Business and Professions Code is amended to read:~~

~~1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35, 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141, 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704, 710, 716, 730.5, 731, and 851 are applicable to persons licensed by the State Board of Chiropractic Examiners under the Chiropractic Act.~~

~~SEC. 12.~~

~~SEC. 107.~~ Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked

P13 1 in any other state shall report that fact or cause that fact to be
2 reported to the office, in writing, within 10 days of the date he or
3 she has knowledge of that fact.

O

Supported Legislation

AB 2483 (Voepel-R) Santee

Indemnification of public officers and employees: antitrust awards.

Status: 5/17/2018-Re-referred to Senate Judiciary Committee

Location: 5/17/2018- Senate Judiciary Committee

Last Amend: 4/9/2018

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

Updated 6/15/18

Staff Analysis: AB 2483

Bill Summary: The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Staff Comment: This bill has been amended since the March 2018 meeting when the Board voted to oppose the bill (which created an Office of Supervision of Occupational Boards within DCA). The amendments remove all of the provisions that the Board opposed. The bill now provides indemnity for members of boards relating to treble damages that could be awarded in antitrust claims. In prior years, the Board supported legislative efforts to provide for this indemnity. As such, staff recommends that the Board change its position and vote to support this bill as amended.

Staff Recommendation: No vote needed. On 5/3/18 the Board voted to Support AB 2483 as amended 4/9/18.

Laws: An act to amend Section 825 of the Government Code, relating to liability.

AMENDED IN ASSEMBLY APRIL 9, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Voepel

February 14, 2018

An act to add Chapter 10 (commencing with Section 473) to Division 1 of the Business and Professions Code, relating to professions: liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Voepel. ~~Department of Consumer Affairs: Office of Supervision of Occupational Boards: Indemnification of public officers and employees: antitrust awards.~~

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.

This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a “covered board,” defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board’s rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.

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

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

1 SECTION 1. Section 825 of the Government Code is amended
2 to read:

3 825. (a) Except as otherwise provided in this section, if an
4 employee or former employee of a public entity requests the public
5 entity to defend him or her against any claim or action against him
6 or her for an injury arising out of an act or omission occurring

1 within the scope of his or her employment as an employee of the
2 public entity and the request is made in writing not less than 10
3 days before the day of trial, and the employee or former employee
4 reasonably cooperates in good faith in the defense of the claim or
5 action, the public entity shall pay any judgment based thereon or
6 any compromise or settlement of the claim or action to which the
7 public entity has agreed.

8 If the public entity conducts the defense of an employee or
9 former employee against any claim or action with his or her
10 reasonable good-faith cooperation, the public entity shall pay any
11 judgment based thereon or any compromise or settlement of the
12 claim or action to which the public entity has agreed. However,
13 where the public entity conducted the defense pursuant to an
14 agreement with the employee or former employee reserving the
15 rights of the public entity not to pay the judgment, compromise,
16 or settlement until it is established that the injury arose out of an
17 act or omission occurring within the scope of his or her
18 employment as an employee of the public entity, the public entity
19 is required to pay the judgment, compromise, or settlement only
20 if it is established that the injury arose out of an act or omission
21 occurring in the scope of his or her employment as an employee
22 of the public entity.

23 Nothing in this section authorizes a public entity to pay that part
24 of a claim or judgment that is for punitive or exemplary damages.

25 (b) Notwithstanding subdivision (a) or any other provision of
26 law, a public entity is authorized to pay that part of a judgment
27 that is for punitive or exemplary damages if the governing body
28 of that public entity, acting in its sole discretion except in cases
29 involving an entity of the state government, finds all of the
30 following:

31 (1) The judgment is based on an act or omission of an employee
32 or former employee acting within the course and scope of his or
33 her employment as an employee of the public entity.

34 (2) At the time of the act giving rise to the liability, the employee
35 or former employee acted, or failed to act, in good faith, without
36 actual malice and in the apparent best interests of the public entity.

37 (3) Payment of the claim or judgment would be in the best
38 interests of the public entity.

39 As used in this subdivision with respect to an entity of state
40 government, "a decision of the governing body" means the

1 approval of the Legislature for payment of that part of a judgment
2 that is for punitive damages or exemplary damages, upon
3 recommendation of the appointing power of the employee or
4 former employee, based upon the finding by the Legislature and
5 the appointing authority of the existence of the three conditions
6 for payment of a punitive or exemplary damages claim. The
7 provisions of subdivision (a) of Section 965.6 shall apply to the
8 payment of any claim pursuant to this subdivision.

9 The discovery of the assets of a public entity and the introduction
10 of evidence of the assets of a public entity shall not be permitted
11 in an action in which it is alleged that a public employee is liable
12 for punitive or exemplary damages.

13 The possibility that a public entity may pay that part of a
14 judgment that is for punitive damages shall not be disclosed in any
15 trial in which it is alleged that a public employee is liable for
16 punitive or exemplary damages, and that disclosure shall be
17 grounds for a mistrial.

18 (c) Except as provided in subdivision (d), if the provisions of
19 this section are in conflict with the provisions of a memorandum
20 of understanding reached pursuant to Chapter 10 (commencing
21 with Section 3500) of Division ~~4 of Title 1~~, 4, the memorandum
22 of understanding shall be controlling without further legislative
23 action, except that if those provisions of a memorandum of
24 understanding require the expenditure of funds, the provisions
25 shall not become effective unless approved by the Legislature in
26 the annual Budget Act.

27 (d) The subject of payment of punitive damages pursuant to this
28 section or any other provision of law shall not be a subject of meet
29 and confer under the provisions of Chapter 10 (commencing with
30 Section 3500) of Division ~~4 of Title 1~~, 4, or pursuant to any other
31 law or authority.

32 (e) Nothing in this section shall affect the provisions of Section
33 818 prohibiting the award of punitive damages against a public
34 entity. This section shall not be construed as a waiver of a public
35 entity's immunity from liability for punitive damages under Section
36 1981, 1983, or 1985 of Title 42 of the United States Code.

37 (f) (1) Except as provided in paragraph (2), a public entity shall
38 not pay a judgment, compromise, or settlement arising from a
39 claim or action against an elected official, if the claim or action is
40 based on conduct by the elected official by way of tortiously

1 intervening or attempting to intervene in, or by way of tortiously
 2 influencing or attempting to influence the outcome of, any judicial
 3 action or proceeding for the benefit of a particular party by
 4 contacting the trial judge or any commissioner, court-appointed
 5 arbitrator, court-appointed mediator, or court-appointed special
 6 referee assigned to the matter, or the court clerk, bailiff, or marshal
 7 after an action has been filed, unless he or she was counsel of
 8 record acting lawfully within the scope of his or her employment
 9 on behalf of that party. Notwithstanding Section 825.6, if a public
 10 entity conducted the defense of an elected official against such a
 11 claim or action and the elected official is found liable by the trier
 12 of fact, the court shall order the elected official to pay to the public
 13 entity the cost of that defense.

14 (2) If an elected official is held liable for monetary damages in
 15 the action, the plaintiff shall first seek recovery of the judgment
 16 against the assets of the elected official. If the elected official's
 17 assets are insufficient to satisfy the total judgment, as determined
 18 by the court, the public entity may pay the deficiency if the public
 19 entity is authorized by law to pay that judgment.

20 (3) To the extent the public entity pays any portion of the
 21 judgment or is entitled to reimbursement of defense costs pursuant
 22 to paragraph (1), the public entity shall pursue all available
 23 creditor's remedies against the elected official, including
 24 garnishment, until that party has fully reimbursed the public entity.

25 (4) This subdivision shall not apply to any criminal or civil
 26 enforcement action brought in the name of the people of the State
 27 of California by an elected district attorney, city attorney, or
 28 attorney general.

29 (g) *Notwithstanding subdivision (a), a public entity shall pay*
 30 *for a judgment or settlement for treble damage antitrust awards*
 31 *against a member of a regulatory board within the Department of*
 32 *Consumer Affairs for an act or omission occurring within the scope*
 33 *of the member's official capacity as a member of that regulatory*
 34 *board.*

35 (h) *For purposes of this section, treble damages awarded*
 36 *pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,*
 37 *of Title 15 of, and Sections 52 and 53 of Title 29 of, the United*
 38 *States Code) for a violation of the federal Sherman Act (Sections*
 39 *1 to 7, inclusive, of Title 15 of the United States Code) are not*
 40 *punitive or exemplary damages under this division.*

SECTION 1. ~~Chapter 10 (commencing with Section 473) is added to Division 1 of the Business and Professions Code, to read:~~

CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL
BOARDS

473. ~~The following are policies of the state:~~

(a) ~~Occupational licensing laws should be construed and applied to increase economic opportunity, promote competition, and encourage innovation.~~

(b) ~~Regulators should displace competition through occupational licensing only where less restrictive regulation will not suffice to protect consumers from present, significant, and substantiated harms that threaten public health, safety, or welfare.~~

(c) ~~An occupational licensing restriction should be enforced against an individual only to the extent the individual sells goods and services that are included explicitly in the statute or regulation that defines the occupation's scope of practice.~~

473.1. ~~As used in this chapter:~~

(a) ~~"Covered board" means any entity listed in Section 101.~~

(b) ~~"Office" means the Office of Supervision of Occupational Boards established in Section 473.2.~~

473.2. (a) ~~There is hereby established an Office of Supervision of Occupational Boards within the department.~~

(b) (1) ~~Notwithstanding Section 109, the office shall be responsible for exercising active supervision over each covered board to ensure compliance with the policies in Section 473.~~

(2) ~~In exercising active supervision over covered boards under paragraph (1), the office shall independently do the following:~~

(A) ~~Play a substantial role in the development of a covered board's rules and policies to ensure they benefit consumers and do not serve the private interests of providers of goods and services regulated by the covered board.~~

(B) ~~Disapprove the use of any rule or policy of a covered board and terminate any enforcement action, including any action pending on January 1, 2019, that is not consistent with Section 473.~~

(C) ~~Exercise control over each covered board by reviewing and affirmatively approving only rules, policies, and enforcement actions that are consistent with Section 473.~~

~~(D) Analyze existing and proposed rules and policies and conduct investigations to gain additional information to promote compliance with Section 473, including, but not limited to, less restrictive regulatory approaches.~~

~~(3) In exercising active supervision over covered boards under paragraph (1), the office shall be staffed by not fewer than one attorney who does not provide general counsel to any covered board.~~

~~(e) (1) Notwithstanding Section 109, the office shall review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before the covered board may adopt or implement the rule, policy, enforcement action, or other occupational licensure action.~~

~~(2) For purposes of paragraph (1), approval by the office shall be express and silence or failure to act shall not constitute approval.~~

~~473.3. (a) Any person may file a complaint to the office about a rule, policy, enforcement action, or other occupational licensure action of a covered board that the person believes is not consistent with Section 473.~~

~~(b) Not later than 90 days after the date on which the office receives a complaint filed under paragraph (1), notwithstanding Section 109, the office shall investigate the complaint, identify remedies, and instruct the covered board to take action as the office determines to be appropriate, and respond in writing to the complainant.~~

~~(c) (1) There shall be no right to appeal a decision of the office under subdivision (b) unless the challenged rule, policy, enforcement action, or other occupational licensure action would prevent the complainant from engaging in a lawful occupation or employing or contracting others for the performance of a lawful occupation and the complainant has taken material steps in an attempt to engage in a lawful occupation or employ or contract others for the performance of a lawful occupation.~~

~~(2) Any appeal authorized under paragraph (1) shall be to the superior court.~~



BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.bpelsg.ca.gov



May 29, 2018

The Honorable Assembly Member Voepel
State Capitol, Room 4009
Sacramento, CA 95814

Re: AB 2483 – Support as amended 4/9/2018

Dear Assembly Member Voepel:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) voted to support AB 2483 (Voepel) as amended 4/9/2018. The Board is committed to protecting the public by regulating the practices of California Professional Engineers, Land Surveyors, and Geologists.

Existing law prohibits the payment of punitive or exemplary damages by a public entity, except as specified. This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Thank you for your consideration of this important legislation. If you have any questions or concerns, please contact the Board's Legislative Analyst Kara Williams at 916.263.5438.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Moore", is written over a horizontal line.

Richard B. Moore, PLS
Executive Officer

Supported Legislation

SB 920 (Cannella R) Merced

Engineering, land surveying, and architecture: limited liability partnerships

Status: 5/31/2018- Re-referred to Assembly Committee on Business and Professions.

Location: 5/31/2018- Assembly Committee on Business and Professions.

Last Amend: 4/30/2018

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

Updated 6/15/18

Staff Analysis: SB 920

Bill Summary: This bill would extend, until January 1, 2026, the authorization for persons licensed to engage in the practice of engineering, land surveying, or architecture to form limited liability partnerships, as specified.

Staff Comment: This bill is sponsored by American Council of Engineering Companies, California and the American Institute of Architects, California Council. The Author's office indicates "The ability to form as an LLP is simply one more tool that California businesses can employ that allows them to be nimble in a 21st Century economy. SB 920 extends a permission that has proven successful over the course of several decades."

In 2015, the Board voted to support SB 284 which extended the authority for engineers and land surveyors to conduct business as a LLP to 2019. SB 920 would remove the sunset dates on provisions that allow licensed engineers, land surveyors, and architects to form Limited Liability Partnerships, thereby extending this authority indefinitely.

Staff Recommendation: No vote needed. On 5/3/18 the Board voted to Support SB 920 as amended 4/30/18.

Laws: An act to amend Sections 6738 and 8729 of the Business and Professions Code, and to amend Sections 16101, 16956, and 16959 of the Corporations Code, relating to limited liability partnerships.

AMENDED IN SENATE APRIL 30, 2018

AMENDED IN SENATE APRIL 2, 2018

SENATE BILL

No. 920

Introduced by Senator Cannella
(Coauthors: Senators Bates and Morrell)
(Coauthors: Assembly Members Caballero and Mathis)

January 23, 2018

An act to amend Sections 6738 and 8729 of the Business and Professions Code, and to amend Sections 16101, 16956, and 16959 of the Corporations Code, relating to limited liability partnerships.

LEGISLATIVE COUNSEL'S DIGEST

SB 920, as amended, Cannella. Engineering, land surveying, and architecture: limited liability partnerships.

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

Existing law authorizes persons licensed to engage in the practice of engineering, land surveying, or architecture to form registered limited liability partnerships and foreign limited liability partnerships if specified conditions are met. Existing law requires those partnerships to provide security of no less than \$2,000,000 for claims arising out of the partnership's professional practice. Existing law repeals these provisions on January 1, 2019.

This bill would ~~extend indefinitely~~ *extend, until January 1, 2026*, the authorization for persons licensed to engage in the practice of engineering, land surveying, or architecture to form limited liability partnerships, as specified.

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

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

1 *SECTION 1. Section 6738 of the Business and Professions*
2 *Code, as amended by Section 1 of Chapter 157 of the Statutes of*
3 *2015, is amended to read:*
4 6738. (a) This chapter does not prohibit one or more ci vil,
5 electrical, or mechanical engineers from practicing or offering to
6 practice, within the scope of their license, civil (including
7 geotechnical and structural), electrical, or mechanical engineering
8 as a sole proprietorship, partnership, limited liability partnership,
9 firm, or corporation (hereinafter called business), if all of the
10 following requirements are met:
11 (1) A civil, electrical, or mechanical engineer currently licensed
12 in this state is an owner, partner, or officer in charge of the
13 engineering practice of the business.
14 (2) All civil, electrical, or mechanical engineering services are
15 performed by, or under the responsible charge of, a professional
16 engineer licensed in the appropriate branch of professional
17 engineering.
18 (3) If the business name of a California engineering business
19 contains the name of any person, then that person shall be licensed
20 as a professional engineer, a licensed land surveyor, a licensed
21 architect, or a geologist registered under the Geologist and
22 Geophysicist Act (Chapter 12.5 (commencing with Section 7800)).
23 Any offer, promotion, or advertisement by the business that
24 contains the name of any individual in the business, other than by
25 use of the name of an individual in the business name, shall clearly
26 and specifically designate the license or registration discipline of
27 each individual named.
28 (b) An out-of-state business with a branch office in this state
29 shall meet the requirements of subdivision (a) and shall have an
30 owner, partner, or officer who is in charge of the engineering work
31 in the branch in this state, who is licensed in this state, and who is

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2019, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date. repealed.

SECTION 1.

SEC. 2. Section 6738 of the Business and Professions Code, as amended by Section 2 of Chapter 157 of the Statutes of 2015, is amended to read:

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

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

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

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

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

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

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

39 (e) This chapter does not prevent an individual or business
40 engaged in any line of endeavor other than the practice of civil,

1 electrical, or mechanical engineering from employing or
2 contracting with a licensed civil, electrical, or mechanical engineer
3 to perform the respective engineering services incidental to the
4 conduct of business.

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

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

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

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

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

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

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

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

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

40 (j) *This section shall become operative on January 1, 2026.*

1 *SEC. 3. Section 8729 of the Business and Professions Code,*
2 *as amended by Section 3 of Chapter 157 of the Statutes of 2015,*
3 *is amended to read:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2019, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date. repealed.

~~SEC. 2.~~

SEC. 4. Section 8729 of the Business and Professions Code, as amended by Section 4 of Chapter 157 of the Statutes of 2015, is amended to read:

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

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

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

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

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

1 business, other than by use of the name of the individual in the
2 business name, shall clearly and specifically designate the license
3 or registration discipline of each individual named.

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

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

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

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

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

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

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

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

39 (4) The person, if retired, has consented to the use of the name
40 and does not permit the use of the name in the title of another land

1 surveying business in this state during the period of that consent,
 2 except that a retired person may use his or her name as the name
 3 of a new or purchased business, if that business is not identical in
 4 every respect to that person's name as used in the former business.

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

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

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

11 (j) *This section shall become operative on January 1, 2026.*

12 *SEC. 5. Section 16101 of the Corporations Code, as amended*
 13 *by Section 5 of Chapter 157 of the Statutes of 2015, is amended*
 14 *to read:*

15 16101. As used in this chapter, the following terms and phrases
 16 have the following meanings:

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

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

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

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

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

28 (4) "Electronic transmission by the partnership" means a
 29 communication (a) delivered by (1) facsimile telecommunication
 30 or electronic mail when directed to the facsimile number or
 31 electronic mail address, respectively, for that recipient on record
 32 with the partnership, (2) posting on an electronic message board
 33 or network that the partnership has designated for those
 34 communications, together with a separate notice to the recipient
 35 of the posting, which transmission shall be validly delivered upon
 36 the later of the posting or delivery of the separate notice thereof,
 37 or (3) other means of electronic communication, (b) to a recipient
 38 who has provided an unrevoked consent to the use of those means
 39 of transmission, and (c) that creates a record that is capable of
 40 retention, retrieval, and review, and that may thereafter be rendered

1 into clearly legible tangible form. However, an electronic
 2 transmission by a partnership to an individual partner is not
 3 authorized unless, in addition to satisfying the requirements of this
 4 section, the transmission satisfies the requirements applicable to
 5 consumer consent to electronic records as set forth in the Electronic
 6 Signatures in Global and National Commerce Act (15 U.S.C. Sec.
 7 7001(c)(1)).

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

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

1 by, or provides services or facilities to, that registered limited
2 liability partnership or foreign limited liability partnership.

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

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

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

37 (B) For the purposes of clause (iii) of subparagraph (A), a
38 partnership is related to a registered limited liability partnership
39 or foreign limited liability partnership if (i) at least a majority of
40 the partners in one partnership are also partners in the other

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

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

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

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

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

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

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

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

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

38 (17) “Statement” means a statement of partnership authority
 39 under Section 16303, a statement of denial under Section 16304,
 40 a statement of dissociation under Section 16704, a statement of

1 dissolution under Section 16805, a statement of conversion or a
 2 certificate of conversion under Section 16906, a statement of
 3 merger under Section 16915, or an amendment or cancellation of
 4 any of the foregoing.

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

7 (19) The inclusion of the practice of architecture as a
 8 professional limited liability partnership service permitted by this
 9 section shall extend only until January 1, ~~2019~~, 2026.

10 (20) This section shall remain in effect only until January 1,
 11 2019, 2026, and as of that date is ~~repealed, unless a later enacted~~
 12 ~~statute, that is enacted before January 1, 2019, deletes or extends~~
 13 ~~that date, repealed.~~

14 ~~SEC. 3.~~

15 *SEC. 6.* Section 16101 of the Corporations Code, as amended
 16 by Section 6 of Chapter 157 of the Statutes of 2015, is amended
 17 to read:

18 16101. As used in this chapter, the following terms and phrases
 19 have the following meanings:

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

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

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

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

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

31 (4) “Electronic transmission by the partnership” means a
 32 communication (a) delivered by (1) facsimile telecommunication
 33 or electronic mail when directed to the facsimile number or
 34 electronic mail address, respectively, for that recipient on record
 35 with the partnership, (2) posting on an electronic message board
 36 or network that the partnership has designated for those
 37 communications, together with a separate notice to the recipient
 38 of the posting, which transmission shall be validly delivered upon
 39 the later of the posting or delivery of the separate notice thereof,
 40 or (3) other means of electronic communication, (b) to a recipient

1 who has provided an unrevoked consent to the use of those means
 2 of transmission, and (c) that creates a record that is capable of
 3 retention, retrieval, and review, and that may thereafter be rendered
 4 into clearly legible tangible form. However, an electronic
 5 transmission by a partnership to an individual partner is not
 6 authorized unless, in addition to satisfying the requirements of this
 7 section, the transmission satisfies the requirements applicable to
 8 consumer consent to electronic records as set forth in the Electronic
 9 Signatures in Global and National Commerce Act (15 U.S.C. Sec.
 10 7001(c)(1)).

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

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

1 to the professional limited liability partnership services provided
 2 by, or provides services or facilities to, that registered limited
 3 liability partnership or foreign limited liability partnership.

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

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

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

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

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

9 (9) "Partnership" means an association of two or more persons
 10 to carry on as coowners a business for profit formed under Section
 11 16202, predecessor law, or comparable law of another jurisdiction,
 12 and includes, for all purposes of the laws of this state, a registered
 13 limited liability partnership, and excludes any partnership formed
 14 under Chapter 4.5 (commencing with Section 15900).

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

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

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

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

30 (14) "Professional limited liability partnership services" means
 31 ~~the practice of architecture, the practice of public accountancy,~~
 32 ~~the practice of engineering, the practice of land surveying,~~
 33 *accountancy* or the practice of law.

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

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

39 (17) "Statement" means a statement of partnership authority
 40 under Section 16303, a statement of denial under Section 16304,

1 a statement of dissociation under Section 16704, a statement of
 2 dissolution under Section 16805, a statement of conversion or a
 3 certificate of conversion under Section 16906, a statement of
 4 merger under Section 16915, or an amendment or cancellation of
 5 any of the foregoing.

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

8 *(19) This section shall become operative on January 1, 2026.*

9 *SEC. 7. Section 16956 of the Corporations Code, as amended*
 10 *by Section 7 of Chapter 157 of the Statutes of 2015, is amended*
 11 *to read:*

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

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

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

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

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

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

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

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

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

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

36 (A) Each registered limited liability partnership or foreign
37 limited liability partnership providing legal services shall maintain
38 a policy or policies of insurance against liability imposed on or
39 against it by law for damages arising out of claims; however, the
40 total aggregate limit of liability under the policy or policies of

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

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

35 (B) Each registered limited liability partnership or foreign
36 limited liability partnership providing legal services shall maintain
37 in trust or bank escrow, cash, bank certificates of deposit, United
38 States Treasury obligations, bank letters of credit, or bonds of
39 insurance or surety companies as security for payment of liabilities
40 imposed by law for damages arising out of all claims; however,

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

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

1 of the partners among themselves, or the partnership, including,
2 but not limited to, rights of contribution, subrogation, or
3 indemnification.

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

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

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

1 maintained pursuant to this subparagraph may be subject to a
2 deductible or self-insured retention.

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

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

39 (C) Unless the partnership has satisfied subparagraph (D), each
40 partner of a registered limited liability partnership or foreign

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

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

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

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

1 asserted in the designated period, and (ii) in the case of an
2 occurrence policy, occurrences during the designated period. For
3 purposes of this subparagraph, “designated period” means a policy
4 year or any other period designated in the policy that is not greater
5 than 12 months. The impairment or exhaustion of the aggregate
6 limit of liability by amounts paid under the policy in connection
7 with the settlement, discharge, or defense of claims applicable to
8 a designated period shall not require the partnership to acquire
9 additional insurance coverage for that designated period. The policy
10 or policies of insurance may be in a form reasonably available in
11 the commercial insurance market and may be subject to those
12 terms, conditions, exclusions, and endorsements that are typically
13 contained in those policies. A policy or policies of insurance
14 maintained pursuant to this subparagraph may be subject to a
15 deductible or self-insured retention.

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

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

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

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

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

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

(D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (4) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

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

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership
2. _____
Jurisdiction where partnership is organized
3. _____
Address of principal office
4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), 16956(a)(3)(D), or 16956 (a)(4)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars (\$15,000,000) in the case of a partnership providing legal services, or ten million dollars (\$10,000,000), in the case of a partnership providing architectural services, engineering services, or land surveying services.
5. _____
Title of authorized person executing this form
6. _____
Signature of authorized person executing this form

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

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

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph

(1), (2), (3), or (4) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

(f) This section shall remain in effect only until January 1, 2019, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date. *repealed.*

~~SEC. 4.~~

SEC. 8. Section 16956 of the Corporations Code, as amended by Section 8 of Chapter 157 of the Statutes of 2015, is amended to read:

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

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

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph,

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

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

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

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

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

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

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

36 (A) Each registered limited liability partnership or foreign
37 limited liability partnership providing legal services shall maintain
38 a policy or policies of insurance against liability imposed on or
39 against it by law for damages arising out of claims; however, the
40 total aggregate limit of liability under the policy or policies of

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

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

35 (B) Each registered limited liability partnership or foreign
36 limited liability partnership providing legal services shall maintain
37 in trust or bank escrow, cash, bank certificates of deposit, United
38 States Treasury obligations, bank letters of credit, or bonds of
39 insurance or surety companies as security for payment of liabilities
40 imposed by law for damages arising out of all claims; however,

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

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

1 of the partners among themselves, or the partnership, including,
2 but not limited to, rights of contribution, subrogation, or
3 indemnification.

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

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

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

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

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

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

1 section during a calendar year notwithstanding amounts paid during
 2 that calendar year from the accounts, funds, Treasury obligations,
 3 letters of credit, or bonds in defending, settling, or discharging
 4 claims of the type described in this paragraph, provided that the
 5 amount of those accounts, funds, Treasury obligations, letters of
 6 credit, or bonds was at least the amount specified in the preceding
 7 sentence as of the first business day of that calendar year.
 8 Notwithstanding the pendency of other claims against the
 9 partnership, a registered limited liability partnership or foreign
 10 limited liability partnership shall be deemed to be in compliance
 11 with this subparagraph as to a claim if within 30 days after the
 12 time that a claim is initially asserted through service of a summons,
 13 complaint, or comparable pleading in a judicial or administrative
 14 proceeding, the partnership has provided the required amount of
 15 security by designating and segregating funds in compliance with
 16 the requirements of this subparagraph.

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

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

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

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

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

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

1 ~~(B) Maintaining in trust or bank escrow, cash, bank certificates~~
2 ~~of deposit, United States Treasury obligations, bank letters of~~
3 ~~credit, or bonds of insurance or surety companies as security for~~
4 ~~payment of liabilities imposed by law for damages arising out of~~
5 ~~all claims; however, the maximum amount of security for~~
6 ~~partnerships with five or fewer licensees rendering professional~~
7 ~~services on behalf of the partnership shall not be less than two~~
8 ~~million dollars (\$2,000,000), and for partnerships with more than~~
9 ~~five licensees rendering professional services on behalf of the~~
10 ~~partnership, an additional one hundred thousand dollars (\$100,000)~~
11 ~~of security shall be obtained for each additional licensee; however,~~
12 ~~the maximum amount of security is not required to exceed five~~
13 ~~million dollars (\$5,000,000). The partnership remains in~~
14 ~~compliance with this section during a calendar year,~~
15 ~~notwithstanding amounts paid during that calendar year from the~~
16 ~~accounts, funds, Treasury obligations, letters of credit, or bonds~~
17 ~~in defending, settling, or discharging claims of the type described~~
18 ~~in this paragraph, provided that the amount of those accounts,~~
19 ~~funds, Treasury obligations, letters of credit, or bonds was at least~~
20 ~~the amount specified in the preceding sentence as of the first~~
21 ~~business day of that calendar year. Notwithstanding the pendency~~
22 ~~of other claims against the partnership, a registered limited liability~~
23 ~~partnership or foreign limited liability partnership shall be deemed~~
24 ~~to be in compliance with this subparagraph as to a claim if, within~~
25 ~~30 days after the time that a claim is initially asserted through~~
26 ~~service of a summons, complaint, or comparable pleading in a~~
27 ~~judicial or administrative proceeding, the partnership has provided~~
28 ~~the required amount of security by designating and segregating~~
29 ~~funds in compliance with the requirements of this subparagraph.~~

30 ~~(C) Unless the partnership has satisfied subparagraph (D), each~~
31 ~~partner of a registered limited liability partnership or foreign~~
32 ~~limited liability partnership providing engineering services or land~~
33 ~~surveying services, by virtue of that person's status as a partner,~~
34 ~~thereby automatically guarantees payment of the difference~~
35 ~~between the maximum amount of security required for the~~
36 ~~partnership by this paragraph and the security otherwise provided~~
37 ~~in accordance with subparagraphs (A) and (B), provided that the~~
38 ~~aggregate amount paid by all partners under these guarantees shall~~
39 ~~not exceed the difference. Neither withdrawal by a partner nor the~~
40 ~~dissolution and winding up of the partnership shall affect the rights~~

1 or obligations of a partner arising prior to withdrawal or dissolution
 2 and winding up, and the guarantee provided for in this
 3 subparagraph shall apply only to conduct that occurred prior to
 4 the withdrawal or dissolution and winding up. Nothing contained
 5 in this subparagraph shall affect or impair the rights or obligations
 6 of the partners among themselves, or the partnership, including,
 7 but not limited to, rights of contribution, subrogation, or
 8 indemnification.

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

13 (b) For purposes of satisfying the security requirements of this
 14 section, a registered limited liability partnership or foreign limited
 15 liability partnership may aggregate the security provided by it
 16 pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1)
 17 of subdivision (a), (a) or subparagraphs (A), (B), (C), and (D) of
 18 paragraph (2) of subdivision (a), subparagraphs (A), (B), (C), and
 19 (D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B),
 20 (C), and (D) of paragraph (4) of subdivision (a), (a) as the case
 21 may be. Any registered limited liability partnership or foreign
 22 limited liability partnership intending to comply with the alternative
 23 security provisions set forth in subparagraph (D) of paragraph (1)
 24 of subdivision (a), (a) or subparagraph (D) of paragraph (2) of
 25 subdivision (a), subparagraph (D) of paragraph (3) of subdivision
 26 (a), or subparagraph (D) of paragraph (4) of subdivision (a) (a)
 27 shall furnish the following information to the Secretary of State's
 28 office, in the manner prescribed in, and accompanied by all
 29 information required by, the applicable section:

30
 31 TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
 32 WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D), OR
 33 SECTION 16956(a)(3)(D) 16956(a)(1)(D) or SECTION 16956(a)(2)(D) OF
 34 THE CALIFORNIA
 35 CORPORATIONS CODE
 36

37 The undersigned hereby confirms the following:

38 1.

39 _____
 Name of registered or foreign limited liability partnership

2. _____
Jurisdiction where partnership is organized
3. _____
Address of principal office
4. The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section ~~16956(a)(1)(D), 16956(a)(2)(D), 16956(a)(3)(D), or 16956(a)(4)(D)~~ *16956(a)(1)(D) or 16956(a)(2)(D)* and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars (\$10,000,000), in the case of a partnership providing accountancy ~~services,~~ *services* or fifteen million dollars (\$15,000,000) in the case of a partnership providing legal ~~services,~~ or ten million dollars (\$10,000,000), in the case of a partnership providing architectural services.
5. _____
Title of authorized person executing this form
6. _____
Signature of authorized person executing this form

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

1 security requirements for purposes of this section as of the
 2 beginning of the fiscal year. A confirmation filed during any
 3 particular fiscal year shall continue to be effective for the first four
 4 months of the next succeeding fiscal year.

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

12 (e) Notwithstanding any other provision of this section, if a
 13 registered limited liability partnership or foreign limited liability
 14 partnership is otherwise in compliance with the terms of this section
 15 at the time that a bankruptcy or other insolvency proceeding is
 16 commenced with respect to the registered limited liability
 17 partnership or foreign limited liability partnership, it shall be
 18 deemed to be in compliance with this section during the pendency
 19 of the proceeding. A registered limited liability partnership that
 20 has been the subject of a proceeding and that conducts business
 21 after the proceeding ends shall thereafter comply with paragraph
 22 ~~(1), (2), (3), or (4)~~ *(1) or (2)* of subdivision (a), in order to obtain
 23 the limitations on liability afforded by subdivision (c) of Section
 24 16306.

25 *(f) This section shall become operative on January 1, 2026.*

26 *SEC. 9. Section 16959 of the Corporations Code, as amended*
 27 *by Section 9 of Chapter 157 of the Statutes of 2015, is amended*
 28 *to read:*

29 16959. (a) (1) Before transacting intrastate business in this
 30 state, a foreign limited liability partnership shall comply with all
 31 statutory and administrative registration or filing requirements of
 32 the state board, commission, or agency that prescribes the rules
 33 and regulations governing a particular profession in which the
 34 partnership proposes to be engaged, pursuant to the applicable
 35 provisions of the Business and Professions Code relating to the
 36 profession or applicable rules adopted by the governing board. A
 37 foreign limited liability partnership that transacts intrastate business
 38 in this state shall within 30 days after the effective date of the act
 39 enacting this section or the date on which the foreign limited
 40 liability partnership first transacts intrastate business in this state,

1 whichever is later, register with the Secretary of State by submitting
2 to the Secretary of State an application for registration as a foreign
3 limited liability partnership, signed by a person with authority to
4 do so under the laws of the jurisdiction of formation of the foreign
5 limited liability partnership, stating the name of the partnership,
6 the street address of its principal office, the mailing address of the
7 principal office if different from the street address, the name and
8 street address of its agent for service of process in this state in
9 accordance with subdivision (a) of Section 16309, a brief statement
10 of the business in which the partnership engages, and any other
11 matters that the partnership determines to include.

12 (2) Annexed to the application for registration shall be a
13 certificate from an authorized public official of the foreign limited
14 liability partnership's jurisdiction of organization to the effect that
15 the foreign limited liability partnership is in good standing in that
16 jurisdiction, if the laws of that jurisdiction permit the issuance of
17 those certificates, or, in the alternative, a statement by the foreign
18 limited liability partnership that the laws of its jurisdiction of
19 organization do not permit the issuance of those certificates.

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

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

26 (d) The Secretary of State may cancel the filing of the
27 registration if a check or other remittance accepted in payment of
28 the filing fee is not paid upon presentation. Upon receiving written
29 notification that the item presented for payment has not been
30 honored for payment, the Secretary of State shall give a first written
31 notice of the applicability of this section to the agent for service
32 of process or to the person submitting the instrument. Thereafter,
33 if the amount has not been paid by cashier's check or equivalent,
34 the Secretary of State shall give a second written notice of
35 cancellation and the cancellation shall thereupon be effective. The
36 second notice shall be given 20 days or more after the first notice
37 and 90 days or less after the original filing.

38 (e) A partnership becomes registered as a foreign limited liability
39 partnership at the time of the filing of the initial registration with
40 the Secretary of State or at any later date or time specified in the

1 registration and the payment of the fee required by subdivision
2 (b). A partnership continues to be registered as a foreign limited
3 liability partnership until a notice that it is no longer so registered
4 as a foreign limited liability partnership has been filed pursuant to
5 Section 16960 or, if applicable, once it has been dissolved and
6 finally wound up. The status of a partnership registered as a foreign
7 limited liability partnership and the liability of a partner of that
8 foreign limited liability partnership shall not be adversely affected
9 by errors or subsequent changes in the information stated in an
10 application for registration under subdivision (a) or an amended
11 registration or notice under Section 16960.

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

17 (g) The Secretary of State shall provide a form for a registration
18 under subdivision (a), which shall include the form for confirming
19 compliance with the optional security requirement pursuant to
20 subdivision (c) of Section 16956. The Secretary of State shall
21 include with instructional materials, provided in conjunction with
22 the form for registration under subdivision (a), a notice that filing
23 the registration will obligate the limited liability partnership to pay
24 an annual tax for that taxable year to the Franchise Tax Board
25 pursuant to Section 17948 of the Revenue and Taxation Code.
26 That notice shall be updated annually to specify the dollar amount
27 of this tax.

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

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

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

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

5 (l) "Transact intrastate business" as used in this section means
6 to repeatedly and successively provide professional limited liability
7 partnership services in this state, other than in interstate or foreign
8 commerce.

9 (m) Without excluding other activities that may not be
10 considered to be transacting intrastate business, a foreign limited
11 liability partnership shall not be considered to be transacting
12 intrastate business merely because its subsidiary or affiliate
13 transacts intrastate business, or merely because of its status as any
14 one or more of the following:

15 (1) A shareholder of a domestic corporation.

16 (2) A shareholder of a foreign corporation transacting intrastate
17 business.

18 (3) A limited partner of a foreign limited partnership transacting
19 intrastate business.

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

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

23 (6) A member or manager of a domestic limited liability
24 company.

25 (n) Without excluding other activities that may not be considered
26 to be transacting intrastate business, a foreign limited liability
27 partnership shall not be considered to be transacting intrastate
28 business within the meaning of this subdivision solely by reason
29 of carrying on in this state any one or more of the following
30 activities:

31 (1) Maintaining or defending any action or suit or any
32 administrative or arbitration proceeding, or effecting the settlement
33 thereof or the settlement of claims or disputes.

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

36 (3) Maintaining bank accounts.

37 (4) Maintaining offices or agencies for the transfer, exchange,
38 and registration of the foreign limited liability partnership's
39 securities or maintaining trustees or depositories with respect to
40 those securities.

1 (5) Effecting sales through independent contractors.

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

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

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

9 (9) Conducting an isolated transaction that is completed within
10 180 days and not in the course of a number of repeated transactions
11 of a like nature.

12 (o) A person shall not be deemed to be transacting intrastate
13 business in this state merely because of its status as a partner of a
14 registered limited liability partnership or a foreign limited liability
15 company whether or not registered to transact intrastate business
16 in this state.

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

20 (q) Nothing in this section is intended to, or shall, augment,
21 diminish, or otherwise alter existing provisions of law, statutes,
22 or court rules relating to services by a California architect,
23 California public accountant, California engineer, California land
24 surveyor, or California attorney in another jurisdiction, or services
25 by an out-of-state architect, out-of-state public accountant,
26 out-of-state engineer, out-of-state land surveyor, or out-of-state
27 attorney in California.

28 (r) An agent designated for service of process may deliver to
29 the Secretary of State, on a form prescribed by the Secretary of
30 State for filing, a signed and acknowledged written statement of
31 resignation as an agent for service of process containing the name
32 of the foreign limited liability partnership and Secretary of State's
33 file number of the foreign limited liability partnership, the name
34 of the resigning agent for service of process, and a statement that
35 the agent is resigning. On filing of the statement of resignation,
36 the authority of the agent to act in that capacity shall cease and the
37 Secretary of State shall mail or otherwise provide written notice
38 of the filing of the statement of resignation to the foreign limited
39 liability partnership at its principal office.

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

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

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

(v) This section shall remain in effect only until January 1, 2019; 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date. *repealed.*

~~SEC. 5.~~

SEC. 10. Section 16959 of the Corporations Code, as amended by Section 10 of Chapter 157 of the Statutes of 2015, is amended to read:

16959. (a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign limited liability partnership that transacts intrastate business in this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting

1 to the Secretary of State an application for registration as a foreign
2 limited liability partnership, signed by a person with authority to
3 do so under the laws of the jurisdiction of formation of the foreign
4 limited liability partnership, stating the name of the partnership,
5 the street address of its principal office, the mailing address of the
6 principal office if different from the street address, the name and
7 street address of its agent for service of process in this state in
8 accordance with subdivision (a) of Section 16309, a brief statement
9 of the business in which the partnership engages, and any other
10 matters that the partnership determines to include.

11 (2) Annexed to the application for registration shall be a
12 certificate from an authorized public official of the foreign limited
13 liability partnership's jurisdiction of organization to the effect that
14 the foreign limited liability partnership is in good standing in that
15 jurisdiction, if the laws of that jurisdiction permit the issuance of
16 those certificates, or, in the alternative, a statement by the foreign
17 limited liability partnership that the laws of its jurisdiction of
18 organization do not permit the issuance of those certificates.

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

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

25 (d) The Secretary of State may cancel the filing of the
26 registration if a check or other remittance accepted in payment of
27 the filing fee is not paid upon presentation. Upon receiving written
28 notification that the item presented for payment has not been
29 honored for payment, the Secretary of State shall give a first written
30 notice of the applicability of this section to the agent for service
31 of process or to the person submitting the instrument. Thereafter,
32 if the amount has not been paid by cashier's check or equivalent,
33 the Secretary of State shall give a second written notice of
34 cancellation and the cancellation shall thereupon be effective. The
35 second notice shall be given 20 days or more after the first notice
36 and 90 days or less after the original filing.

37 (e) A partnership becomes registered as a foreign limited liability
38 partnership at the time of the filing of the initial registration with
39 the Secretary of State or at any later date or time specified in the
40 registration and the payment of the fee required by subdivision

1 (b). A partnership continues to be registered as a foreign limited
2 liability partnership until a notice that it is no longer so registered
3 as a foreign limited liability partnership has been filed pursuant to
4 Section 16960 or, if applicable, once it has been dissolved and
5 finally wound up. The status of a partnership registered as a foreign
6 limited liability partnership and the liability of a partner of that
7 foreign limited liability partnership shall not be adversely affected
8 by errors or subsequent changes in the information stated in an
9 application for registration under subdivision (a) or an amended
10 registration or notice under Section 16960.

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

16 (g) The Secretary of State shall provide a form for a registration
17 under subdivision (a), which shall include the form for confirming
18 compliance with the optional security requirement pursuant to
19 subdivision (c) of Section 16956. The Secretary of State shall
20 include with instructional materials, provided in conjunction with
21 the form for registration under subdivision (a), a notice that filing
22 the registration will obligate the limited liability partnership to pay
23 an annual tax for that taxable year to the Franchise Tax Board
24 pursuant to Section 17948 of the Revenue and Taxation Code.
25 That notice shall be updated annually to specify the dollar amount
26 of this tax.

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

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

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

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

5 (l) "Transact intrastate business" as used in this section means
6 to repeatedly and successively provide professional limited liability
7 partnership services in this state, other than in interstate or foreign
8 commerce.

9 (m) Without excluding other activities that may not be
10 considered to be transacting intrastate business, a foreign limited
11 liability partnership shall not be considered to be transacting
12 intrastate business merely because its subsidiary or affiliate
13 transacts intrastate business, or merely because of its status as any
14 one or more of the following:

15 (1) A shareholder of a domestic corporation.

16 (2) A shareholder of a foreign corporation transacting intrastate
17 business.

18 (3) A limited partner of a foreign limited partnership transacting
19 intrastate business.

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

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

23 (6) A member or manager of a domestic limited liability
24 company.

25 (n) Without excluding other activities that may not be considered
26 to be transacting intrastate business, a foreign limited liability
27 partnership shall not be considered to be transacting intrastate
28 business within the meaning of this subdivision solely by reason
29 of carrying on in this state any one or more of the following
30 activities:

31 (1) Maintaining or defending any action or suit or any
32 administrative or arbitration proceeding, or effecting the settlement
33 thereof or the settlement of claims or disputes.

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

36 (3) Maintaining bank accounts.

37 (4) Maintaining offices or agencies for the transfer, exchange,
38 and registration of the foreign limited liability partnership's
39 securities or maintaining trustees or depositories with respect to
40 those securities.

1 (5) Effecting sales through independent contractors.

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

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

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

9 (9) Conducting an isolated transaction that is completed within
10 180 days and not in the course of a number of repeated transactions
11 of a like nature.

12 (o) A person shall not be deemed to be transacting intrastate
13 business in this state merely because of its status as a partner of a
14 registered limited liability partnership or a foreign limited liability
15 company whether or not registered to transact intrastate business
16 in this state.

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

20 (q) Nothing in this section is intended to, or shall, augment,
21 diminish, or otherwise alter existing provisions of law, statutes,
22 or court rules relating to services by a ~~California architect,~~
23 ~~California public accountant, California engineer, California land~~
24 ~~surveyor, accountant~~ or California attorney in another jurisdiction,
25 or services by an ~~out-of-state architect,~~ out-of-state public
26 ~~accountant, out-of-state engineer, out-of-state land surveyor,~~
27 ~~accountant~~ or out-of-state attorney in California.

28 (r) An agent designated for service of process may deliver to
29 the Secretary of State, on a form prescribed by the Secretary of
30 State for filing, a signed and acknowledged written statement of
31 resignation as an agent for service of process containing the name
32 of the foreign limited liability partnership and Secretary of State's
33 file number of the foreign limited liability partnership, the name
34 of the resigning agent for service of process, and a statement that
35 the agent is resigning. On filing of the statement of resignation,
36 the authority of the agent to act in that capacity shall cease and the
37 Secretary of State shall mail or otherwise provide written notice
38 of the filing of the statement of resignation to the foreign limited
39 liability partnership at its principal office.

1 (s) The resignation of an agent may be effective if, on a form
2 prescribed by the Secretary of State containing the name and
3 Secretary of State's file number for the foreign limited liability
4 partnership and the name of the agent for service of process, the
5 agent disclaims having been properly appointed as the agent.

6 (t) If an individual who has been designated agent for service
7 of process dies or resigns or no longer resides in the state, or if the
8 corporate agent for that purpose resigns, dissolves, withdraws from
9 the state, forfeits its right to transact intrastate business, has its
10 corporate rights, powers, and privileges suspended, or ceases to
11 exist, the foreign limited liability partnership shall promptly file
12 an amended application for registration as a foreign limited liability
13 partnership designating a new agent.

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

19 (v) *This section shall become operative on January 1, 2026.*



BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.bpelsg.ca.gov

May 10, 2018

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

Re: SB 920 -- Support as amended 4/30/18

Dear Senator Lara:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) voted to support Senate Bill 920 (Cannella) as amended 4/30/18. The Board is committed to protecting the public by regulating the practices of California Professional Engineers, Land Surveyors, and Geologists.

Existing law authorizes persons licensed to engage in the practice of engineering and land surveying, to form registered limited liability partnerships and foreign limited liability partnerships if specified conditions are met. Existing law repeals these provisions on January 1, 2019. SB 920 will extend this authority for Professional Engineers and Land Surveyors to operate within their scope of licensure while conducting business as a limited liability partnership, something that they have been authorized to do since 2010, to January 1, 2026.

Thank you for your consideration of this important legislation. If you have any questions or concerns, please contact the Board's Legislative Analyst Kara Williams at 916.263.5438.

Sincerely,

Richard B. Moore, PLS
Executive Officer

Supported Legislation

SB 1098 (Cannella R) Merced

Geologists and geophysicists: fees.

Status: 6/11/2018- Re-referred to Assembly Committee on Business and Professions.

Location: 6/11/2018- Assembly Committee on Business and Professions.

Last Amend: 4/12/2018

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

Updated 6/15/18

Staff Analysis: SB 1098

Bill Summary: This bill would require the Board to fix the application fee for certification as a geologist-in-training at no more than \$100. The bill would delete a provision setting the license fee for a geologist or geophysicist and for certification in a specialty required to be paid in addition to the application fee. The bill would delete a provision limiting the examination fee for licensure as a geophysicist or certification as an engineering geologist or hydrogeologist to \$100, and would instead require the fee to be fixed at an amount equal to the Board's costs to administer the examination. The bill would delete a provision fixing the fee for a specialty geologist or specialty geophysicist at no more than \$100, and would provide that the renewal fee for a geophysicist, for each branch of professional geologist in which licensure is held, and for each certified specialty license held, is required to be no more than \$400. The bill would delete a provision fixing the amount of a duplicate certificate fee and would require the board to set all other document fees by regulation, as provided. This bill contains other related provisions.

Staff Comment: This bill is sponsored by the Board. Currently the fee structure established in the Geologist and Geophysicist Act is not appropriate for the recovery of the actual cost incurred by the Board for its services. This fee structure defined in the Geologist and Geophysicist Act is hindering the Board's ability to establish a consistent and equitable fee structure for the Board's applicants and licensees. The amendments made on April 12, 2018, were made at the request of the Board to correct inappropriate language that had been used in the original version of the bill.

Staff Recommendation: No vote needed. On 5/3/18 the Board voted to Support SB 1098 as amended 4/12/18.

Laws: An act to amend Sections 7840, 7847, 7850, 7850.1, 7850.5, 7850.6, and 7887 of the Business and Professions Code, relating to professions and vocations and making an appropriation therefor.

AMENDED IN SENATE APRIL 12, 2018

SENATE BILL

No. 1098

Introduced by Senator Cannella

February 13, 2018

An act to amend ~~Section~~ *Sections 7840, 7847, 7850, 7850.1, 7850.5, 7850.6, and 7887* of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1098, as amended, Cannella. Geologists and geophysicists: fees.

Existing law, the Geologist and Geophysicist Act, provides for the registration and regulation of geologists and geophysicists by the Board for Professional Engineers, Land Surveyors, and Geologists. ~~Existing~~ *Existing* law requires the board to fix various license, renewal, and document fees in accordance with a specified schedule. Existing law requires fees and civil penalties received pursuant to the act to be deposited in the Professional Engineer's, Land Surveyor's, and Geologist's Fund and continuously appropriates those funds to the board for purposes of the act.

This bill would require the board to fix the ~~application~~ fee for *filing an application for* certification as a geologist-in-training at no more than \$100. The bill would delete a provision setting the license fee for a geologist or geophysicist and for certification in a specialty required to be paid in addition to the application fee. The bill would delete a provision limiting the examination fee for licensure as a geophysicist or certification as an engineering geologist or hydrogeologist to \$100, and would instead require the fee to be fixed at an amount equal to the board's costs to administer the examination. The bill would ~~delete a provision fixing~~ *increase the maximum renewal* fee for a specialty

geologist or specialty geophysicist at no more than \$100, and would provide that the renewal fee for a geophysicist, for each branch of professional geologist in which licensure is held, and for each authority level designation held, is required to be no more than \$400. to \$400. The bill would delete a provision fixing the amount of a duplicate certificate fee and would require the board to set all other document fees by regulation, as provided, in an amount not to exceed a reasonable regulatory cost. The bill would make other nonsubstantive, conforming changes.

Because the bill would authorize additional fee money to be deposited into the Professional Engineer's, Land Surveyor's, and Geologist's Fund, a continuously appropriated fund, the bill would make an appropriation.

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

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

- 1 SECTION 1. Section 7840 of the Business and Professions
- 2 Code is amended to read:
- 3 7840. An application for ~~registration as a geologist or for~~
- 4 ~~registration as a geophysicist~~ licensure as a geologist, certification
- 5 in a specialty in geology, certification as a geologist-in-training,
- 6 licensure as a geophysicist, or certification in a specialty in
- 7 geophysics shall be made to the board on a form prescribed by it
- 8 and shall be accompanied by the application fee fixed by this
- 9 chapter.
- 10 SEC. 2. Section 7847 of the Business and Professions Code is
- 11 amended to read:
- 12 7847. The board, upon application therefor, on its prescribed
- 13 form, and upon the payment of the ~~application and registration~~
- 14 ~~fees~~ fee fixed by this chapter, which fees shall be retained by the
- 15 board, may issue a certificate of registration as a geologist or as a
- 16 geophysicist to a person holding an equivalent certificate of
- 17 registration as a geologist or as a geophysicist, issued to him or
- 18 her by any state or country when the applicant's qualifications
- 19 meet the other requirements of this chapter and the rules established
- 20 by the board.
- 21 SEC. 3. Section 7850 of the Business and Professions Code is
- 22 amended to read:

1 7850. Any applicant for licensure as a professional geologist
 2 who meets all the requirements prescribed in Section 7841 and
 3 who has otherwise qualified hereunder as a ~~geologist, upon~~
 4 ~~payment of the registration fee fixed by this chapter,~~ *geologist*
 5 shall have a certificate of registration issued to him or her as a
 6 professional geologist.

7 *SEC. 4. Section 7850.1 of the Business and Professions Code*
 8 *is amended to read:*

9 7850.1. Any applicant for licensure as a professional
 10 geophysicist who meets all the requirements prescribed in Section
 11 7841.1 and who has otherwise qualified hereunder as a
 12 ~~geophysicist, upon payment of the registration fee fixed by this~~
 13 ~~chapter,~~ *geophysicist* shall have a certificate of registration issued
 14 to him or her as a professional geophysicist.

15 *SEC. 5. Section 7850.5 of the Business and Professions Code*
 16 *is amended to read:*

17 7850.5. An applicant for certification as a certified specialty
 18 geologist who meets all the requirements prescribed in Section
 19 7842 and who has otherwise qualified under this chapter in the
 20 ~~specialty, upon payment of the fee fixed by this chapter,~~ *specialty*
 21 shall have a certificate issued to him or her as a certified specialty
 22 geologist.

23 A certificate of certified specialty geologist shall be signed by
 24 the president and executive officer and issued under the seal of
 25 the board.

26 *SEC. 6. Section 7850.6 of the Business and Professions Code*
 27 *is amended to read:*

28 7850.6. An applicant who has passed the examination for a
 29 certified specialty geophysicist and has otherwise qualified under
 30 this chapter in the ~~specialty, upon payment of the fee fixed by this~~
 31 ~~chapter~~ *specialty* shall have a certificate issued to him or her as a
 32 certified specialty geophysicist. A certificate of certified specialty
 33 geophysicist shall be signed by the president and executive officer
 34 and issued under the seal of the board.

35 SECTION 1.

36 *SEC. 7. Section 7887 of the Business and Professions Code is*
 37 *amended to read:*

38 7887. The amount of the fees prescribed by this chapter shall
 39 be fixed by the board in accordance with the following schedule:

(a) The fee for filing ~~each~~ *an* application for licensure as a geologist or a geophysicist or certification as a specialty geologist or a specialty geophysicist ~~and for administration of the examination~~ shall be fixed at not more than two hundred fifty dollars (\$250). The ~~filing~~ fee for *filing* an application for certification as a geologist-in-training shall be fixed at not more than one hundred dollars (\$100).

(b) The renewal fee for a ~~geophysicist, for each branch of professional geologist in which licensure is held, and for each authority level designation held,~~ *geologist or for a geophysicist* shall be fixed at not more than four hundred dollars (\$400).

(c) *The renewal fee for a specialty geologist or for a specialty geophysicist shall be fixed at not more than four hundred dollars (\$400).*

(e)

(d) 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.

(d)

(e) Each applicant for licensure as a geologist shall pay an examination fee fixed at an amount equal to the actual cost to the board to administer the examination described in subdivision (d) of Section 7841, unless an applicant pays the examination fee directly to an organization pursuant to Section 7844.

(e)

(f) Each applicant for licensure 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.

(f)

(g) The fee for a retired license shall be fixed at not more than 50 percent of the fee for filing an application for licensure as a geologist or a geophysicist in effect on the date of application for a retired license.

(g)

- 1 *(h)* All other document fees shall be established by the board
- 2 by regulation and shall be set in an amount not to exceed a
- 3 reasonable regulatory cost.



BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.bpelsg.ca.gov



April 10, 2018

The Honorable Jerry Hill
Chair, Senate Business, Professions and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

Re: Support of SB 1098

Dear Chairman Hill:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted to **SUPPORT** Senate Bill 1098.

Existing law requires the Board to fix various license, renewal, and document fees in accordance with a specified schedule. Existing law requires fees and civil penalties received pursuant to the act to be deposited in the Professional Engineer's, Land Surveyor's, and Geologist's Fund and continuously appropriates those funds to the Board for purposes of the Acts.

SB 1098 seeks to realign the Board's fee structure to address a structural fee imbalance. The actual cost incurred by the Board in exercising its licensing, regulatory, and disciplinary functions is generally the same for all professions. However, the fee structure outlined in the Geologist and Geophysicist Act hinders the Board from establishing a consistent and equitable fee structure for all the Board's applicants and licensees because the fee structure founded in the Geologist and Geophysicist Act prohibits the Board from recovering the actual costs incurred by the Board for the services provided to licensees and applicants.

Please join us in supporting this important legislation.

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

Sincerely,

A handwritten signature in cursive script, likely of Richard B. Moore, is positioned above the printed name.

Richard B. Moore, PLS
Executive Officer

Watched Legislation
AB 767 (Quirk-Silva) Buena Park
GO-Biz Information Technology.

Status: 6/18/18 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Committee on Business, Professions and Economic Development.

Location: 3/15/2018-Senate Business, Professions and Economic Development.

Last Amend: 6/18/2018

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

Updated 6/19/18
Staff Analysis: AB 767

Bill Summary:

Existing law requires GO-Biz to establish an electronic online permit assistance center, called the California Government Online to Desktops (CalGold), through the Internet for use by any business or entity subject to a law or regulation to assist that business or entity with complying with those laws or regulations. Existing law requires CalGold to be reviewed periodically, as specified.

This bill would, among other things, provide for a GO-Biz Information Technology Unit within GO-Biz, which would create an online Internet platform, called the California Business Development Portal, that is comprised of 3 elements, including economic and business development-related digital information, the systems and processes used to manage that information, and a public interface capability, as prescribed.

The bill would recast provisions related to CalGold, renaming the center the Master Business License Center, and requiring GO-Biz Information Technology to establish an electronic online permit assistance center. The bill would establish, beginning in the 2018–19 fiscal year, 2 state civil service positions for the purposes of supporting the ongoing enhancement of the functionality of the California Business Development Portal, including the Master Business License Center, the California Business Navigator, the California Business Mapping Tool, digital resources, and other online products that improve the state government’s digital ecosystem..

Staff Comment: This bill would require the board to provide direct links to information about its licensing, permitting, and registration requirements and fee schedule to the GO-Biz office..

Staff Recommendation: Staff recommends the Board vote to watch AB 767 as amended 6/18/18.

Laws: An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

AMENDED IN SENATE JUNE 18, 2018

AMENDED IN SENATE APRIL 5, 2018

AMENDED IN ASSEMBLY MAY 3, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Quirk-Silva

February 15, 2017

An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of amend Section 12096.3 of, to amend, renumber, and add Section 12097.1 of, to add Section 12097.2 to, and to add Article 4.3 (commencing with Section 12096.6) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, the Government Code, and to repeal Sections 71040 and 71041 of the Public Resources Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Quirk-Silva. ~~Master Business License Act. GO-Biz Information Technology.~~

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor's Office of Business and Economic Development (*GO-Biz*) to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small businesses and to provide small businesses with the information they need to survive in the marketplace.

~~This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and provide reasonable assistance to the office to implement these provisions, except as specified.~~

~~This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the businesses to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize the office to borrow up to \$140,000 from the General Fund, as specified. The bill would authorize a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system to borrow money as needed from the General Fund to support the reasonable costs of integrating into the system, as specified. The bill would require these General Fund moneys to be deposited into the Master License Fund. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.~~

~~The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.~~

~~The bill would also require the office, including the Director of Small Business Advocate, to work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system.~~

Existing law requires GO-Biz to establish an electronic online permit assistance center, called the California Government Online to Desktops (CalGold), through the Internet for use by any business or entity subject to a law or regulation to assist that business or entity with complying with those laws or regulations. Existing law requires CalGold to be reviewed periodically, as specified.

This bill would, among other things, provide for a GO-Biz Information Technology Unit within GO-Biz, which would create an online Internet platform, called the California Business Development Portal, that is comprised of 3 elements, including economic and business development-related digital information, the systems and processes used to manage that information, and a public interface capability, as prescribed.

The bill would recast provisions related to CalGold, renaming the center the Master Business License Center, and requiring GO-Biz Information Technology to establish an electronic online permit assistance center. The bill would establish, beginning in the 2018–19 fiscal year, 2 state civil service positions for the purposes of supporting the ongoing enhancement of the functionality of the California Business Development Portal, including the Master Business License Center, the California Business Navigator, the California Business Mapping Tool, digital resources, and other online products that improve the state government's digital ecosystem.

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

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

- 1 SECTION 1. *The Legislature finds and declares the following:*
- 2 (a) *The Information Technology unit of GO-Biz develops,*
- 3 *maintains, and updates information technology solutions for*
- 4 *GO-Biz programs aimed at furthering GO-Biz's goal of economic*
- 5 *growth for California.*
- 6 (b) *Since September 2013, the GO-Biz Information Technology*
- 7 *Application Portfolio has grown from one information technology*
- 8 *staff member and four supported applications to six information*
- 9 *technology staff members and sixteen supported applications.*
- 10 (c) *Each new GO-Biz application needs to be regularly updated*
- 11 *and fourteen of the sixteen applications are public facing and play*

1 *an important role in supporting business development in California*
 2 *including, but not limited to, all of the following:*

- 3 (1) *The GO-Biz Internet Web site.*
- 4 (2) *The California Business Portal.*
- 5 (3) *The California Competes Tax Credit application.*
- 6 (4) *The CalGold Permit Assistance Tool.*
- 7 (5) *The California Business Navigator.*
- 8 (6) *CA Made.*
- 9 (7) *The California Business Service Desk.*
- 10 (8) *The IBank Application Portal.*
- 11 (9) *The California Financing Coordinating Committee.*
- 12 (10) *The GO-Biz Salesforce.*
- 13 (11) *The California Business Mapping Tool.*

14 (d) *According to an Accenture survey, more than 65% of public*
 15 *service leaders have cited creating a personalized citizen*
 16 *experience as a priority.*

17 (e) *As the home of the world's most creative information*
 18 *technology companies, California should also be a leader in digital*
 19 *government technologies. The California Business Portal brings*
 20 *the state into alignment with other nations and states that are*
 21 *embracing innovation and the Internet of Things to meet business*
 22 *development challenges at scale while still providing the*
 23 *individualized experience that meets a business's unique needs.*

24 SEC. 2. *Section 12096.3 of the Government Code is amended*
 25 *to read:*

26 12096.3. The office shall serve the Governor as the lead entity
 27 for economic strategy and the marketing of California on issues
 28 relating to business development, private sector investment, and
 29 economic growth. In this capacity, the office may:

30 (a) Recommend to the Governor and the Legislature new state
 31 policies, programs, and actions, or amendments to existing
 32 programs, advance statewide economic goals and respond to
 33 emerging economic problems and opportunities, and ensure that
 34 all state policies and programs conform to the adopted state
 35 economic and business development goals.

36 (b) Coordinate the development of policies and criteria to ensure
 37 that federal grants administered or directly expended by state
 38 government advance statewide economic goals and objectives.

39 (c) Market the business and investment opportunities available
 40 in California by working in partnership with local, regional, federal,

1 and other state public and private institutions to encourage business
2 development and investment in the state.

3 (d) Provide, including, but not limited to, all of the following:

4 (1) Economic and demographic data.

5 (2) Financial information to help link businesses with state and
6 local public and private programs.

7 (3) Workforce information, including, but not limited to, labor
8 availability, training, and education programs.

9 (4) Transportation and infrastructure information.

10 (5) Assistance in obtaining state and local permits.

11 (6) Information on tax credits and other incentives.

12 (7) Permitting, siting, and other regulatory information pertinent
13 to business operations in the state.

14 (e) Establish a well-advertised telephone number, an *online*
15 *interactive and high-performance* Internet ~~Web site, platform,~~ and
16 an administrative structure that effectively supports the facilitation
17 of business development and investment in the state.

18 (f) Encourage collaboration among research institutions, startup
19 companies, local governments, venture capitalists, and economic
20 development agencies to promote innovation.

21 (g) In cooperation with ~~the federal government,~~ *other state,*
22 *federal, and local governments,* foster relationships with ~~overseas~~
23 *foreign and domestic* entities to improve the state's image as a
24 destination for *global* business investment and expansion.

25 (h) Conduct research on the state's business climate, including,
26 but not limited to, research on how the state can remain on the
27 leading edge of innovation and emerging sectors.

28 (i) Support small businesses by providing information about
29 accessing capital, complying with regulations, and supporting state
30 initiatives that support small business.

31 *SEC. 3. Article 4.3 (commencing with Section 12096.7) is added*
32 *to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government*
33 *Code, to read:*

34
35 *Article 4.3. GO-Biz Information Technology*

36
37 *12096.7. (a) There shall be within the office, the GO-Biz*
38 *Information Technology Unit, which shall create an online Internet*
39 *platform, called the California Business Development Portal.*

1 **(b)** *The Business Development Portal shall be an online platform*
2 *that is comprised of three distinct elements, including economic*
3 *and business development-related digital information, the systems*
4 *and processes used to manage that information, and a public*
5 *interface capability, which includes, but is not limited to, all of*
6 *the following:*

7 **(1)** *Storing, retrieving, and exchanging economic and business*
8 *development-related digital information with due regard to privacy*
9 *statutes.*

10 **(2)** *An information service detailing business incentives,*
11 *financing, workforce training, geographic regions in the state,*
12 *and requirements to establish or engage in business in this state.*

13 **(3)** *Identification and retrieval of economic and business*
14 *development digital information appropriate for a variety of*
15 *business types, including sole proprietorships, partnerships,*
16 *associations, cooperatives, corporations, nonprofit organizations,*
17 *and social enterprises.*

18 **(4)** *Identification and retrieval of economic and business*
19 *development digital information useful for state, federal, and local*
20 *government agencies and other entities that support economic and*
21 *business development activities in California.*

22 **(5)** *Accessibility through a variety of electronic presentation*
23 *formats, including Internet Web sites, mobile applications, and*
24 *other modes of delivery.*

25 **(6)** *A service or application for an individual, business, or other*
26 *interested party to establish an online account that enhances the*
27 *ability to conduct business or economic development activities in*
28 *California.*

29 **(c)** *The office, in developing new programs or services, shall*
30 *consider the added value of having all or portions of a program*
31 *and service accessed digitally, including, but not limited to,*
32 *undertaking outreach, filing applications, and submitting progress*
33 *and outcome reports to the office.*

34 **(d)** *The office shall adopt and periodically update a schedule*
35 *for the buildout and upgrading of the California Business*
36 *Development Portal. The office shall undertake activities on the*
37 *schedule after the director determines that funding for this project*
38 *is available and the project is in alignment with required elements*
39 *of the state planning practices for the development of state*
40 *information technology projects.*

12096.8. *Beginning in the 2018–19 fiscal year, there shall be two additional state civil service positions in the GO-Biz Information Technology Unit for the purposes of supporting the ongoing enhancement of the functionality of the California Business Development Portal, including the Master Business License Center, the California Business Navigator, the California Business Mapping Tool, digital resources, and other online products that improve the state government's digital ecosystem.*

SEC. 4. *Section 12097.1 of the Government Code is amended and renumbered to read:*

~~12097.1.~~

12097.2. (a) The director shall ensure that the office's Internet Web site contains information on the licensing, permitting, and registration requirements of state agencies, and shall include, but not be limited to, information that does all of the following:

(1) Assists individuals with identifying the type of applications, forms, or other similar documents an applicant may need.

(2) Provides a direct link to a digital copy of all state licensing, permitting, and registration applications, forms, or other similar documents where made available for download.

(3) Instructs individuals on how and where to submit applications, forms, or other similar documents.

(b) The director shall ensure that the office's Internet Web site contains information on the fee requirements and fee schedules of state agencies, and shall include, but not be limited to, information that does all of the following:

(1) Assists individuals with identifying the types of fees and their due dates.

(2) Provides direct links to the fee requirements and fee schedules for all state agencies, where made available for download.

(3) Instructs individuals on how and where to submit payments.

(c) The office shall ensure that the Internet-~~Web site~~ *platform* is user-friendly and provides accurate, updated information.

(d) (1) Each state agency that has licensing, permitting, or registration authority shall provide direct links to information about its licensing, permitting, and registration requirements and fee schedule to the office.

(2) A state agency shall not use the Internet-~~Web site~~ *platform* established under this section as the exclusive source of information

1 for the public to access licensing requirements and fees for that
2 agency.

3 (e) The office may impose a reasonable fee, not to exceed the
4 actual cost to provide the service, as a condition of accessing
5 information on the Internet Web site established under subdivisions
6 (a) and (b).

7 *SEC. 5. Section 12097.1 is added to the Government Code, to*
8 *read:*

9 *12097.1. (a) The GO-Biz Information Technology Unit shall*
10 *establish an electronic online government permit and license*
11 *assistance center through the Internet, which shall be known as*
12 *the Master Business License Center. The Master Business License*
13 *Center shall be available for use by any business or other entity*
14 *subject to a law or regulation implemented by an agency, authority,*
15 *bureau, board, commission, conservancy, council, department, or*
16 *office, and shall provide a business or other entity with assistance*
17 *in complying with those laws and regulations.*

18 *(b) The Master Business License Center shall provide special*
19 *software, hotlinks, and other online resources and tools that may*
20 *be used by a business or other entity to streamline and expedite*
21 *compliance with laws and regulations implemented by an agency,*
22 *authority, bureau, board, commission, conservancy, council,*
23 *department, or office.*

24 *(c) The Master Business License Center shall, to the extent*
25 *feasible, incorporate permit assistance activities of local and*
26 *federal entities and of other entities of the state into its operations.*

27 *SEC. 6. Section 71040 of the Public Resources Code is*
28 *repealed.*

29 ~~71040. The Governor's Office of Business and Economic~~
30 ~~Development shall establish an electronic online permit assistance~~
31 ~~center through the Internet. The electronic online permit assistance~~
32 ~~center shall be available for use by any business or other entity~~
33 ~~subject to a law or regulation implemented by an agency, authority,~~
34 ~~bureau, board, commission, conservancy, council, department,~~
35 ~~state district, or office, and shall provide a business or other entity~~
36 ~~with assistance in complying with those laws and regulations. The~~
37 ~~center, which shall be called the "California Government-On Line~~
38 ~~to Desktops" or "CALGOLD" program, shall provide special~~
39 ~~software, "hotlinks," and other online resources and tools that may~~
40 ~~be used by a business or other entity to streamline and expedite~~

1 compliance with laws and regulations implemented by an agency,
 2 authority, bureau, board, commission, conservancy, council,
 3 department, state district, or office. The CALGOLD program shall,
 4 to the extent feasible, incorporate permit assistance activities of
 5 local and federal entities and of other entities of the state into its
 6 operations.

7 *SEC. 7. Section 71041 of the Public Resources Code is*
 8 *repealed.*

9 ~~71041. The CALGOLD program shall be reviewed periodically~~
 10 ~~and, when necessary, updated to assist businesses in the state that~~
 11 ~~would benefit from information on permitting and regulatory~~
 12 ~~compliance, including emerging industries and life sciences~~
 13 ~~industries.~~

14 ~~SECTION 1. Part 12.5 (commencing with Section 15930) is~~
 15 ~~added to Division 3 of Title 2 of the Government Code, to read:~~

16
 17 **PART 12.5. MASTER BUSINESS LICENSE ACT**

18
 19 **CHAPTER 1. GENERAL PROVISIONS**

20
 21 ~~15930. This part may be known, and may be cited as, the~~
 22 ~~Master Business License Act.~~

23 ~~15931. As used in this part, the following words shall have the~~
 24 ~~following meanings:~~

25 (a) ~~“Business license center” means the business registration~~
 26 ~~and licensing center established by this part and located in and~~
 27 ~~under the administrative control of the office.~~

28 (b) ~~“Director” means the Director of the Governor’s Office of~~
 29 ~~Business and Economic Development.~~

30 (c) ~~“License information packet” means a collection of~~
 31 ~~information about licensing requirements and application~~
 32 ~~procedures custom assembled for each request.~~

33 (d) ~~“License” means the whole or part of any state agency~~
 34 ~~permit, license, certificate, approval, registration, charter, or any~~
 35 ~~form or permission required by law, including agency regulation,~~
 36 ~~to engage in any activity.~~

37 (e) ~~“Master application” means a document incorporating~~
 38 ~~pertinent data from existing applications for licenses covered under~~
 39 ~~this part.~~

(f) ~~“Master business license system” or “system” means the mechanism by which licenses are issued, license and regulatory information is disseminated, and account data is exchanged by state agencies.~~

(g) ~~“Office” means the Governor’s Office of Business and Economic Development or its successor.~~

(h) ~~“Person” means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.~~

(i) ~~“Regulatory” means all licensing and other governmental or statutory requirements pertaining to business activities.~~

(j) ~~“Regulatory agency” means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.~~

CHAPTER 2. BUSINESS LICENSE CENTER

15932. (a) ~~There is created within the office a business license center.~~

(b) ~~The duties of the center shall include, but not be limited to, all of the following:~~

(1) ~~Developing and administering an online master business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes.~~

(2) ~~Providing a license information service detailing requirements to establish or engage in business in this state.~~

(3) ~~Identifying types of licenses appropriate for inclusion in the master business license system.~~

(4) ~~Incorporating licenses into the master business license system.~~

15933. (a) ~~The office shall adopt regulations as may be necessary to effectuate the purposes of this part.~~

(b) ~~The director shall encourage state regulatory agencies to participate in the online master business license system.~~

(c) ~~The office shall adopt and periodically update a schedule for the buildout and upgrading of the master business license system to allow for the integration of additional licenses into the~~

Internet-based platform of the system. The office shall integrate additional licenses to the Internet-based platform after the director determines that funding for this project is available and the project is in alignment with required elements of the state planning practices for the development of state information technology projects.

15934. Each state regulatory agency shall cooperate and provide reasonable assistance to the office in the implementation of this part, except that a state regulatory agency may deny or limit the ability of the office to establish an application to obtain multiple licenses from that state regulatory agency through the system.

CHAPTER 3. MASTER LICENSE

15935. (a) Any person that applies for two or more business licenses that have been incorporated into the master business license system may submit a master application to the office requesting the issuance of the licenses. The office shall develop and adopt an Internet-based platform that allows the business to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee established pursuant to Section 15936.

(b) Irrespective of any authority delegated to the office to implement this part, the authority for approving the issuance and renewal of any requested license that requires a preclicensing or renewal investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the license shall remain with that agency.

(c) Upon receipt of the application and proper fee payment for any license for which issuance is subject to regulatory agency action under subdivision (a), the office shall immediately notify the business of receipt of the application and fees.

15936. (a) The office shall establish a fee for each master application that does not exceed the reasonable costs of administering this part and collect that fee.

(b) Subject to subdivision (d), the office may borrow up to one hundred forty thousand dollars (\$140,000) from the General Fund in the State Treasury.

~~(e) Subject to subdivision (d), a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system may borrow money from the General Fund in the State Treasury in an amount necessary to support the reasonable cost of integrating into the system.~~

~~(d) Before the office or a state agency may request a loan pursuant to this section, the director shall make a determination that both the project to integrate a license into the system is ready to be moved forward and that with the addition of the loan funds there is sufficient funding to implement the project. The loans made pursuant to subdivisions (b) and (c) shall be repaid with interest, calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer from the General Fund, from the fees collected pursuant to this section.~~

~~15937. All fees collected under the master business license system, including the master license application fee and the fees of the regulatory agencies, and all moneys borrowed under Section 15936 shall be deposited into the Master License Fund, which is hereby created in the State Treasury. Moneys in the fund from master application fees may, upon appropriation by the Legislature, be expended only to administer this part or be transferred to the appropriate licensing agencies. Moneys in the fund from other fees shall be transferred to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.~~

~~CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER~~

~~15940. (a) The office, in consultation with other regulatory agencies, shall establish a uniform business identification number for each business. The uniform business identification number shall be recognized by all affected state agencies and shall be used by state agencies to facilitate information sharing between state agencies and to improve customer service to businesses.~~

~~(b) It is the intent of the Legislature that the uniform business number would permit the office to do both of the following:~~

~~(1) Register a business with multiple state agencies electronically as licenses and permits are processed.~~

1 ~~(2) Input and update information regarding a business once,~~
2 ~~thereby reducing the number of duplicate or conflicting records~~
3 ~~from one state agency to another.~~

4
5 ~~CHAPTER 5. OVERSIGHT~~
6

7 ~~15945. The office, including the Director of Small Business~~
8 ~~Advocate from the Governor's Office of Business and Economic~~
9 ~~Development shall work with small business owners and all~~
10 ~~regulatory agencies to ensure the state's implementation of a~~
11 ~~consolidated business license and permit system under this part.~~

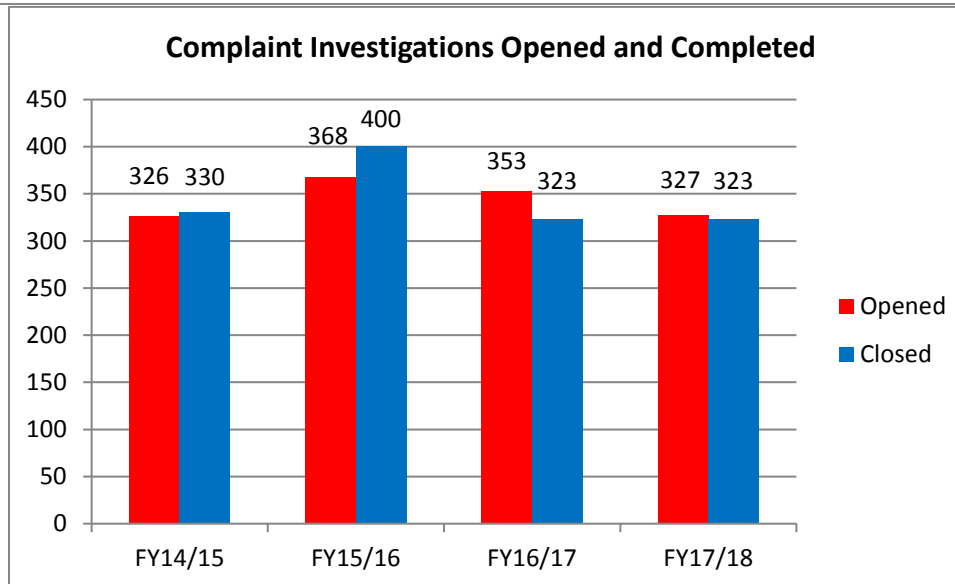
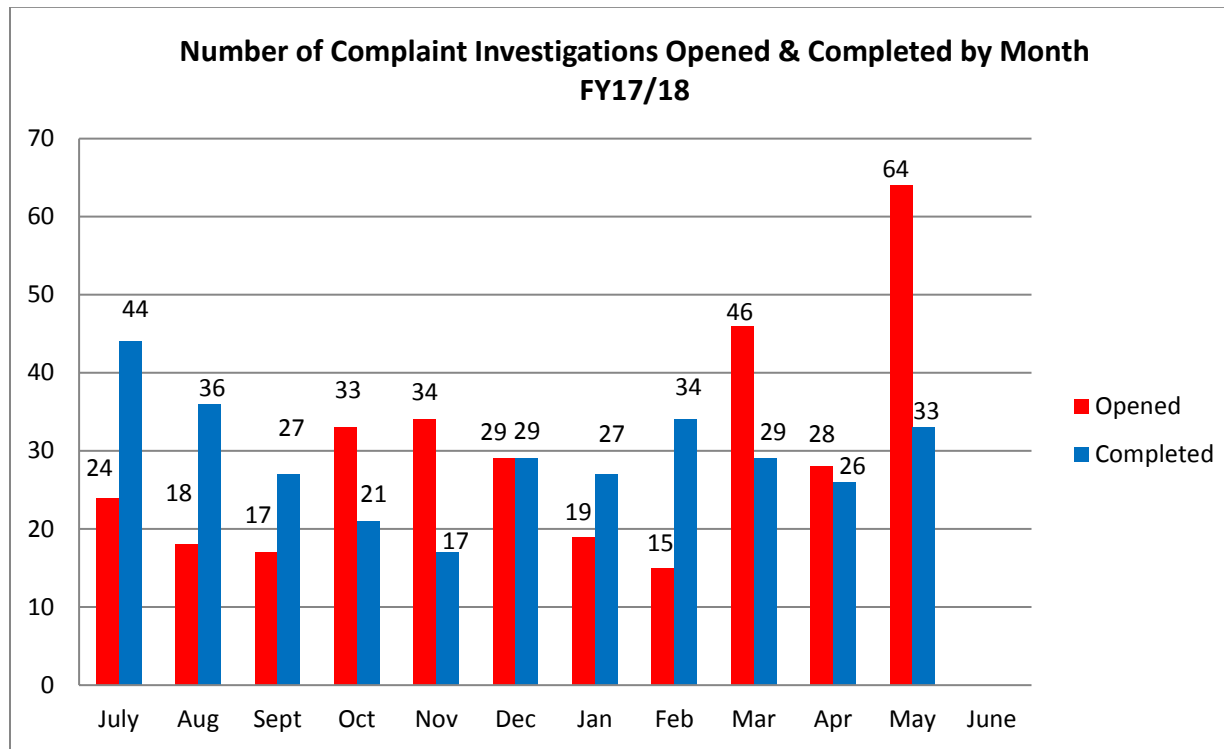
O

VIII. Update from the Department of Consumer Affairs (DCA)

IX. Enforcement

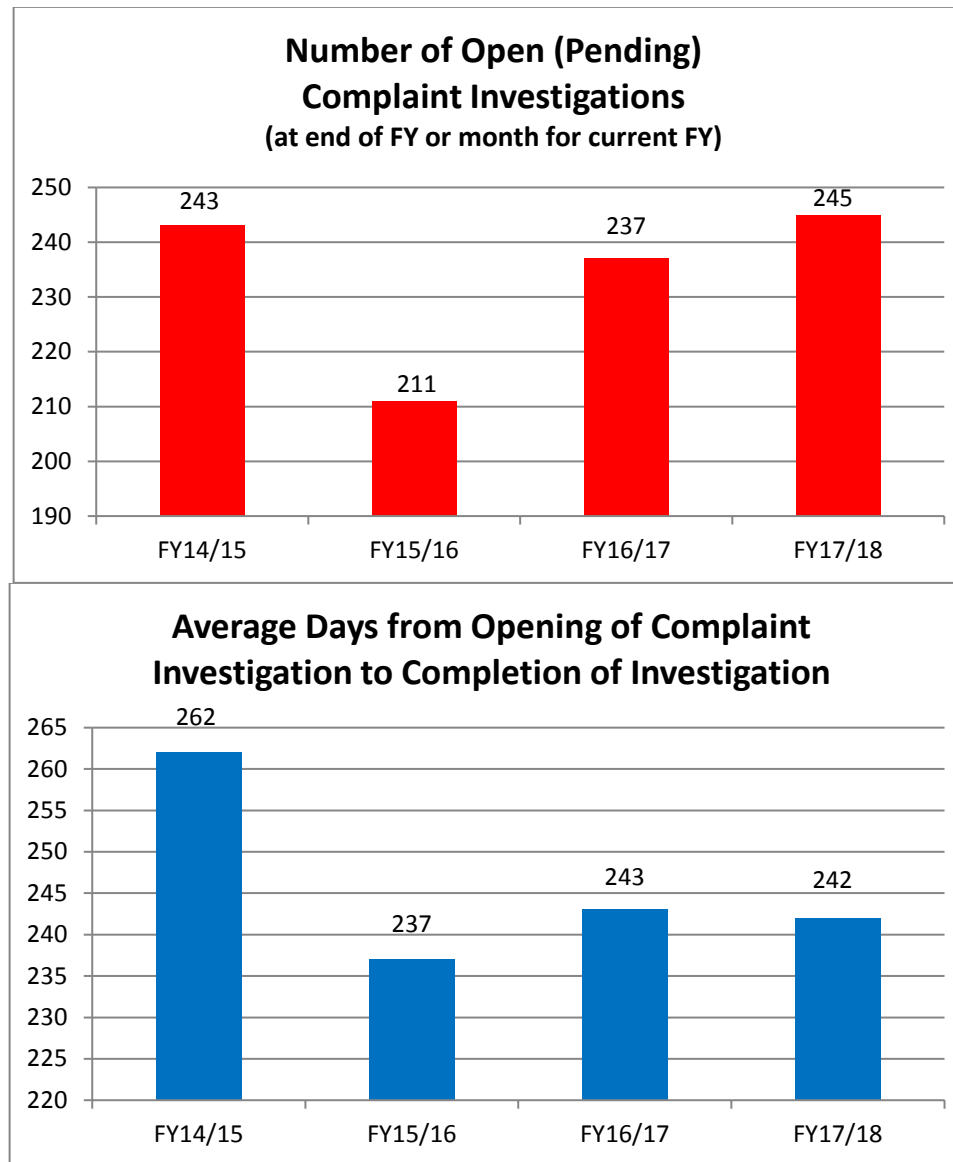
- A. Enforcement Statistical Reports
 - 1. Fiscal Year 2017/18 Update

Complaint Investigation Phase



NOTE: FY17/18 statistics are through May 31, 2018

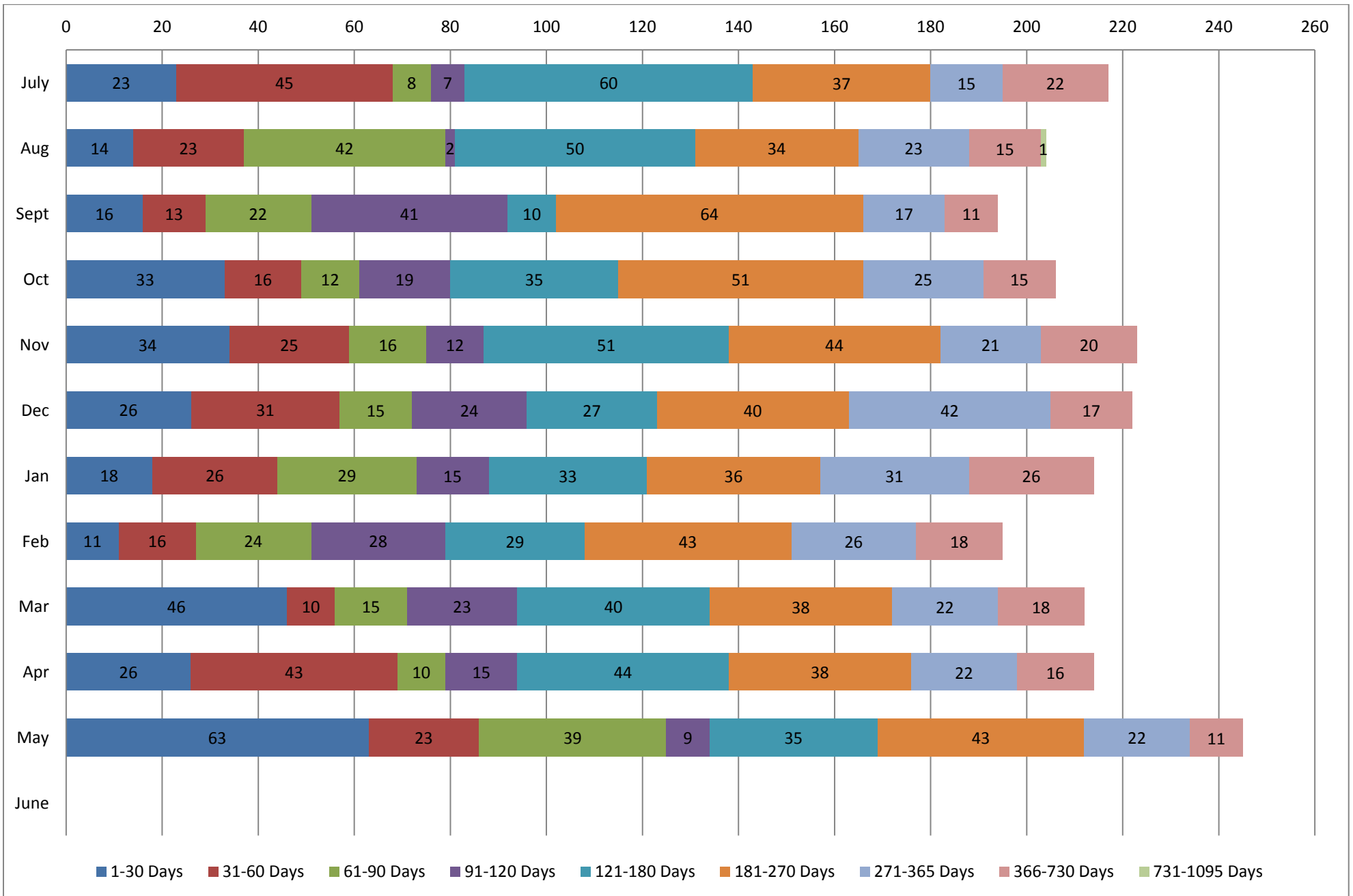
Complaint Investigation Phase



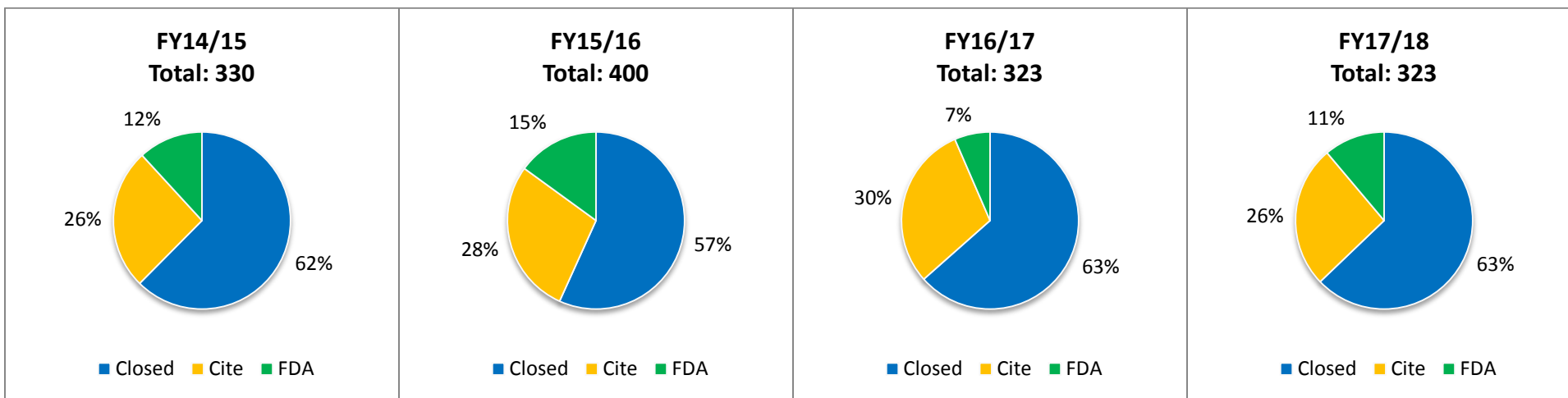
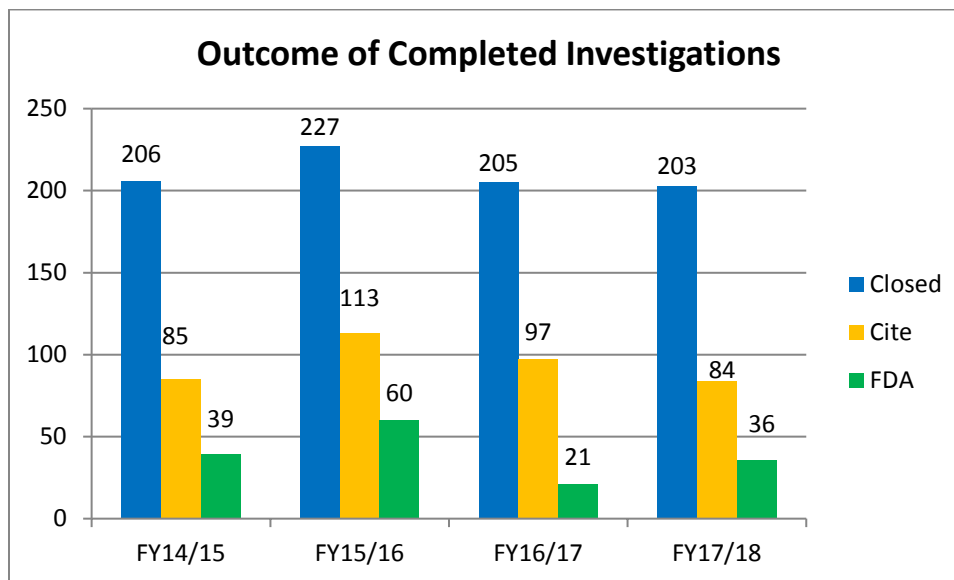
NOTE: FY17/18 statistics are through May 31, 2018

Complaint Investigation Phase

Aging of Open (Pending) Complaint Investigation Cases – FY17/18



Complaint Investigation Phase Outcome of Completed Investigations



NOTE: FY17/18 statistics are through May 31, 2018

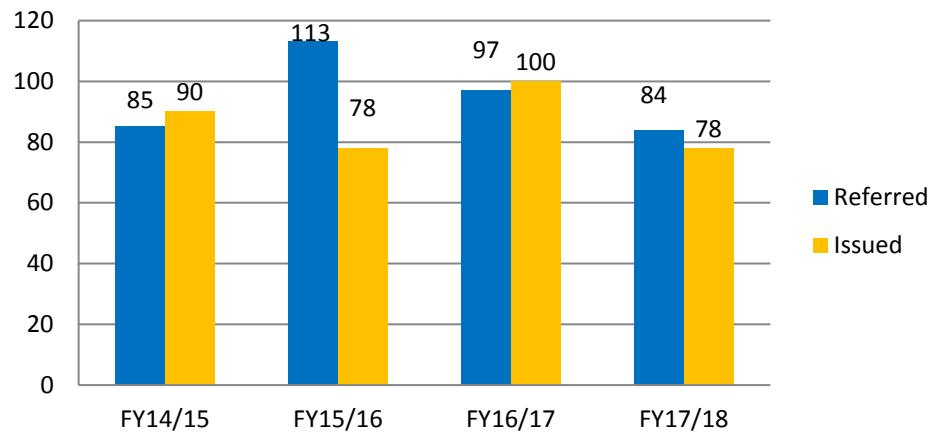
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

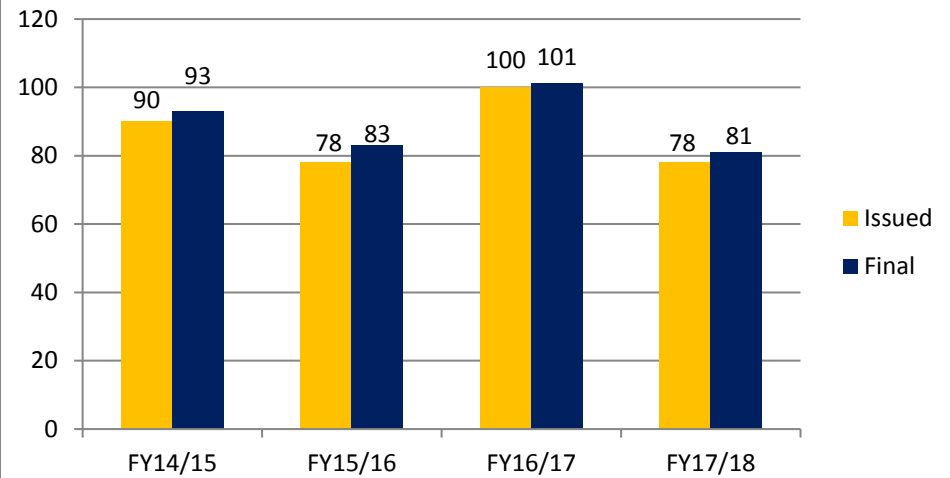
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)

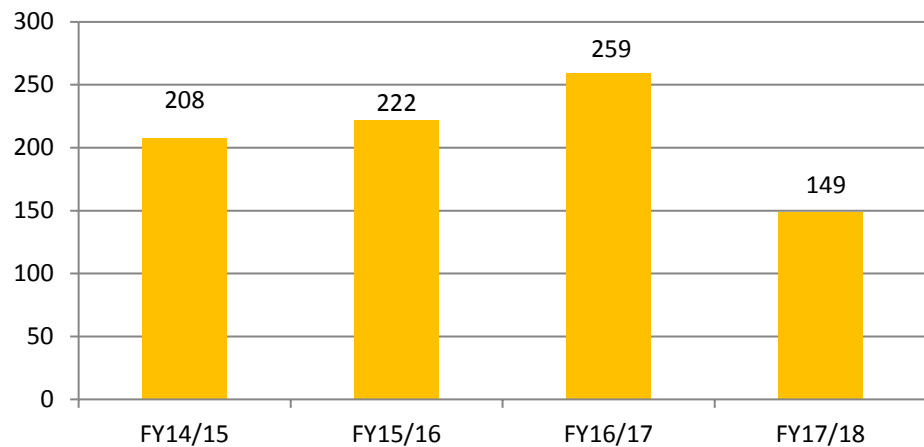
Number of Complaint Investigations Referred and Number of Citations Issued



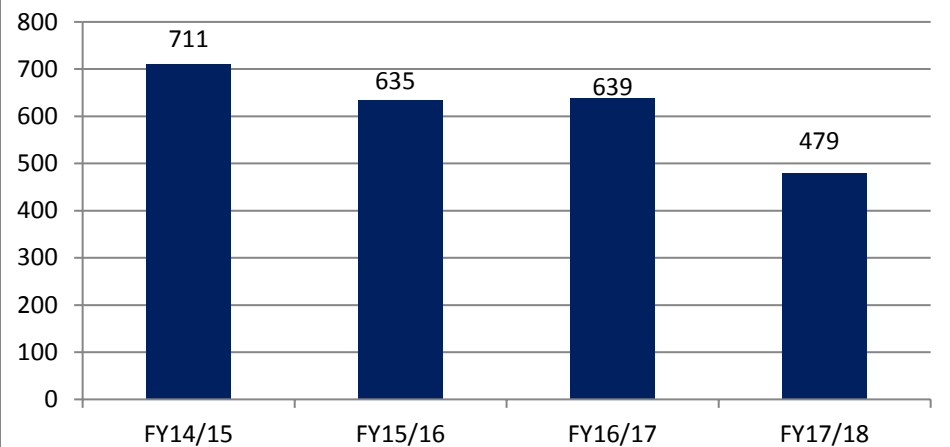
Number of Citations Issued and Final



Average Days Between Date of Issuance of Citation and Date Citation Becomes Final

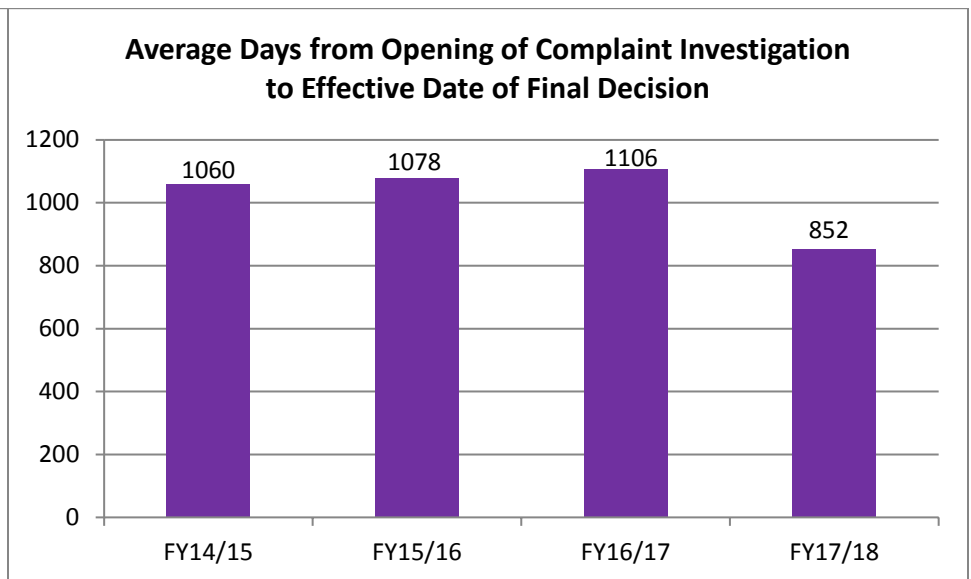
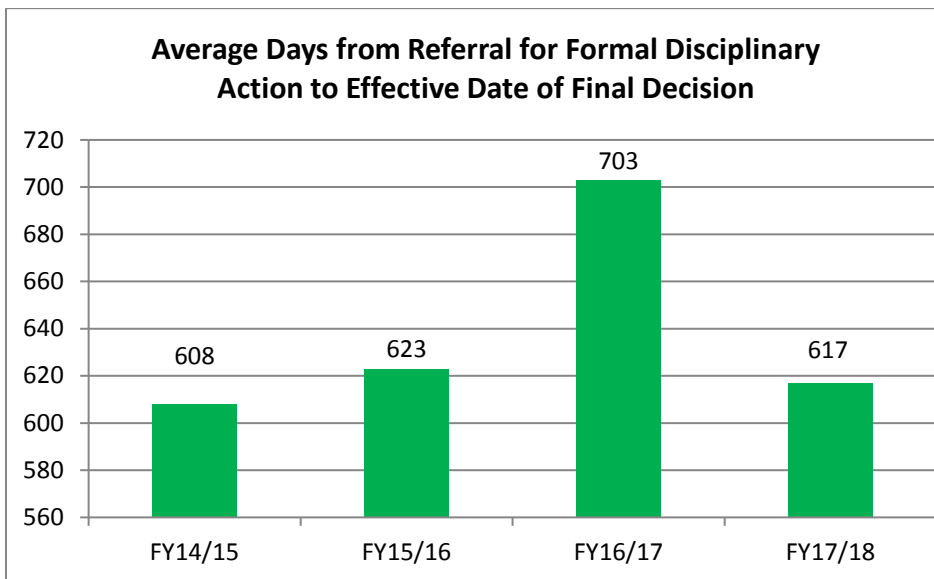
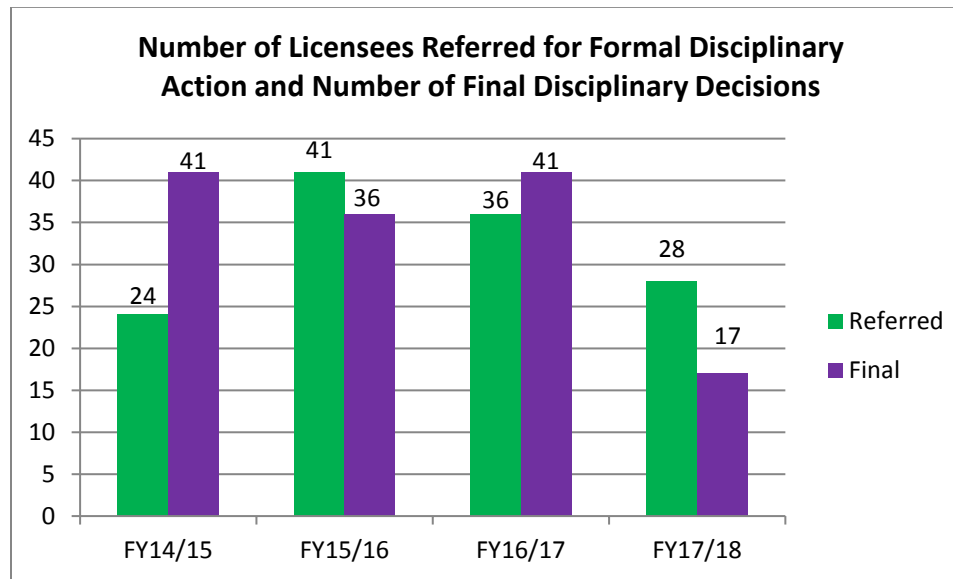


Average Days from Opening of Complaint Investigation to Date Citation Becomes Final



NOTE: FY17/18 statistics are through May 31, 2018

Formal Disciplinary Actions Against Licensees



NOTE: FY17/18 statistics are through May 31, 2018

X. Exams/Licensing

A. Update on 2018 - First and Second Quarter Examinations

2018 CALIFORNIA STATE EXAMINATIONS

CIVIL ENGINEER EXAMINATIONS - QUARTER 2

Three Month Window (April 2018 - June 2018)

<u>Quarter 2 Totals</u>				<u>April</u>		<u>May</u>		<u>June</u>	
	<u>Total Candidates Approved for Q2</u>	<u>Total Scheduled</u>	<u>Have Yet to Schedule</u>	<u>Scheduled for April</u>	<u>Tested in April</u>	<u>Scheduled for May</u>	<u>Tested in May</u>	<u>Scheduled for June</u>	<u>Tested in June</u>
Seismic Principles (CSP)	1,557	1,417	140	299	293	401	385	717*	124*
Engineering Surveying (CES)	1,429	1,324	105	268	262	370	352	686*	129*

* As of 6/13/18

LAND SURVEYOR EXAMINATION - SPRING

One-Day Administration (April 19, 2018)

	<u>Total Candidates Approved for Spring</u>	<u>Total Scheduled</u>	<u>Did Not Take</u>	<u>Total Tested</u>
Land Surveyor (LS)	140	133	7	129

GEOTECHNICAL ENGINEER EXAMINATION - SPRING

15-day Window (May 1, 2018 - May 15, 2018)

	<u>Total Candidates Approved for Spring</u>	<u>Total Scheduled</u>	<u>Did Not Take</u>	<u>Total Tested in May</u>
Geotechnical Engineer (GE)	45	42	3	39

Professional Geologist Examinations- Spring 2018

FG/PG Administration (March 16, 2018)

CSE Administration (March 8, 2018)

	<u>Total Candidates Approved for Spring</u>	<u>Total Scheduled</u>	<u>Did Not Take</u>	<u>Total Tested</u>
Fundamentals of Geology (FG)	137	137	32	105
Practice of Geology (PG)	71	71	10	61
California Specific Examination (CSE)	110	105	8	102

XI. Executive Officer's Report

- A. Rulemaking Status Report
- B. Update on Board's Business Modernization Report
- C. Sunset Review (Possible Action)
- D. Personnel
- E. ABET
- F. Association of State Boards of Geology (ASBOG)
- G. National Council of Examiners for Engineering and Surveying (NCEES)
 - 1. Annual Meeting Motions & Resolutions (Possible Action)
 - a. Advisory Committee on Council Activities (ACCA) Motions 6 and 7 – Relating to Financial Policies 3B and 3C, Travel Expenses
 - b. ACCA Motion 8 – Relating to Bylaws 7.02, Advisory Committee on Council Activities
 - c. Committee on Examination Policy and Procedures (EPP) Motion 1 – Relating to Bylaws 7.08, Committee on Examination Policy and Procedures
 - d. Committee on Examinations for Professional Engineers (EPE) Motion 1 – Relating to Bylaws 7.06, Committee on Examinations for Professional Engineers
 - e. Committee on Examinations for Professional Surveyors (EPS) Motion 1 – Relating to Bylaws 7.07, Committee on Examinations for Professional Surveyors.
 - f. Committee on Finances Motion 3 – Relating to Member Board Membership Fees
 - g. Committee on Member Board Administrators (MBA) Motion 1 – Relating to Bylaws 7.11, Committee on Member Board Administrators
 - h. Committee on Uniform Procedures and Legislative Guidelines (UPLG) Motion 6 – Relating to Model Law 120.20, Board Qualifications
 - i. UPLG Motion 20 – Relating to Model Laws and Model Rules Sections Pertaining to Structural Engineering Licensure
 - j. Technology Task Force Motion 3 – Relating to Building Information Modeling (BIM) Guidelines
 - k. Board of Directions Motion 1 – Relating to the Term of Office of NCEES Treasurer Timothy Rickborn, P.E.
 - l. Northeast Zone Motion 1 – Relating to NCEES Examination Fees for the Fundamentals of Engineering and Fundamentals of Surveying Examinations
- H. Update on Outreach Efforts

**National Council of Examiners for Engineering and Surveying (NCEES)
2018 Annual Meeting Motions**

NCEES has provided a summary of the proposed motions that will be considered at the Annual Meeting in August 2018. Board staff has reviewed these items and is bringing the following specific items to the Board's attention so that the Board can provide guidance to its delegates who will be in attendance at the meeting as to how to vote on behalf of the California Board. The motions described below are included in the meeting materials for the Board's review.

a. Advisory Committee on Council Activities (ACCA) Motions 6 and 7 – Relating to Financial Policies 3B and 3C, Travel Expenses

In these two motions, the ACCA is proposing to add an additional funded delegate position that would be specifically designated to fund the attendance of the Member Board Administrator (MBA) at the Annual Meeting and their respective Interim Zone Meeting. This MBA-specific funded delegate position would be in addition to the current three funded delegate positions, which are open to anyone the member board chooses to designate, and the first-time attendees funded delegate positions that open to member board members within 24 months of initial appointment and MBAs within 24 months of date of hiring.

Some concerns were raised about these two motions at the Western Zone Meeting. One concern was the limitation that the position could only be used to fund the MBA and not other staff; this would preclude the member board from designating another staff person if the MBA was unable to attend or if the MBA was funded through another source (such as a Zone officer or committee chair). Another concern was that the addition of a fourth funded delegate position might generate opposition to the concept of the motion itself. It is possible that amendments may be proposed at the Annual Meeting to address these concerns.

b. ACCA Motion 8 – Relating to Bylaws 7.02, Advisory Committee on Council Activities

The ACCA is proposing that the Bylaws be amended to address the composition of the committee. Currently, the Bylaws specified that one member of the committee must be a surveyor but does not specify anything about the other members other than there must be representation from each of the zones. This proposed amendment would specify that at least one member must be a professional engineer, one member a professional surveyor, and one member an MBA.

We have been advised that the NCEES Board of Directors (BOD) does not endorse this motion because it would place restrictions on the President-Elect in choosing who should serve on the committee.

c. Committee on Examination Policy and Procedures (EPP) Motion 1 – Relating to Bylaws 7.08, Committee on Examination Policy and Procedures

The EPP Committee is proposing that the Bylaws be amended to address the composition of the committee to include that the chairs of the EPE and EPS Committees, or their representatives, will serve as consultants to the EPP Committee and to address that the President may appoint other individuals, including MBAs, to serve as consultants.

The NCEES BOD has endorsed this motion because it reflects current practice and would allow representatives of the EPE and EPS Committees to serve as consultants if the chairs of those committees are unable to.

d. Committee on Examinations for Professional Engineers (EPE) Motion 1 – Relating to Bylaws 7.06, Committee on Examinations for Professional Engineers

The EPE Committee is proposing that the Bylaws be amended to clarify that the committee is responsible for making sure that the roles and responsibilities of its members are identified and communicated to its members.

We have been advised that the NCEES BOD does not endorse this motion because they believe the proposed wording is confusing.

e. Committee on Examinations for Professional Surveyors (EPS) Motion 1 – Relating to Bylaws 7.07, Committee on Examinations for Professional Surveyor

The EPS Committee is proposing that the Bylaws be amended to address the composition of the committee. This proposed amendment would specify that all of the members must be professional surveyors.

We have been advised that the NCEES BOD does not endorse this motion because it would place restrictions on the President-Elect in choosing who should serve on the committee.

f. Committee on Finances Motion 3 – Relating to Member Board Membership Fees

Each member board pays a membership fee to NCEES. There are three levels of fees; the level at which a member board is charged is based on the number of licensees. The current levels are 1-150 licensees at \$750 annually; 151-500 licensees at \$2,600; and more than 500 licensees at \$6,500. This proposal would change the maximum number of licensees to qualify for the lowest level from 150 to 200 and the minimum number for the second level from 151 to 201. The proposal would also make this change retroactive to January 1, 2018. This change is being proposed because a small change in the number of licensees can cause a significant increase in the membership fees for some of the smaller member boards.

Although the NCEES BOD endorses this motion and has placed it on the consent agenda, we are bringing it to the Board's attention because it might be pulled from consent since it relates to membership fees.

g. Committee on Member Board Administrators (MBA) Motion 1 – Relating to Bylaws 7.11, Committee on Member Board Administrators

The MBA Committee is proposing that the Bylaws be amended to address the composition of the committee. This proposed amendment would specify that the chair of the committee must be an MBA and that the membership of the committee be composed of at least two MBAs from each zone and two current or emeritus member board members.

We have been advised that the NCEES BOD does not endorse this motion because it would place restrictions on the President-Elect in choosing who should serve on the committee.

h. Committee on Uniform Procedures and Legislative Guidelines (UPLG) Motion 6 – Relating to Model Law 120.20, Board Qualifications

The UPLG Committee is proposing to amend the section of the Model Law that addresses the composition of boards to remove the sentence that requires a majority of the board to be licensees. The justification for this amendment is that the composition of boards is already addressed in Model Law 120.10.

The NCEES BOD has endorsed this motion and placed it on the consent agenda. We are bringing it to the Board's attention because Model Law 120.10 does not specify that a majority of the members must be licensees, and this change would allow for any states that follow and adopt the Model Law to have a majority of public members, as our Board already has.

i. UPLG Motion 20 – Relating to Model Law and Model Rules Sections Pertaining to Structural Engineering Licensure

The UPLG Committee is proposing to amend the Model Law and Rules relating to structural engineers. Specifically, the proposal is to amend Model Law 130.30 B3, Model Rules 230.40 A3, and Model Rules 230.60 F1–2 to remove references to structural engineers and that new appendices for the Model Law and Model Rules be created which would contain the information regarding structural engineers. These appendices could then be used by member boards that license structural engineers as a guide, while the main provisions could be used by member boards that do not license structural engineers.

The NCEES BOD has endorsed this motion but decided not to place it on the consent agenda. In the past, any motions that propose changes to the Model Law or Model Rules regarding structural engineers has generated much discussion among the member boards; it is likely this is the reason the NCEES BOD choose to not place this motion on the consent agenda.

j. Technology Task Force Motion 3 – Relating to Building Information Modeling (BIM) Guidelines

The Technology Task Force is requesting that the UPLG Committee be charged with reviewing the guidelines relating to BIM developed by the Task Force and determining whether they should be incorporated into the Model Rules or be published as a standalone document; the UPLG Committee would then present their findings and possible a motion at a future Annual Meeting.

The NCEES BOD had some concerns with the original motion proposed by the Task Force. However, after discussion, the motion was revised, and the NCEES BOD now endorses the motion and has placed it on the consent agenda. We are bringing it to the Board's attention in case it is pulled from consent.

k. Board of Directions Motion 1 – Relating to the Term of Office of NCEES Treasurer Timothy Rickborn, P.E.

The NCEES BOD will present a motion to establish the term of NCEES Treasurer Timothy Rickborn, P.E., as one three-year term, effective retroactively with his election during the 2017 NCEES Annual Meeting, so that his term will conclude at the end of the 2020 NCEES Annual Meeting. At the 2017 meeting, the member boards voted to direct the Bylaws Committee to amend the bylaws so that the a person elected as Treasurer would be able to serve one three-year term, rather than two two-year terms (if elected to a second term). Also at the 2017 meeting, the member boards elected Mr. Rickborn to serve as Treasurer. At this meeting, the Bylaws Committee will be presenting the motion to amend the bylaws to reflect the vote of the member boards from last year's meeting (Bylaws Committee Motion 2). If this motion passes, the change to the bylaws will be effective immediately and could have the impact of shortening Mr. Rickborn's term as Treasurer (from two two-year terms to one three-year term). The NCEES BOD has been advised by their attorneys that this creates an issue under the South Carolina Corporation Act. To resolve this issue, the NCEES BOD is recommending that Mr. Rickborn's term as Treasurer be confirmed as one three-year term to expire at the end of the 2020 Annual Meeting.

The NCEES BOD has not placed this motion on the consent agenda as it is depended upon the passage of Bylaws Committee Motion 2, which has been placed on the consent agenda.

l. Northeast Zone Motion 1 – Relating to NCEES Examination Fees for the Fundamentals of Engineering and Fundamentals of Surveying Examinations

The Northeast Zone has presented a motion that the member boards direct NCEES to investigate the possibility of reducing the NCEES exam fee for an individual taking the Fundamentals of Engineering or the Fundamentals of Surveying exam within one calendar year of graduation from a college program that meets the following requirements:

1. The college program must be an ABET-accredited program culminating in the awarding of a bachelor of science degree or its equivalent.

2. The college program must require as a prerequisite for graduation that students take the Fundamentals of Engineering exam or the Fundamentals of Surveying exam.

The NCEES BOD has not taken a position on this motion and has not placed it on the consent agenda.

MOTIONS TO BE PRESENTED AT THE 2018 ANNUAL MEETING

Advisory Committee on Council Activities

ACCA Motion 6

Move that Financial Policy 3B be amended as follows:

Manual of Policy and Position Statements

FP 3 Travel Expenses

- B. The Council shall pay the travel expenses of a minimum of three delegates from each ~~full~~ member board to the annual business meeting as specified by the member board. Expenses shall be paid according to the current expense payment policies of NCEES. The annual business meeting registration fee for the delegates shall be waived. The cost of optional functions not included in the registration fee shall not be paid by NCEES. Member boards must meet the *Bylaws* requirements for voting to receive the benefits of a funded delegate. The Council shall also pay the travel expenses and registration fee of first-time attendees, within 24 months of initial appointment for member board members and within 24 months of date of hire for member board administrators, to the annual business meeting.

The Council shall pay the travel expenses of the designated member board administrator (MBA) from each member board to the annual business meeting. When an MBA represents more than one board, the funding shall be for the designated MBA only and not for the assistant MBA or for member board staff. Expenses shall be paid according to current expense payment policies of NCEES. The annual business meeting registration fee for designated MBAs shall be waived. The cost of optional functions not included in the registration fee shall not be paid by NCEES. Member boards must meet the Bylaws requirements for voting to receive the benefits of a funded MBA.

Rationale

With the elimination of the biennial MBA Forum, ACCA feels that there is an increased need for MBAs to be present at all meetings of the Council. Term limits for member board members vary across the Council, which means that MBAs play an important role in providing continuity within the organization.

Financial impact

The cost is estimated to be \$114,550 annually.

Board of directors' position

Endorses, non-consent agenda

ACCA Motion 7

Move that Financial Policy 3C be amended as follows:

Manual of Policy and Position Statements

FP 3 Travel Expenses

- C. The Council shall pay the travel expenses and registration fee of a minimum of three delegates from each ~~full~~ member board to that board's respective zone interim meeting as specified by the member board. The delegates must be members of the member board or associate members. The Council shall also pay the travel expenses and registration fee for past presidents of NCEES to attend their respective zone interim meeting. Expenses shall be paid according to the current expense payment policies of NCEES. The cost of optional functions not included in the registration fee shall not be paid by NCEES.

The Council shall pay the travel expenses and registration fee of the designated member board administrator (MBA) from each member board to that board's respective zone interim meeting. When an MBA represents more than one board, the funding shall be for the designated MBA only and not for the assistant MBA or for member board staff. Expenses shall be paid according to current expense payment policies of NCEES. The cost of optional functions not included in the registration fee shall not be paid by NCEES.

Rationale

With the elimination of the biennial MBA Forum, ACCA feels that there is an increased need for MBAs to be present at all meetings of the Council. Term limits for member board members vary across the Council, which means that MBAs play an important role in providing continuity within the organization.

Financial impact

The cost is estimated to be \$78,600 annually.

Board of directors' position

Endorses, non-consent agenda

ACCA Motion 8

Move that a Special Committee on Bylaws be charged with incorporating the following amendments into *Bylaws* 7.02:

Bylaws

Section 7.02 Advisory Committee on Council Activities. The Advisory Committee on Council Activities (ACCA) shall consist of a chair and members from each zone. At least one member shall be [a professional engineer, one member a professional surveyor, and one member a member board administrator](#). The committee shall provide advice and briefing to the President and the Board of Directors on new policy issues, problems, and plans that warrant preliminary assessment of policy choices and procedures not as yet assigned to a standing committee or involving several existing committees. Consultants appointed to this committee shall have served on the Board of Directors.

The committee will act as principal advisor to the President and the Board of Directors on such specific non-recurring problems or plans as the President may explicitly assign to the committee. The committee shall review the *Manual of Policy and Position Statements*, in consideration of past and current action of the Council, and present any proposed revisions [to the Board of Directors for review and forwarding to the Council for ratification at the Annual Business Meeting as needed](#).

Rationale

ACCA is proposing changes in the first paragraph because the current language does not require that any professional engineers or member board administrators be on ACCA. The proposed language will correct this missing language by requiring at least one professional engineer, one professional surveyor, and one member board administrator to be on the committee. It is proposing changes to the second paragraph to match current practice, which is that motions are presented as needed and then voted upon, but not ratified.

Board of directors' position

Does not endorse, non-consent agenda

Committee on Examination Policy and Procedure

EPP Motion 1

Move that a Special Committee on Bylaws be charged with incorporating the following changes into *Bylaws* 7.08:

Bylaws

Section 7.08 Committee on Examination Policy and Procedures. The Committee on Examination Policy and Procedures (EPP) shall consist of a chair ~~and~~, two members selected from each zone, [and the chairs of the Committees on Examinations for Professional Engineers and Examinations for Professional Surveyors \(or their representatives\) as consultants](#). In addition, the President may appoint ~~as consultants the chairs of the Committees on Examinations for Professional Engineers and Examinations for Professional Surveyors and their subcommittees~~ [other consultants as deemed necessary, including a member board administrator](#).

This committee shall be responsible for reviewing the effectiveness of the examinations and recommending policies, specifications, and procedures consistent with the trends in the engineering and surveying professions.

Rationale

The president consistently invites the chairs of the EPE and EPS committees as consultants. Adding "their representatives" gives the option for the chair to have a respective committee member represent the committee if the chair is unable to attend.

The EPP Committee also feels that having an MBA member as a consultant is beneficial, especially when policy changes are proposed. MBAs provide an administrative perspective on how policy changes may affect their boards.

Board of directors' position

Endorses, consent agenda

Committee on Examinations for Professional Engineers

EPE Motion 1

Move that a Special Committee on Bylaws be charged with incorporating the following amendments into *Bylaws* 7.06:

Bylaws

Section 7.06 Committee on Examinations for Professional Engineers. The Committee on Examinations for Professional Engineers (EPE) shall consist of a chair and three members from each zone. It shall supervise the preparation of examination specifications and be responsible for the content and scoring of all examinations in the fundamentals and principles and practice of engineering.

The committee, in the interest of uniformity and efficiency, may prepare examination development procedures and shall review examination scores and make recommendations of minimum passing grades for examinations.

At least 50 percent of the committee members should be carryover members to provide continuity of the program.

The committee shall have the authority to recommend, [in conjunction with the chair and](#) in connection with its work, the appointment of consultants. [The committee shall also have the authority to recommend the roles and responsibilities of its members.](#)

Rationale

EPE is proposing this change to clarify that the committee is responsible for making sure that the roles and responsibilities of its members are identified and communicated to its members.

Board of directors' position

Does not endorse, non-consent agenda

Committee on Examinations for Professional Surveyors

EPS Motion 1

Move that a Special Committee on Bylaws be charged with incorporating the following amendments into *Bylaws* 7.07:

Bylaws

Section 7.07 Committee on Examinations for Professional Surveyors. The Committee on Examinations for Professional Surveyors (EPS) shall consist of a chair and three members from each zone. ~~It~~ [All members shall be professional surveyors.](#) EPS shall supervise the preparation of examination specifications and be responsible for the content and scoring of all examinations in the fundamentals and principles and practice of surveying.

The committee, in the interest of uniformity and efficiency, ~~may~~ [shall](#) prepare examination development procedures and shall review examination scores and make recommendations of minimum passing grades for examinations.

At least 50 percent of the committee members should be carryover members to provide continuity of the program.

This committee shall have the authority to recommend, in connection with its work, the appointment of consultants.

Rationale

EPS is proposing the amendment in the first paragraph to eliminate the possibility of having EPS Committee members who lack the specialized knowledge required for development of the surveying exams. It is also changing “may” to “shall” as a housekeeping change for consistency.

Board of directors’ position

Does not endorse, non-consent agenda

Committee on Finances

Finance Motion 3

Move that Financial Policy 8 be amended as follows:

FP 8 Membership Fees

All membership fees will be reviewed and approved by the Council. The current approved schedule is included here for reference.

Member Boards	Current Fee	Date Effective
1 through 150-200 registrants	\$750 annually	01/01/ 09 18
151-201 through 500 registrants	\$2,600 annually	01/01/ 09 18
501 or more registrants	\$6,500 annually	01/01/07

Rationale

The committee reviewed this charge with discussion about member boards that have low licensee populations but have moved into the next membership fee category due to small increases in number of their licensees. This increase in fees may create financial hardships for the smaller boards and, in some cases, could prevent them from being able to participate in the Council. To ensure that all full member boards have the opportunity to participate and vote in the Council, the Finance Committee is proposing to increase the numbers for the first two categories. The committee also recommends that this fee structure be retroactive to January 1, 2018, with fees reimbursed to member boards that are impacted by the change.

Board of directors’ position

Endorses, consent agenda

Committee on Member Board Administrators

MBA Motion 1

Move that a Special Committee on Bylaws be charged with incorporating the following amendments into *Bylaws* 7.11:

Section 7.11 Committee on Member Board Administrators. The Committee on Member Board Administrators shall consist of a chair, who shall be a member board administrator; ~~and~~ at least two members board administrators from each zone. ~~Two members shall be;~~ and two current members or emeritus members of Member Boards. The committee shall arrange for the conference of administrators at the Annual Meeting and Interim Meetings of the NCEES zones. Throughout the year, the committee shall strive to provide close cooperation between administrators and to facilitate and assist any efforts by the Member Boards in addressing licensure processes and practices.

Rationale

The MBA Committee is proposing this change to clarify the purpose of MBAs within the committee, maintain zone diversity, and recognize the desire/need to consider the perspective of the MBA role as viewed by board members.

Board of directors’ position

Does not endorse, non-consent agenda

Committee on Uniform Procedures and Legislative Guidelines

UPLG Motion 6

Move that *Model Law* 120.20 be amended as follows.

Model Law 120.20 Board Qualifications

Each professional engineer member of the board shall be a citizen of the United States and a resident of this jurisdiction. He or she shall have been engaged in the lawful practice of engineering as a professional engineer for at least 12 years, shall have been in responsible charge of engineering projects for at least 5 years, and shall be a licensed professional engineer in this jurisdiction.

Each professional surveyor member of the board shall be a citizen of the United States and a resident of this jurisdiction. He or she shall have been engaged in the lawful practice of surveying as a professional surveyor for at least 12 years, shall have been in responsible charge of surveying projects for at least 5 years, and shall be a licensed professional surveyor in this jurisdiction.

Each public member of the board shall be a citizen of the United States and a resident of this jurisdiction and shall not be or have been ~~either a professional engineer or professional surveyor~~ a licensee. ~~The majority of the board members shall be professional engineers and/or professional surveyors.~~

Rationale

Changing “either a professional engineer or professional surveyor” to “a licensee” is to simplify the language. The last sentence is being deleted because the number of board members is already established in *Model Law* 120.10.

Board of directors’ position

Endorses, consent agenda

UPLG Motion 20

Move that *Model Law* 130.30 B3, *Model Rules* 230.40 A3, and *Model Rules* 230.60 F1–2 be amended as follows and that new appendices for the *Model Law* and *Model Rules* be adopted as follows for member boards that license structural engineers to use as a guide.

Model Law 130.30 Examinations

- B. Examinations may be taken only after the applicant has met the other minimum requirements as given in Sections 130.10 and 130.20 of this Act and has been approved by the board for admission to the examinations. The board may offer the following examinations:
1. NCEES Fundamentals of Engineering (FE) examination
 2. NCEES Principles and Practice of Engineering (PE) examination
 - ~~3. NCEES Structural Engineering (SE) examination~~
 - ~~4. NCEES Fundamentals of Surveying (FS) examination~~
 - ~~5. NCEES Principles and Practice of Surveying (PS) examination~~

Model Rules 230.40 Examinations

A. Classification of Engineering Examinations

This jurisdiction or its designee will provide the following examinations, prepared and furnished by NCEES, meeting the requirements of this jurisdiction for licensure as a professional engineer:

1. NCEES Fundamentals of Engineering (FE) examination—The examination consists of subject matters in the fundamentals of engineering. Passing this examination qualifies the examinee for certification as an engineer intern, provided the examinee has met all other requirements for certification required by these Rules.
2. NCEES Principles and Practice of Engineering (PE) examination—The examination consists of subject matters in applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer, provided the examinee has met the other requirements for licensure required by these Rules.
- ~~3. NCEES Structural Engineering (SE) examination—The examination shall be considered and referred to as one 16-hour examination. The SE examination consists of two 8-hour components: the Vertical Forces (gravity/other) and Incidental Lateral component and the Lateral Forces (wind/earthquake)~~

~~component. A candidate must receive acceptable results on both 8-hour components to pass the SE examination. A candidate may sit for each component in separate exam administrations but must receive acceptable results on both components within a 5-year period. Receiving acceptable results on only one 8-hour component shall not be sufficient for licensure purposes.~~

Model Rules 230.60 Applications

F. Licensure by Comity

1. The board is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria to be licensed as a professional engineer, ~~professional structural engineer,~~ or professional surveyor as defined in Section 130.10 of the *Model Law*.
2. The board administrator is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of a Model Law Engineer, ~~Model Law Structural Engineer,~~ or Model Law Surveyor as set forth in the NCEES *Manual of Policy and Position Statements*. If the applicant meets or exceeds these requirements, the board administrator may issue a contingent license authorizing that individual to offer or provide engineering or surveying services in this jurisdiction. A list of all engineers issued contingent licenses will be placed on the agenda of the next meeting of the board for formal approval by the board. A list of all surveyors who have been issued contingent licenses and who have passed the appropriate jurisdiction-specific examination will be placed on the agenda of the next meeting for formal approval by the board.

MODEL LAW APPENDIX XX—MODEL LANGUAGE FOR MEMBER BOARDS THAT LICENSE STRUCTURAL ENGINEERS

Model Law 130.10 provides model language for general requirements for licensure for professional engineers and professional surveyors. Most boards do not license professional structural engineers separately, but the language in blue below is provided as a model for boards that do license structural engineers so that they will be able to add consistent language to their laws, thereby enhancing mobility. The current language for engineering 130.10 B is shown so that these boards will have a reference of where to add language about structural engineering.

130.10 General Requirements for Licensure

Education, experience, and examinations are required for licensure as a professional engineer or professional surveyor.

B. Engineering

1. Certification or Enrollment as an Engineer Intern
The following shall be considered as minimum evidence that the applicant is qualified for certification as an engineer intern.
 - a. Graduating from an engineering program of 4 years or more accredited by the Engineering Accreditation Commission of ABET (EAC/ABET), graduating from an engineering master's program accredited by EAC/ABET, or meeting the requirements of the NCEES Engineering Education Standard
 - b. Passing the NCEES Fundamentals of Engineering (FE) examination
2. Licensure as a Professional Engineer
 - a. Initial Licensure as a Professional Engineer
An applicant who presents evidence of meeting the applicable education, examination, and experience requirements as described below shall be eligible for licensure as a professional engineer.
 - (1) Education Requirements
An individual seeking licensure as a professional engineer shall possess one or more of the following education qualifications:
 - (a) A degree in engineering from an EAC/ABET-accredited bachelor's program
 - (b) A degree in engineering from an EAC/ABET-accredited master's program
 - (c) A bachelor's, master's, or doctoral degree in engineering from a non-EAC/ABET-accredited program. This individual's education must be shown to meet the NCEES Engineering Education Standard.
 - (2) Examination Requirements
An individual seeking licensure as a professional engineer shall take and pass the NCEES Fundamentals of Engineering (FE) examination and the NCEES Principles and Practice of Engineering (PE) examination as described below.
 - (a) The FE examination may be taken by a college senior or graduate of an engineering program of 4 years or more accredited by EAC/ABET, of a program that meets the

requirements of the NCEES Education Standard, or of an engineering master's program accredited by EAC/ABET.

(b) The PE examination may be taken by an engineer intern.

(3) Experience Requirements

An individual seeking licensure as a professional engineer shall present evidence of a specific record of 4 years of progressive engineering experience after a qualifying degree is conferred as described in a(1) above. This experience should be of a grade and character that indicate to the board that the applicant may be competent to practice engineering. The following educational criteria may apply as a substitute to the length of experience set forth above:

(a) An individual with a master's degree in engineering acceptable to the board: 3 years of experience after the qualifying bachelor's degree is conferred as described in a(1)(a) or a(1)(c) above

(b) An individual with an earned doctoral degree in engineering acceptable to the board and who has passed the FE exam: 2 years of experience

(c) An individual with an earned doctoral degree in engineering acceptable to the board and who has elected not to take the FE exam: 4 years of experience

A graduate degree that is used to satisfy education requirements cannot be applied for experience credit toward licensure. To be eligible for experience credit, graduate degrees shall be relevant to the applicant's area of professional practice.

Experience credit for a graduate degree cannot be earned concurrently with work experience credit.

3. Licensure as a Professional Structural Engineer

a. Initial Licensure as a Professional Structural Engineer

An applicant who presents evidence of meeting the applicable education, examination, and experience requirements as described below shall be eligible for licensure as a professional structural engineer.

(1) Education Requirements

(a) An individual seeking licensure as a professional structural engineer shall possess one or more of the following education qualifications:

(i) A degree in engineering from an EAC/ABET-accredited bachelor's program

(ii) A degree in engineering from an EAC/ABET-accredited master's program

(iii) A bachelor's, master's, or doctoral degree in engineering from a non-EAC/ABET-accredited program. This individual's education must be shown to meet the NCEES Engineering Education Standard.

(b) The degree, or degrees, must include a minimum of 18 semester (27 quarter) hours of structural analysis and design courses and at least 9 of the semester (14 quarter) hours must be structural design classes.

(2) Examination Requirements

An individual seeking licensure as a professional structural engineer shall take and pass the NCEES Fundamentals of Engineering (FE) examination and the NCEES Structural Engineering (SE) examination as described below.

(a) The FE examination may be taken by a college senior or graduate of an engineering program of 4 years or more accredited by EAC/ABET, of a program that meets the requirements of the NCEES Education Standard, or of an engineering master's program accredited by EAC/ABET.

(b) The SE examination may be taken by an engineer intern.

(3) Experience Requirements

An individual seeking licensure as a professional structural engineer shall present evidence of completing one of the following:

(a) 4 years of acceptable structural engineering experience after confirmation of a bachelor of science degree in an engineering program accredited by EAC/ABET

(b) 3 years of acceptable structural engineering experience after confirmation of a bachelor of science degree in engineering from an EAC/ABET-accredited engineering program and a master's degree in engineering that includes at least 6 semester (9 quarter) hours of structural engineering (in addition to the 18 hours noted above)

(c) 3 years of acceptable structural engineering experience after confirmation of a master's degree in engineering from an EAC/ABET-accredited engineering program that includes at least 6 semester (9 quarter) hours of structural engineering (in addition to the 18 hours noted above)

(d) 2 years of acceptable structural engineering experience and an earned doctoral degree in engineering focused on structural engineering from an institution that offers EAC/ABET-accredited programs

A graduate degree that is used to satisfy education requirements cannot be applied for experience credit toward licensure. To be eligible for experience credit, graduate degrees shall be relevant to the applicant's area of professional practice. Experience credit for a graduate degree cannot be earned concurrently with work experience credit.

b. Licensure by Comity for a Professional Engineer or Professional Structural Engineer

The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure by comity:

- (1) An individual holding a certificate of licensure to engage in the practice of engineering issued by a proper authority of any jurisdiction or any foreign country, based on requirements that do not conflict with the provisions of this Act and possessing credentials that are, in the judgment of the board, of a standard that provides proof of minimal competency and is comparable to the applicable licensure act in effect in this jurisdiction at the time such certificate was issued may, upon application, be licensed without further examination except as required to examine the applicant's knowledge of statutes, rules, and other requirements unique to this jurisdiction; or
- (2) An individual holding an active Council Record with NCEES, whose qualifications as evidenced by the Council Record meet the requirements of this Act, may, upon application, be licensed without further examination except as required to examine the applicant's knowledge of statutes, rules, and other requirements unique to this jurisdiction.
- (3) In addition to b(1) or b(2) above, an applicant for comity as a professional structural engineer must have passed one of the following:
 - a. 16 hours of NCEES structural examinations, 8 hours of which were from the SEII taken prior to January 1, 2011.
 - b. 16-hour state-written examinations taken prior to 2004.
 - c. NCEES SEII plus 8-hour state-written structural examination taken prior to January 1, 2011, or
 - d. NCEES 16-hour Structural Engineering (SE) examination taken after January 1, 2011.

MODEL RULES APPENDIX XX—MODEL LANGUAGE FOR MEMBER BOARDS THAT LICENSE STRUCTURAL ENGINEERS

Model Rules 230.40 provides model language for classification of engineering exams and eligibility of applicants for engineering exams, and *Model Rules* 230.60 A provides language for types of applications. Most boards do not license professional structural engineers separately, but the language in blue below is provided as a model for boards that do license structural engineers so that they will be able to add consistent language to their laws, thereby enhancing mobility. that they will be able to add consistent language to their rules. The current language in 230.40 and 230.60 is shown so that these boards would have a reference of where to add language about structural engineering.

230.40 Examinations

A. Classification of Engineering Examinations

This jurisdiction or its designee will provide the following examinations, prepared and furnished by NCEES, meeting the requirements of this jurisdiction for licensure as a professional engineer or professional structural engineer:

1. NCEES Fundamentals of Engineering (FE) examination—The examination consists of subject matters in the fundamentals of engineering. Passing this examination qualifies the examinee for certification as an engineer intern, provided the examinee has met all other requirements for certification required by these Rules.
2. NCEES Principles and Practice of Engineering (PE) examination—The examination consists of subject matters in applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer, provided the examinee has met the other requirements for licensure required by these Rules.
3. NCEES Structural Engineering (SE) examination—The examination shall be considered and referred to as one 16-hour examination. The SE examination consists of two 8-hour components: the Vertical Forces (gravity/other) and Incidental Lateral component and the Lateral Forces (wind/earthquake) component. A candidate must receive acceptable results on both 8-hour components to pass the SE examination. A candidate may sit for each component in separate exam administrations but must

receive acceptable results on both components within a 5-year period. Receiving acceptable results on only one 8-hour component shall not be sufficient for licensure purposes. Passing this examination qualifies the examinee for licensure as a professional structural engineer, provided the examinee has met the other requirements for licensure required by these Rules.

B. Eligibility of Applicant for Engineering Examinations

1. NCEES Fundamentals of Engineering (FE) Examination
 - a. Those who are college seniors in at least a 4-year program leading to a bachelor's degree in an engineering program may register with NCEES directly to take the FE examination or, if required, apply to the board for admission to the FE examination.
 - b. To be certified as an engineer intern, an application for certification may be submitted to the board upon passing the FE examination and meeting the education requirements.
2. NCEES Principles and Practice of Engineering (PE) Examination
 - a. Applicants for licensure as a professional engineer will be permitted to sit for the PE examination upon satisfactorily fulfilling all application requirements of the jurisdiction.
 - b. No applicant may sit for the PE examination until the board has established that the applicant is eligible for the examination.
 - c. Engineering doctorate degree applicants with an undergraduate degree from a program accredited by the Engineering Accreditation Commission of ABET (EAC/ABET) and with a doctorate degree in engineering from an institution that offers EAC/ABET-accredited undergraduate programs in the doctorate degree field of engineering and with experience that meets the qualifications defined by the board may sit for the PE examination without having taken or passed the FE examination.
3. NCEES Structural Engineering (SE) Examination
 - a. Applicants for licensure as a professional structural engineer will be permitted to sit for the SE examination upon satisfactorily fulfilling all application requirements of the jurisdiction.
 - b. No applicant may sit for the SE examination until the board has established that the applicant is eligible for the examination.
 - c. Engineering doctorate degree applicants with an undergraduate degree from a program accredited by the Engineering Accreditation Commission of ABET (EAC/ABET) and with a doctorate degree in engineering from an institution that offers EAC/ABET-accredited undergraduate programs in the doctorate degree field of engineering and with experience that meets the qualifications defined by the board may sit for the SE examination without having taken or passed the FE examination.

230.60 Applications

A. Types of Applications

Licensure as a professional engineer, professional structural engineer, or professional surveyor or certification as an engineer intern or surveyor intern requires that an applicant present his or her qualifications on forms prescribed by this board.

1. Applications for licensure as a professional engineer, professional structural engineer, or professional surveyor are accepted from those who believe that they are qualified by education and experience, according to laws of this jurisdiction, to be licensed as a professional engineer, professional structural engineer, or a professional surveyor.
2. Applications for certification as an engineer intern or a surveyor intern are accepted from those who believe that they have the necessary qualifications for licensure according to the laws of this jurisdiction, as a professional engineer or a professional surveyor except for that of education and experience.

F. Licensure by Comity

1. The board is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria to be licensed as a professional engineer, professional structural engineer, or professional surveyor as defined in Section 130.10 of the *Model Law*.
2. The board administrator is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria of a Model Law Engineer, Model Law Structural Engineer, or Model Law Surveyor as set forth in the *NCEES Manual of Policy and Position Statements*. If the applicant meets or exceeds these requirements, the board administrator may issue a contingent license authorizing that individual to offer or provide engineering or surveying services in this jurisdiction. A list of all engineers issued contingent licenses will be placed on the agenda of the next meeting of the board for formal approval by the board. A list of all surveyors who have been issued contingent licenses

and who have passed the appropriate jurisdiction-specific examination will be placed on the agenda of the next meeting for formal approval by the board.

Rationale

UPLG reviewed the *Model Law* and *Model Rules* and compared how structural engineering is described in these two documents as compared to how it is described in the *Manual of Policy and Position Statements*. The committee noted inconsistencies. Sometimes, the 16-hour Structural Engineering exam is described as a third professional exam; sometimes, it is listed as another PE exam. The language in Examination Development Policy 1 and *Model Rules* 230.60 could be interpreted as being a PE exam. The policy manual also has a Model Law Structural Engineer designation—which licensees can apply for through the NCEES Records program to help them gain comity licensure as a structural engineer in other jurisdictions.

UPLG discussed that the vast majority of jurisdictions do not need model language for structural engineering. However, structural engineering is treated separately enough (especially by being a 16-hour exam vs. an 8-hour exam) that UPLG believes there should be model language for jurisdictions that do license structural engineers. Therefore, UPLG is making this motion to remove the existing language in the main body of the *Model Law* and *Model Rules* and to add appendices that provide a model for those jurisdictions that license structural engineering separately. Making these changes will also make references to structural engineering consistent with the NCEES *Manual of Policy and Procedures*. A more in-depth rationale will be included in the UPLG report when it is posted in June.

Board of directors' position

Endorses, non-consent agenda

Technology Task Force

Technology Task Force Motion 3

Move that the UPLG Committee be charged with reviewing the following guidelines, determining whether they should be incorporated into the *Model Rules* or be published as a standalone document, and presenting a motion accordingly:

Move that the UPLG Committee be charged with incorporating the following appendix into the *Model Rules*:

MODEL RULES APPENDIX—SUGGESTED GUIDELINES FOR BUILDING INFORMATION MODELING USE ON PROJECTS

Purpose

The National Council of Examiners for Engineering and Surveying (NCEES) is providing these guidelines to assist the licensee in the proper signing and sealing of Documents derived from building information modeling (BIM). This document is intended to offer guidance to design professionals who are using BIM. This guide may apply to any project delivery method employing multidimensional modeling software to virtually design and construct projects by a collaborative project team from conception through commissioning and/or owner acceptance.

Definitions

- **Building information model or modeling (BIM):** Model-based technology linked with a database of project information, using multidimensional, real-time dynamic modeling software, to plan construction. The model encompasses at least geometry, spatial relationships, geographic information, and quantities and properties of components.
- **Execution plan:** A document prepared and mutually agreed to by the project team that clearly defines an overall vision for BIM use and implementation details, including but not limited to roles, responsibilities, actions, and interactions of the team and any external parties (such as building code officials, other permitting authorities, software systems to be followed, technology infrastructure needs, process maps, deliverables to be provided, Documents to be produced, intellectual property control, model use, archiving, BIM model ownership, and turnover process to owner at project completion). The execution plan should clearly define the scope and responsible charge of all design professionals and model managers to the extent possible.
- **Model manager:** Responsible for ensuring that BIM is successfully implemented on a project in accordance with its execution plan, with the following key responsibilities:
 - Management of all BIM-related software systems

- Preparation of BIM-related standards, templates, and deliverable formats in accordance with the execution plan
- Reporting of BIM model status to the project team
- Leadership in providing project-specific training to the project team members and in providing periodic model reviews by the project team
- Assistance in modeling work and resolution of all conflicts/constraints
- Communication of BIM model development and updates to the project team

The model manager may change during project execution, subject to approval of the project team and lead design professional.

- **National BIM standard—United States:** A consensus-based standard issued by the buildingSMARTalliance® under the sponsorship of the National Institute of Building Sciences so that end users can use BIM to efficiently access and use information necessary to design, construct, and operate a specific project. The latest issue is version 3, published in May 2015.
- **Project team:** Leadership from each organization participating in the development of a BIM model, including the owner, project manager, design professionals (architects, landscape architects, engineers, surveyors, interior designers; also referred to as “licensees”), model manager, and contractors
- **Lead design professional:** Licensed design professional, responsible for coordinating and integrating the work of design professionals, model manager, and other members of the project team
- **Responsible charge:** Direct control and personal supervision of engineering or surveying work
- **BIM products:** Documents (drawings, lists, specifications, and other data) extracted from the BIM model

Guidelines and references

A. Use of *BIM Project Execution Planning Guide*

The project team should prepare a specific execution plan for any project using a BIM model. The referenced planning guide provides an overview of how to prepare such a plan including content and structure. Section B below contains recommended minimum topics to include in an execution plan, which is typically referenced in project contract sections related to engineering, procurement, and construction delivery.

B. Minimum topics to include in project-specific execution plan

Each project (e.g., building, bridge, road, power plant) is unique in terms of configuration, complexity, and development timeline. Similarly, the extent of BIM’s use on a project will be different and interrelated with the project delivery method (such as integrated project delivery, design/build, or design/bid/build). This section addresses topics which are important to the successful use of BIM capabilities and products.

1. **Model use**
How the BIM model will be used—from project inception to construction to the post-commissioning stage—must be defined up front and accounted for in the project cost estimate. Examples of usage topics include model ownership, turnover to the owner at project conclusion, involvement of the project team in model preparation/development through lifecycle, use for structural detailing, cost/schedule inclusion, and products that will be produced (when and where).
2. **Responsibilities of design professionals/licensees and scope definition**
Each design professional working with a BIM model will have responsible charge for a portion of the project. This includes what aspects of project design that the professional will provide as input (e.g., data, 3D model input, specific discipline design) and BIM products that will be extracted at different milestones during the project life cycle to satisfy project needs (e.g., Documents to obtain permits and regulatory approvals, to have a third party develop fabrication drawings, to procure equipment, for construction, and for as-built archive). It is imperative that each design professional clearly define his or her primary role and scope of responsibility, particularly where the professional’s scope boundaries align with those of another discipline (such as building management system inputs).
3. **Lead design professional’s role**
Each project team should appoint a lead design professional to oversee the BIM model development to ensure that communication channels are effective, that schedule milestones are achieved, and that the model manager is efficiently and effectively completing his or her responsibilities. This person should have a working knowledge of the scope of all design professionals, documents to be produced, and project design and goals in total.
4. **Model manager’s role**
Reporting to the lead design professional, the model manager serves an important role in coordinating the development of the BIM model and data import consistent with the execution plan’s stated needs. The lead design professional will ultimately have a role of ensuring that all design professionals have participated in the BIM model to the extent of their responsible charge and scope.

5. Owner's role and responsibilities

The owner should designate a representative who should be able to communicate owner's requirements to the project team; serve as a primary liaison for all BIM-related issues; have oversight on BIM requirements in all project phases; and receive, review, and approve BIM deliverables (see "National BIM Guide for Owners").

6. Changes to model overtime/communications

The BIM model is a dynamic tool that constantly develops throughout the design phase of the project and typically matures at the time when issued-for-construction products are produced. The model will also be affected by the evolution of construction, and changes to the BIM model will occur until project commissioning and owner acceptance. The lead design professional and model manager need to stay involved in the project execution through the construction phase to ensure that construction-driven changes are reviewed and approved by the affected design professional(s) in advance of actual construction.

7. BIM products

The execution plan should define expected products to be extracted out of the BIM model at different points in time during the overall project schedule (phase), and the design professionals responsible for their preparation and issuance. The products of each project will be different; as a result, the execution plan should define initial products with said listing subject to change as the project design continues forward. The execution plan should also provide an overview of how quality reviews are to be completed, as well as BIM model reviews throughout the project lifecycle.

8. Archiving

The execution plan should clearly define the host document control system to be used, and best practices associated with storing project records including the BIM model and products, including all Documents, both to demonstrate that milestones have been achieved and to confirm the design professional's scope of work and responsibility have been accomplished.

C. Sign-and-seal deliverables

At a point in project development agreed to by the owner's team and per the owner's agreement with the project team members, the licensee shall affix a seal/signature to only that part of the products from the BIM model for which he or she is responsible as stated in the *Model Rules*.

A digital archive of the design professional's final product at the completion of each project phase shall be retained in the BIM model archives.

Summary

These suggested guidelines were developed to aid design professionals and licensing boards with understanding how and when design professionals should sign and seal Documents under their responsible charge during the BIM modeling process.

Rationale

These guidelines will aid licensees in BIM use and will also aid licensing boards with understanding how and when licensees should sign and seal BIM-produced Documents prepared under their responsible charge during the modeling process. The task force also recommends that the UPLG Committee add language to *Model Rules* 240.15 B10 referring to the new appendix when it adds the guidelines.

Board of directors' position

~~To be determined~~ Endorses, consent agenda

Board of Directors

Board of Directors Motion 1

The board of directors moves that the term of NCEES Treasurer Timothy Rickborn, P.E., be established as a three-year term, effective retroactively with his election during the 2017 NCEES annual meeting, and that Treasurer Rickborn's term conclude at the end of the 2020 NCEES annual meeting.

Rationale

During the 2017 NCEES annual meeting, the Special Committee on Bylaws presented a motion to amend the *Bylaws* to change the NCEES treasurer term from a two-year term with the possibility of a consecutive term to a two-year term without the possibility of a consecutive term. This motion was defeated. The board of directors subsequently presented a motion at the 2017 annual meeting to charge a Special Committee on Bylaws with

incorporating amendments into the *Bylaws* to modify the term of treasurer to a three-year term. The board of directors' motion passed, and this year's Special Committee on Bylaws is proposing a motion at the 2018 annual meeting to make that amendment.

Treasurer Rickborn was elected in 2017 under the existing *Bylaws* requirements that provide for a two-year term with the possibility of two consecutive terms. After seeking legal advice from NCEES' corporate attorney, the board of directors was advised that the South Carolina Corporation Act does not allow an elected officer's term to be reduced based upon an amendment to governance documents of the organization and that Treasurer Rickborn's term of office should be affirmed to match the new term of service as approved by the Council. If Bylaws Committee Motion 2 passes at the 2018 annual meeting, the board of directors will propose this motion for Treasurer Rickborn to serve a three-year term that will expire at the conclusion of the 2020 NCEES annual meeting.

Board of directors' position

Endorses, non-consent agenda

Northeast Zone

Northeast Zone Motion 1

Move that NCEES investigate the possibility of reducing the NCEES exam fee for an individual taking the Fundamentals of Engineering or the Fundamentals of Surveying exam within one calendar year of graduation from a college program.

1. The college program must be an ABET-accredited program culminating in the awarding of a bachelor of science degree or its equivalent.
2. The college program must require as a prerequisite for graduation that students take the Fundamentals of Engineering exam or the Fundamentals of Surveying exam.

Board of directors' position

No position, non-consent agenda



Q1 2018 OUTREACH REPORT

COLLEGE OUTREACH

Every fall the Board sends a mailing to every ABET college/university engineering and land surveying program in California. We offer to provide the program an opportunity for interaction; by attending a college “Career Fair” or an engineering “Senior Project Day,” we introduce ourselves to the staff of the various programs, and offer our presentations supporting the value and the path to professional licensure to their student clubs and their engineering classes.

HERE IS A HISTORY OF OUR COLLEGE OUTREACH EVENTS thru 3/31/2018

Engineering Presentations College Year:	2015- '16	2016- '17	2017- '18
In-Class	Cal Poly, SLO	Cal Poly, SLO	Cal Poly, SLO Fresno State Loyola Marymount UC Irvine
Career Fair	CSU Sacramento	CSU Sacramento UCLA UC Irvine Cal State LA UC San Diego	CSU Sacramento UCLA UC Irvine UC San Diego
Senior Project Day	CSU Northridge UC Davis	CSU Northridge UC Davis	CSU Northridge UC Davis
Student Club Presentation		USC	CSU Sacramento UCLA

In-Class – Our #1 priority, an “In-Class” presentation takes place in a classroom setting as part of a regularly scheduled engineering class. Generally presented to junior or senior year engineering students, the class may be a “Senior Design” class, and “Engineering Ethics” class, or a similar class that reaches out to several disciplines of engineering students.

Career Fair – An opportunity to have a booth presenting Board promotional materials on the “Value of/Path to Professional Licensure” to engineering students at a given college or university.

Senior Project Day – A day students present their senior engineering projects for faculty and peer review. It is a good opportunity to meet engineering students and especially engineering faculty that teach upper level classes that have many advanced students in one location, and to therefore provide for a future “In-Class” presentation.

Student Club Presentation – An opportunity to speak to a student group in a single discipline, or multiple disciplines on a given campus (ACEC, IEEE, ASME, etc.), as part of their regular meeting program.



Summary of Results of Mailings:

By increasing our interactions with ABET programs, we have increased our number of invitations to “College Career Fairs” and “Senior Project Days” by our Outreach Coordinator, Brooke Phayer. As shown in the display, these have led to engineering “Student Club Presentations” to student groups, and finally to make “In-Class” presentations by Brooke Phayer and Staff Senior Registrar Mike Donelson, PE. These Power Point presentations have ranged from 20 minutes to over one hour in length, depending on the diversity of engineering disciplines addressed. Of note is the fact that, once participation is initiated, it has increased to the point of the “In-Class” presentation, and, in every case, the Board has been invited back again the next year.

OUTREACH EVENTS January – March 2018

Sacramento CLSA, January 2

Staff Senior Registrar Dallas Sweeney, PLS attended the LS review course and did a presentation about the application process and exam specifications.

San Diego CLSA, January 4

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, PLS attended the LS review course and did a presentation about the application process and exam specifications.

UC San Diego Engineering Career Fair, January 17 - 18

Outreach Coordinator Brooke Phayer participated in the UC San Diego Engineering Career Fair to give broader awareness of the possibilities of professional licensure.

UCLA Engineering Tech Career Fair, January 23 - 24

Outreach Coordinator Brooke Phayer participated in the UCLA Engineering Tech Career Fair to give broader awareness of the possibilities of professional licensure.

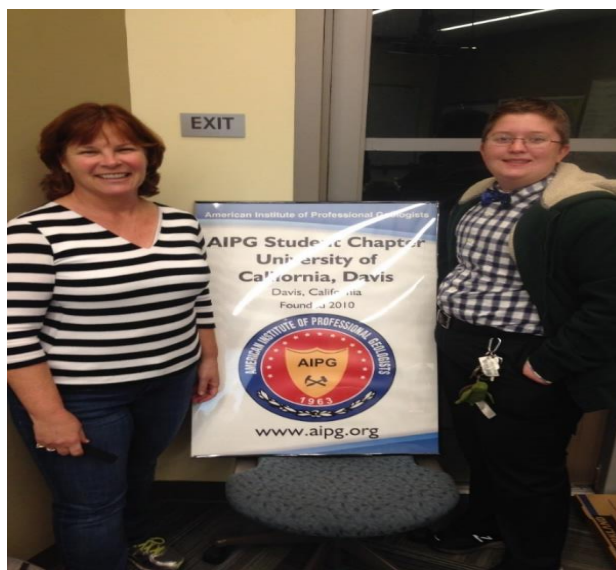
League of California Surveying Organizations, Martinez, CA, January 24

Staff Senior Registrar Dallas Sweeney, PLS made a presentation at the monthly meeting to answer questions on compliance with the PLS Act.



UC Davis Student Chapter AIPG, January 25

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.



Laurie Racca PG, with UCD Student Chapter President
Minda Moe

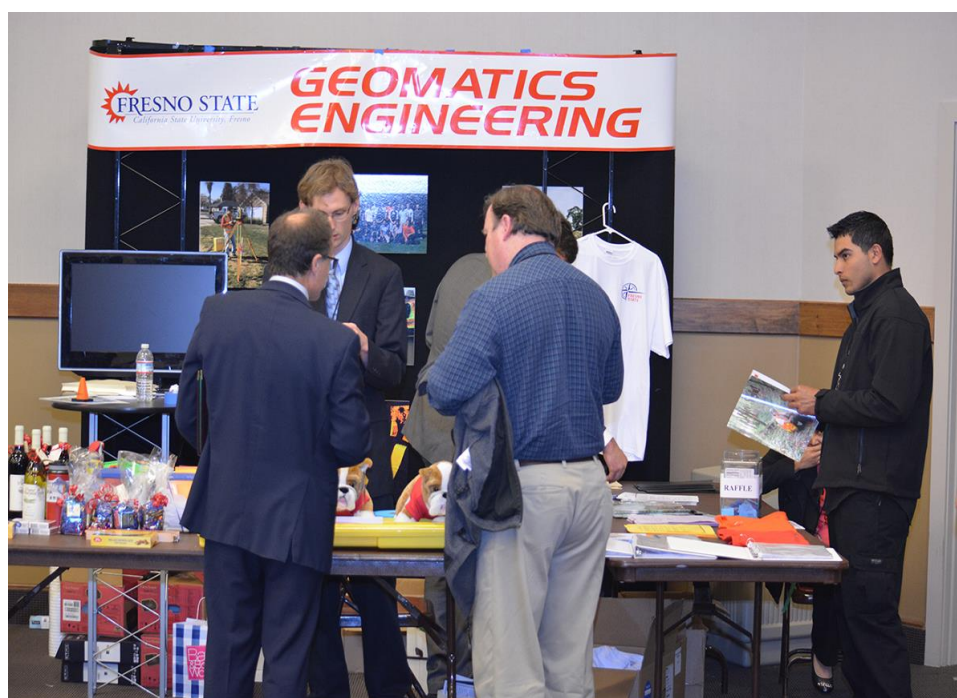
UC Irvine Engineering Career Fair, January 25

Outreach Coordinator Brooke Phayer, attended the “Career Fair” and distributed Board promotional pieces on the “Path to Professional Licensure.”

Cal State University, Fresno,

January 26 - 27

Executive Officer Ric Moore, PLS, and Outreach Coordinator Brooke Phayer participated in the 57th Annual Cal State Fresno Geomatics Conference to give broader awareness of the possibilities of professional licensure.





South Coast Geological Society, Orange County, Feb 12

Senior Registrar Laurie Racca PG provided information to the South Coast Geological Society on common problems seen in applications submitted to the Board and provided guidance to future applicants on what is needed for the Board's review of a candidate's qualifications. 40 to 50 people attended.

East Bay CLSA, February 13

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, PLS made a presentation at the monthly meeting to answer questions on compliance with the PLS Act and licensing statistics.

San Francisco Bay Area Association of Environmental & Engineering Geologists, February 13

Senior Registrar Laurie Racca, PG, attended a meeting of the SF Bay Area Association of Environmental and Engineering Geologists (AEG) to update their membership on the Board's activities and answer questions from AEG members. 45-50 people attended the event.

San Diego State University Engineering Career Fair, February 14 - 15

Outreach Coordinator Brooke Phayer participated in the San Diego State Engineering Career Fair to give broader awareness of the possibilities of professional licensure.

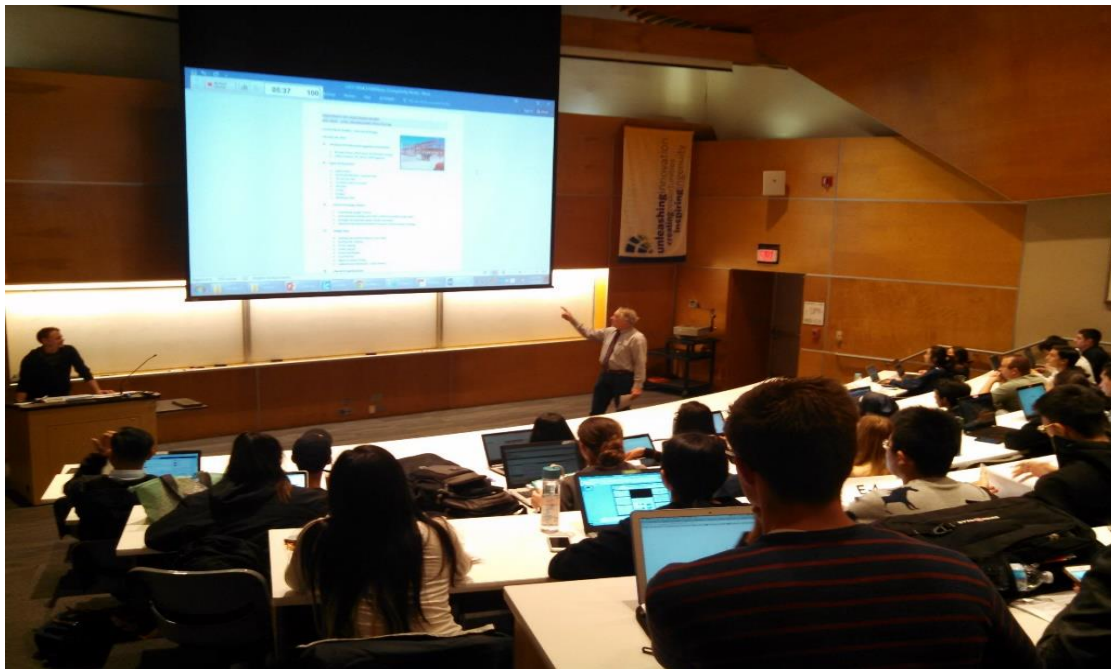
Cal State University, Sacramento Engineering Career Fair, February 16

Staff Senior Engineering Registrar Mike Donelson, PE, participated in the Cal State University, Sacramento Engineering Career Fair to give broader awareness of the possibilities of professional licensure. In addition, he gave a presentation to interested students on the "Path to Professional Licensure" to students of the various engineering clubs on campus.



Loyola Marymount University, Los Angeles, February 20

Staff Senior Engineering Registrar Mike Donelson, PE, and Outreach Coordinator Brooke Phayer, gave a presentation to 35+ senior civil engineering students on the "Path to Professional Licensure."



**UC Irvine,
February 20**
Staff Senior
Engineering
Registrar Mike
Donelson, PE, and
Outreach
Coordinator
Brooke Phayer,
gave a
presentation to
100+ senior
engineering
students on the
“Path to
Professional
Licensure.”

Inland Geologic Society, March 6

Staff Senior Registrar Laurie Racca, PG, made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.

Rancho Santiago Community College, Santa Ana, March 12

Rancho Santiago Community College District (RSCCD) Board of Trustees Meeting

At the Rancho Santiago Community College District (RSCCD) Board of Trustees Meeting

Winners of 2017 NCEES Surveying Education Award were announced. This annual award recognizes surveying programs that best reflect the organization’s mission to advance licensure for surveyors in order to safeguard the health, safety, and welfare of the public. Santiago Canyon College Business and Career Technical Education Division Surveying/Mapping Sciences program was awarded a \$10,000 prize.

See photo on the following page.



In the photo from left to right are the following:

Von Lawson, Dean of Business & Career Technical Education, Santiago Canyon College
John Hernandez, President of Santiago Canyon College
Donald Mertens, PLS, Program Facilitator for Surveying/Mapping Sciences, Santiago Canyon College
Robert Stockton, PE, Civil Engineer Member of the BPELSG (on behalf of the NCEES)
Nelida Mendoza, President of the RSCCD Board of Trustees



San Diego State University, March 14

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.

Cal State Bakersfield, March 16

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.

CA Department of Conservation, State Mining and Geology Board, Santa Ana, March 20

Staff Senior Registrar Laurie Racca, PG and Staff Senior Registrar Dallas Sweeney, PLS made a presentation at The Surface Mining and Reclamation Act (SMARA) workshop on professional licensing requirements and a discussion of key concepts (types of licenses, which license applies etc.).

Marin CLSA, March 21

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, PLS made a presentation at the monthly meeting to answer questions on compliance with the PLS Act and licensing statistics. While in Marin we were given a tour of the Anne T. Kent California Room Digital Archive which includes 150 years of surveying maps and field notes.

Fresno State University, March 22

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.



San Joaquin Valley Association of Engineering and Environmental Sciences, March 22

Staff Senior Registrar Laurie Racca, PG made a presentation on the 50year anniversary of the passing of the Geologic Act.

Marin County Surveyor and Staff, March 29

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, met with the County Surveyor, staff and contract map checkers to discuss their process and compliance with the PLS Act.

SOCIAL MEDIA January - March 2018

Top 5 Twitter “Tweets” of Past Quarter

Posts	Date Posted	Views
1. Geotechnical Occupational Analysis	Jan 24	522
2. Senior Registrar Recruitment - Civil	Feb 27	476
3. Electronic Version of Professional Acts Published	Jan 5	318
4. Meeting Materials Published – April Mtg.	Mar 2	283
5. Fresno Geomatics Conference	Jan 26	261

Top 5 Facebook Posts of Past Quarter

Posts	Date Posted	Views
1. Recruiting for Senior Registrar	Feb 2	1,049
2. Land Surveyors – Occupational Analysis	Jan 19	983
3. Electronic Version of Professional Acts Published	Jan 5	661
4. Meeting Materials Published – Jan. Mtg.	Jan 2	609
5. Meeting Materials Published – April Mtg.	Jan 24	542



Top 5 Webpage Views of Past Quarter

Page Title	Views
1. License Lookup	75,769
2. Home Page	52,517
3. Instructions on How to Apply for a CA Engineer License	44,903
4. Professional Engineer Application	30,527
5. EIT/LSIT Certificate Info	21,084

PRINTED MATERIALS January – March 2018

Spring 2018 Bulletin:

SPRING 2018

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

BULLETIN

FEATURES

- 2 Examination Statistics
- 4 Mud Creek Landslide: Board Licensees in Action, Part 3

IN EVERY ISSUE

- 1 Message from the Executive Officer
- 5 Board News
- 6 Get to Know Our Licensees
- 7 Board Members
- 8 Enforcement Actions
- 11 Definitions: Outcomes of Formal Administrative Disciplinary Decisions
- 11 In Memoriam
- 12 National Association News
- 12 Outreach Events
- 13 Board Speakers Available
- 13 Board Subscribers List Reminder
- 13 Contact Us
- 14 Board Calendar
- 14 Social Media

Our Spring 2018 Bulletin

Every spring, the Board for Professional Engineers, Land Surveyors, and Geologists publishes the results of its exams to provide year-to-year comparisons. This issue of the *Bulletin* features statistical results for the past five years for all California-specific exams.

Take a look inside! Let us know if you have any feedback or topic ideas for future issues of the *Bulletin*.

Message from the Executive Officer

RICHARD B. MOORE, PLS

Have you visited the board's website lately? If so, I hope you are benefiting from recent revisions. If not, please be sure to visit our website and see all the changes made to improve communication and accessibility. I'm most excited about our website now being more "mobile-friendly." Board staff is working to confirm all information transferred appropriately. If you see something askew or wish to provide feedback, please email the board's webmaster at BPESLG.Webmaster@dca.ca.gov and we'll look into it.

As a follow-up to the executive officer message from the board's last *Bulletin* newsletter, we are excited that the new administration of the two California civil engineer exams is upon us, and as of the publishing of this message, will have begun. It appears that for the most part, communication on the changes with applicants has progressed as well as can be expected. There are many approved candidates already scheduled for the first administration between April 1 and June 30 of this year, and we are regularly receiving a couple hundred new professional engineer applications monthly. We look forward to having the ability to process applications and license qualified candidates throughout the year.

Please provide the board with any feedback as these changes are implemented over the next six to 12 months, so we can continue to evaluate how we can improve our services.

BPESLG.CA.GOV

Military Publication:

DEPARTMENT OF CONSUMER AFFAIRS

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

MILITARY SERVICE PERSONNEL AND SPOUSES APPLYING FOR LICENSURE OR CERTIFICATION

Military experience counting as qualifying work experience
Experience must be documented and verified in the same manner as all other work experience.

Expedited licensure for honorably discharged military service personnel
The Board for Professional Engineers, Land Surveyors, and Geologists (Board) shall expedite the initial licensure process for an applicant who served as an active duty member of the Armed Forces of the United States and was honorably discharged.

If you would like to be considered for the expedited review process, provide a copy of military orders identifying honorable discharge from the Armed Forces of the United States and write "MILITARY-HONORABLE DISCHARGE" on the bottom-left corner of the front of your envelope.

**MEET A HIGHER STANDARD.
COMPETE AT A HIGHER LEVEL.**

XII. Technical Advisory Committees (TACs)

- A. Assignment of Items to TACs (Possible Action)
- B. Appointment of TAC Members (Possible Action)
- C. Reports from the TACs (Possible Action)

MOTION:

To recommend Mr. Greg Hopkins, P.L.S. and Mr. Edward Reading, P.L.S. for reappointment; and Mr. Adam Rivera for appointment to the Professional Land Surveyor Technical Advisory Committee (LSTAC) for 2 year appointments commencing July 1, 2018:

BACKGROUND:

Mr. Hopkins has been a licensed land surveyor since 2001 and is employed as the City Land Surveyor/Deputy Director for the Engineering Division at the City of San Diego. He oversees all of the land surveying operations at the City.

Mr. Reading became licensed as a land surveyor in California in 2005 after being licensed in Wyoming and Idaho. He primarily worked in private land surveying/engineering firms prior to being appointed as a Land Surveyor for the County of San Luis Obispo.

Mr. Rivera was licensed as a land surveyor in 2008, after working in the field for ten years. His apprenticeship included working with some of the most experienced surveyors in Sonoma County. His education includes a Certificate of Engineering and Surveying from Santa Rosa Junior College.

The LSTAC member appointments for the above individuals have been nominated by Steve Wilson. The reappointment / appointment of these candidates will help ensure the continuance, and enhancement, of the professional land surveying expertise and advice provided by the LSTAC.

RECOMMENDATION:

Recommend that the Board consider, and approve, the aforementioned individuals to serve as members of the LSTAC for the terms requested.

XIII. President's Report/Board Member Activities

XIV. Nomination and Election of President and Vice President for Fiscal Year 2018/19

XV. Approval of Meeting Minutes (Possible Action)

A. Approval of the Minutes of the May 3, 2018, Board Meeting

DRAFT

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

Department of Consumer Affairs
1747 North Market Boulevard, Hearing Room
Sacramento, CA 95834

Thursday, May 3, 2018, beginning at 9:00 a.m.

Thursday, May 3, 2018

Board Members Present:	Eric Johnson, President; Betsy Mathieson, Vice President; Natalie Alavi; Fel Amistad; Andrew Hamilton; Coby King; Asha Lang; Mohammad Qureshi; and Steve Wilson
Board Members Absent:	Kathy Jones Irish; Karen Roberts; Jerry Silva; Robert Stockton
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Administrative Manager); Candace Cummins (Licensing Manager); Larry Kereszt (Examinations Manager); Laurie Racca (Senior Registrar); Dallas Sweeney (Senior Registrar); and Michael Santiago (Legal Counsel)

I. Roll Call to Establish a Quorum

President Johnson introduced new Board member Andrew Hamilton and called the meeting to order at 9:00 a.m., and a quorum was established.

II. Public Comment for Items Not on the Agenda

Former Board Member, Carl Josephson wanted to provide an update on the issue of significant structures that the Structural Engineers Association of California (SEAOC) has been following. A joint meeting took place between the Structural TAC and Civil TAC a couple of years ago to discuss whether there are certain types of buildings that should be designed by Structural Engineers rather than Civil Engineers. Currently, it is just schools and hospitals that are required to be designed by Structural Engineers. This dialog has continued and is now a national conversation. Mr. Josephson attended a meeting in Dallas, Texas, with the Structural Engineering Institute and the Professional Activities Committee. The focus of the meeting was the definition of the type of structures that should be designed by Structural Engineers. This issue is still very active, and SEAOC would like to introduce legislation to define the type of structures that are required to be designed by Structural Engineers.

III. Consideration of Rulemaking Proposals

- A. Requirements for Licensure – Geologists and Geophysicists, Title 16, California Code of Regulations section 3031 et. seq., section 3041 and section 3042.

MOTION:	Dr. Qureshi and Ms. Lang moved to approve the revised text as shown and direct staff to continue with the rulemaking process to amend Title 16, California Code of Regulations section 3031, et. seq.
----------------	---

After discussion, the motion was withdrawn. Vice President Mathieson suggested the following amendments: Page 16 (ix) Amend “modeling of groundwater or other processes” to “Computer modeling of ground water flow or other geologic processes”; any of the sections that pertain to education and experience requirements be placed in “Article 2. Applications”; any sections that pertain to examinations be placed in “Article 3. Examinations,”; and other continuity revisions.

MOTION:	Dr. Qureshi and Ms. Alavi moved to approve the revised text as amended.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

IV. Administration

- A. Fiscal Year 2017/18 Budget Review

Mr. Moore reported that a budget meeting with Mr. Stockton and Mr. King has been scheduled for June 13. Mr. Alameida reviewed the Board’s Financial Statement.

Mr. King would like to add a note to explain what “other” is. He also requested a narrative with statistics understanding the difference between Fi\$Cal and the

real numbers. Mr. Alameida explained that the Fi\$Cal reports and in-house projections are combined within the staff report for the meeting. Any staff concerns related to in-house analysis and inconsistencies between in-house tracking and what DCA has provided from Fi\$Cal are sent to the Board's DCA Budget Analyst for verification and resolution.

He suggested the Board focus on three main areas that can be tracked:

- Personal Services (Benefits, salaries, and wages)
- Contracts (interdepartmental and external services). These contracts consist of ASBOG, NCEES, Prometric, and Subject Matter Experts
- Enforcement.

These items account for 85% of the Board's budget.

V. Legislation

A. Legislative Calendar

Ms. Eissler noted important dates on the legislative calendar.

B. Discussion of Legislation for 2018 :

AB 2138 Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

MOTION:	Mr. King and Dr. Qureshi moved to strongly oppose AB 2138, as amended April 2, 2018, and to send a copy of the Board's opposition letter to Governor Brown.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

AB 2264 Professions and vocations: fees
No action needed.

AB 2409 Professions and vocations: occupational regulations.
No action needed.

SB 984 State boards and commissions: representation: women.
No action needed.

AB 2483 Indemnification of public officers and employees: antitrust awards.

MOTION:	Ms. Mathieson and Ms. Lang moved to support AB 2483, as amended April 9, 2018.
VOTE:	8-0-1, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi			X		
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

AB 767 Master Business License Act.

MOTION:	Dr. Qureshi and Ms. Alavi moved to continue to watch AB 767, as amended April 5, 2018.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				

Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

AB 3126 Contractors' State License Law: cash deposit in lieu of a bond.
No action needed.

AB 3134 Professional engineers.
No action needed.

SB 920 Engineering, land surveying, and architecture: limited liability partnerships.

MOTION:	Mr. Wilson and Dr. Amistad moved to support SB 920, as amended April 2, 2018.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

SB 1098 Geologists and geophysicists: fees.

MOTION:	Ms. Land and Dr. Qureshi moved to support SB 1098, as amended April 12, 2018.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				

Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

VI. Enforcement

C. Enforcement Statistical Reports

1. Fiscal Year 2017/18 Update

Mr. King questioned the increase in cases over the last few months. Ms. Criswell explained there were groups of related cases and that it is likely an anomaly and not a trend.

VII. Exams/Licensing

A. Update on Spring 2018 Examinations

Mr. Kereszt explained that occupational analyses are taking place for each examination, some have been completed and others are scheduled for later in 2018-2019. In an effort to continue to improve examination availability, approved civil engineer candidates are able to take either one or both California Civil examinations once per quarter for possibly four times per year, which began April 1, 2018.

Mr. Kereszt provided examination result statistics from 2013-2017 and the Professional Geologist examination statistics for the Spring 2018 administration.

Mr. Kereszt reported that the Geotechnical examination had been offered as a continuous examination with the ability to take it once per year. Because the application numbers were declining, it was decided to introduce two windows to take the exam. One is from May 1 to May 15, and the other is November 1 to November 15. Historically, there has been a steady applicant pool, but when the examination started to be offered on a continuous basis, the numbers decreased. Mr. Moore added that if a deadline was introduced, it might motivate applicants. Mr. Kereszt reported that there is an upturn in applicants already.

B. Update on Application Numbers

Mr. Moore introduced Candace Cummins, Licensing Manager, and reviewed the application numbers for the time period of December 2017 through March 2018.

- C. Adoption of Test Plan Specifications for the California Professional Land Surveyor Examination
- D. Adoption of Test Plan Specifications for California Geotechnical Engineer Examination

MOTION:	Dr. Qureshi and Mr. Amistad moved to adopt both test plans.
VOTE:	9-0 , motion carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

VIII. Executive Officer's Report

A. Rulemaking Status Report

No report given.

B. SB 2 (2017 Ch. 364) Effect on Filing a Record of Survey

Mr. Moore reported that staff has been working with Senator Canella's staff regarding concerns relating to the effect SB 2 might have on filing a record of survey. They asked the Legislative Counsel and the Attorney General's Office for opinions. The Attorney General's Office sent an email seeking input from various interested parties. The Board is waiting for the Attorney General's response as a result of this email. The Board recommended communicating with the Attorney General's Office.

C. Update on Board's Business Modernization Report

Mr. Moore provided some history for new Board Member Hamilton. He noted that the technical system requirements have been completed to meet California Department of Technology (CDT) mid-level solutions for the Project Approval Lifecycle (PAL) process. and staff has met with CDT personnel and are strategizing how to complete the submittal for the Stage II document.

D. Personnel

Mr. Moore reported that the Board is currently recruiting for the Civil Engineer position and is hopeful to commence the interviewing process soon. Jacqueline Lowe, Enforcement Analyst, who has been with the Board since 1995, is retiring May 30, 2018. Janice Fowlks was hired as one of the Board's receptionists. The Licensing Unit is recruiting for an Applications Evaluator.

Mr. Moore recognized staff members that helped support the front desk with phone coverage and assisting the public until the new receptionist was hired and for those who continue to assist in training Ms. Fowlks during the transition process.

E. ABET

No report given.

F. Association of State Boards of Geology (ASBOG)

Ms. Racca reported that the ASBOG Council of Examiners met in April which involved grading examinations and setting up for the upcoming fall examinations. ASBOG is in the process of studying their transition to Computer Based Testing (CBT). She anticipates that it will take place after 2022. California is the host state for the Annual Meeting in Monterey, which will take place the same week as the Board meeting at the end of October/beginning of November 2018.

G. National Council of Examiners for Engineering and Surveying (NCEES)

1. Report of Western Zone Interim Meeting

Mr. Moore reported on the Western Zone interim meeting. Brian Robertson from Colorado was elected as the new Zone Vice-President, and Scott Bishop from Utah was elected as the new Assistant Zone Vice-President.

2. Selection of Funded Delegates to Attend Annual Meeting – August 15-18, 2018

Dr. Qureshi and Ms. Mathieson recommended Mr. Wilson and Ms. Lang as Funded Delegates to attend the Annual Meeting.

3. Recommend Dallas Sweeney as Associate Member to NCEES

Mr. Moore recommended that the Board nominate Mr. Sweeney to be an Associate Member and, after further discussion, also recommended that the Board nominate Ms. Criswell and Mr. Kereszt to be Associate Members of NCEES.

MOTION:	Mr. Wilson and Ms. Alavi moved to nominate Mr. Sweeney, Ms. Criswell, and Mr. Kereszt to be Associate Members of NCEES.
VOTE:	9-0 , motion carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi	X				
Fel Amistad	X				
Andrew Hamilton	X				
Kathy Jones Irish				X	
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

H. Update on Outreach Effort

Mr. Moore reviewed the 2018 Outreach Report.

IX. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs

No report given.

B. Appointment of TAC Members

No report given.

C. Reports from the TACs

No report given.

X. President's Report/Board Member Activities

President Johnson announced that he had appointed Ms. Mathieson and Mr. King to serve as the Board's Nominating Committee. They will provide their recommendations for President and Vice President at the next meeting.

President Johnson also discussed the Executive Officer salary band research and noted Dr. Qureshi and Mr. Wilson will work to gather supporting documentation to bring to a future Board meeting.

Ms. Lang reported that she attended the California Women's League that recognized appointed women in State Government.

XI. Approval of Meeting Minutes

A. Approval of the Minutes of the March 8, 2018, Board Meeting

MOTION:	Dr. Qureshi and Mr. King moved to approve meeting minutes as amended.
VOTE:	6-0-3, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi			X		
Fel Amistad	X				
Andrew Hamilton			X		
Kathy Jones Irish				X	
Coby King	X				
Asha Lang			X		
Mohammad Qureshi	X				
Karen Roberts				X	
William Silva				X	
Robert Stockton				X	
Steve Wilson	X				

XIII. Other Items Not Requiring Board Action

Mr. Moore reported that he received information from the Senate Rules Committee that a new Board member was appointed May 2, 2018, but he had received no further information at this time.

XIV. Closed Session – The Board met in Closed Session to discuss, as needed:

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
- C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]

XV. Open Session to Announce the Results of Closed Session

During Closed Session, the Board took action on six proposed decisions, two default decisions, and a petition for reconsideration.

XII. Discussion Regarding Proposed Agenda Items for Next Board Meeting

- A. June 28-29, 2018, Board Meeting will be held in San Diego at CalTrans District 11, 4050 Taylor Street, Wallace Room #134 San Diego, CA 92110-2737

XVI. Adjourn

The meeting adjourned at 2:20 p.m.

PUBLIC PRESENT

Carl Josephson, SEAOC
 Bob DeWitt, ACEC - CA
 Alan Escarda, PEGG
 Rob McMillan, CLSA
 John Snee, CalTrans Office of Land Surveys
 Denny L. Kennedy, Collins Electrical

XVI. Discussion Regarding Proposed Agenda Items for Next Board Meeting

- A. September 6-7, 2018, Board Meeting will be held in Santa Rosa at the Judge Joseph Rattigan Building, 50 D Street, Conference Room 410 Santa Rosa, CA 95404

XVII. Other Items Not Requiring Board Action

XVIII. Closed Session – The Board will meet in Closed Session to discuss, as needed:

-
- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
 - B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
 - C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]
 - D. Pending Litigation [Pursuant to Government Code section 11126(e)]
 - 1. Mauricio Jose Lopez v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, San Bernardino County Superior Court Case No. CIVDS1718786

XIX. Open Session to Announce the Results of Closed Session

XX. Adjourn
