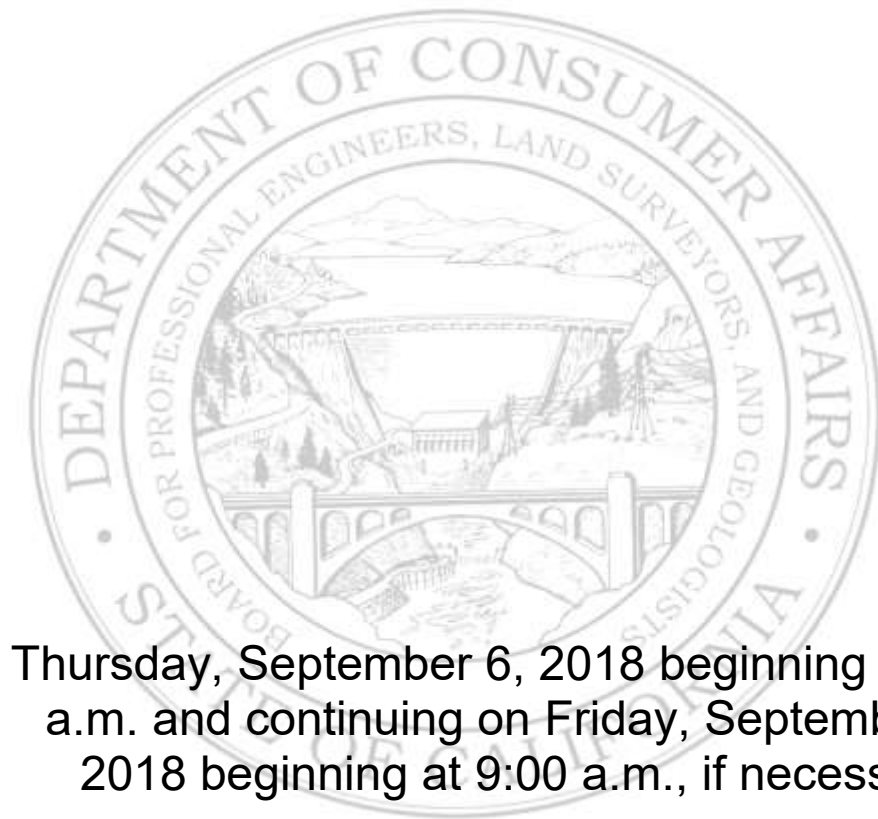




Governor Edmund G. Brown

Board for Professional Engineers, Land Surveyors, and Geologists

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



Thursday, September 6, 2018 beginning at 9:00
a.m. and continuing on Friday, September 7,
2018 beginning at 9:00 a.m., if necessary

Judge Joseph Rattigan Building
50 D Street, Conference Room 410
Santa Rosa, CA 95404

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

BOARD MEETING

SEPTEMBER 6-7, 2018

Judge Joseph Rattigan Building
50 D Street, Conference Room 410
Santa Rosa, CA 95404

BOARD MEMBERS

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

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. Consideration of Rulemaking Proposals

- A. Proposal to Amend Title 16, California Code of Regulations Sections 3003 & 3003.1 (Negligence, Incompetence and Responsible Charge-Practice of Geology and Geophysics) (Possible Action)

IV. Administration

- A. Fiscal Year 2017/18 Budget Review
- B. Fiscal Year 2018/19 Budget Status

V. 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.

VI. Enforcement

- A. Enforcement Statistical Reports
 - 1. Fiscal Year 2018/19 Update

VII. Exams/Licensing

- A. Update on 2018 Examinations - First and Second Quarter Examination Results

VIII. Executive Officer's Report

- A. Rulemaking Status Report

- B. Update on Board's Business Modernization Report
- C. Strategic Plan Discussion (Possible Action)
- D. Sunset Review (Possible Action)
 - 1. Suggestions for New Issues to Address in Sunset Report (Possible Action)
- E. Personnel
- F. ABET
 - 1. Status of Board Observer Assignments for Fall 2018
- G. Association of State Boards of Geology (ASBOG)
 - 1. Update on Annual Meeting – Monterey Fall 2018
 - a. Designate Voting Delegate (Possible Action)
 - b. Annual Meeting Motions (Possible Action)
- H. National Council of Examiners for Engineering and Surveying (NCEES)
 - 1. Annual Meeting Report
- I. Update on Outreach Efforts

IX. Review of Professional Land Surveyors' Act and Board Rules related to the Preparation and Submittal of Record of Survey and Corner Record Requirements (Possible Action)

X. 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)

XI. President's Report/Board Member Activities

XII. Approval of Meeting Minutes (Possible Action)

- A. Approval of the Minutes of the June 28, 2018, Board Meeting

XIII. Discussion Regarding Proposed Agenda Items for Next Board Meeting

- A. November 1-2, 2018, Board Meeting will be held in Monterey at the Monterey-Salinas Transit, 19 Upper Ragsdale Drive, Boardroom, Monterey, CA 93940

XIV. Other Items Not Requiring Board Action

XV. 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

XVI. Open Session to Announce the Results of Closed Session

XVII. Adjourn

I. Roll Call to Establish a Quorum

II. Public Comment for Items Not on the Agenda

III. Consideration of Rulemaking Proposals

- A. Proposal to Amend Title 16, California Code of Regulations Sections 3003 & 3003.1 (Negligence, Incompetence and Responsible Charge-Practice of Geology and Geophysics)

Consideration of Rulemaking Proposals

Negligence, Incompetence and Responsible Charge Regulation: Geologists and Geophysicists, Title 16, California Code of Regulations sections 3003 and 3003.1, et. seq. (Possible Action)

Subject Matter of Proposed Regulation: Negligence, Incompetence and Responsible Charge

1. Section(s) Affected:

Amend Section 3003 (Definitions) and add Section 3003.1. Responsible Charge (Practice of Geology and Geophysics) to the California Code of Regulations, Title 16, Division 29.

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

The Geologist and Geophysicist Act does not clearly define negligence, incompetence, or responsible charge. This leaves the terms negligence, incompetence, and responsible charge susceptible to misinterpretation. This regulation package will specify the definitions of negligence, incompetence, and responsible charge as used in the Business and Professions Code sections 7805 & 7860.

2. Anticipated benefits from this regulatory action:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) anticipates these regulatory amendments will make it easier for the consumers of California and the Board's applicants, licensees, and certificate holders to comprehend and comply with the Board's laws and regulations.

PROPOSED MOTION:

The Board directs staff to begin the rulemaking process to amend Section 3003 to and to add Section 3003.1 of Title 16, California Code of Regulations as described above and shown in the included proposed language.

Board for Professional Engineers, Land Surveyors and Geologists
Negligence, Incompetence and Responsible Charge-Practice of Geology and Geophysics
California Code of Regulations, Title 16, Division 29, section 3003 & 3003.1

3003. Definitions.

For the purposes of the rules and regulations contained in this chapter, the term:

(a) "Board" means the Board for Professional Engineers, Land Surveyors, and Geologists.

(b) "Engineering Geology" means the application of geologic data, principles and interpretation so that geologic factors and processes affecting planning, design, construction, maintenance, and vulnerability of civil engineering works are properly recognized and utilized.

(c) "Responsible Position" means a position whereby a person having individual control and direction of a geological project exercises individual initiative, skill and judgment in the investigation and interpretation of geological features, or the supervision of such projects. An individual can be considered to be in a responsible position even though not registered and working as a subordinate employee to a registered or qualified geologist.

(d) "Professional geological work" is work performed at a professional level rather than at a subprofessional or apprentice level and requires the application of scientific knowledge, principles and methods to geological problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision.

"Professional geological work" specifically does not include such routine activities as drafting, sampling, sample preparation, routine laboratory work, etc., where the elements of initiative, scientific judgment and decision making are lacking, nor does it include activities which do not use scientific methods to process and interpret geologic data. Further, it specifically does not include soils engineering, soils sampling, soils testing or other activities in or related to the agricultural application of soils sciences. It also does not include mining, mining engineering or other engineering disciplines and/or other physical sciences wherein geological investigation, analysis and interpretation are minimal or lacking.

(e) "Professional geophysical work" is work performed at a professional level rather than at a subprofessional or apprentice level and requires the application of scientific knowledge, principles and methods to geophysical problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. The term includes the practice of geophysics for the evaluation and mitigation of earthquake hazards, and environmental and groundwater resource assessment. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision.

"Professional geophysical work" specifically does not include activities wherein the analysis or interpretation of geophysical or geological information is lacking. Such nonprofessional work could encompass party or crew chief and would encompass lesser forms of employment in field parties, the manufacture, assembly or maintenance and repair of geophysical instruments and equipment, computer programming, data processing or retrieval and routine activities normally performed by a technician in acquiring and reporting on geophysical information where the elements of initiative, scientific judgment and decision making are absent. It also does not include those engineering disciplines and other physical sciences wherein geophysical or geological investigation, analysis and interpretation are minimal or lacking.

(f) "Practice of Geology or Geophysics."

(1) The practice of geology or geophysics "for others" includes but is not limited to the preparation of geologic or geophysical reports, documents or exhibits by any commission, board, department, district or division of the state or any political subdivision thereof or of any county, city or other public body or by the employees or staff members of such commission, board, department, district or division of the state or any political subdivision thereof or of any county, city or other public body when such reports, documents or exhibits are disseminated or made available to the public in such a manner that the public may reasonably be expected to rely thereon or be affected thereby.

(2) The practice of geology or geophysics "for others" includes but is not limited to the performance of geological or geophysical services by any individual, firm, partnership, corporation or other association or by the employees or staff members thereof, whether or not the principal business of such organization is the practice of geology or geophysics, when the geological or geophysical reports, documents or exhibits constituting the practice of geology or geophysics are disseminated or made available to the public or any individual or combination of individuals other than the employees or staff of such organization in such a manner that the public or said individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby.

(3) Geological or geophysical reports, documents or exhibits which are prepared by the employees or staff members of any individual, firm, partnership, corporation or other association or commission, board, department, district, or division of the state or any political subdivision thereof or of any county, city or other public body which are for use solely within such organization are considered "in-house" reports, documents or exhibits and are not the practice of geology or geophysics for others unless or until such reports are disseminated or made available as set forth in subsection (1) or (2).

(g) "Code" means the Business and Professions Code.

(h) "Hydrogeology" means the application of the science of geology to the study of the occurrence, distribution, quantity and movement of water below the surface of the earth, as it relates to the interrelationships of geologic materials and processes with water, with particular emphasis given to groundwater quality.

(i) For the sole purpose of investigating complaints and making findings under Section 7860 of the Code, "incompetence" as used in Section 7860 of the Code is defined as the lack of knowledge or ability in discharging professional obligations as a professional geologist or geophysicist.

(j) For the sole purpose of investigating complaints and making findings under Section 7860 of the Code, "negligence" as used in Section 7860 of the Code is defined as the failure of a licensee, in the practice as a professional geologist or geophysicist, to use the care ordinarily exercised in like cases by duly licensed professional geologists or geophysicists in good standing.

Note: Authority cited: Section 7818, Business and Professions Code. Reference: Sections 7800, 7801, 7802, 7802.1, 7803, 7803.1, 7804, 7804.1, 7822, 7841, ~~and~~ 7841.1, and 7860, Business and Professions Code.

3003.1. Responsible Charge– Practice of Geology or Geophysics.

(a) As used in the Geologist and Geophysicist Act, the term “responsible charge” directly relates to the extent of control a professional geologist or professional geophysicist is required to maintain while exercising independent control and direction of professional geological work or professional geophysical work and to the geological or geophysical decisions which can be made only by a professional geologist or professional geophysicist.

(1) Extent of Control. The extent of control necessary to be in responsible charge shall be such that the professional geologist or professional geophysicist:

(A) Makes or reviews and approves the geologic al or geophysical decisions defined and described in subdivision (a)(2) below.

(B) In making or reviewing and approving the geological or geophysical decisions, determines the applicability of criteria and technical recommendations provided by others before incorporating such criteria or recommendations.

(2) Practice of Geology or Geophysics. The term “responsible charge” relates to geological or geophysical decisions within the purview of the Professional Geologist and Geophysicist Act. Decisions which must be made by and are the responsibility of the licensed professional geologist or geophysicist in responsible charge are those decisions concerning permanent or temporary projects which could create a hazard to life, health, property, or public welfare, and may include, but are not limited to:

(A) The selection of the methods, procedures, and quality control/quality assurance techniques for obtaining data and for the overall project.

(B) The selection or development of procedures used for data evaluation, modeling, and presentation of geological or geophysical information.

(C) The decisions related to the preparation of geologic al or geophysical plans, specifications, calculations, reports, and other documents and the format of the maps, figures, or documents.

(D) The selection or development of field or laboratory techniques or methods of testing to be used in evaluating materials or completed projects, either new or existing , including both physical and chemical analyses as appropriate for the project.

(E) Reviewing the sufficiency and accuracy of the work product.

(3) Reviewing and Approving Geologic al or Geophysical Decisions. In making or reviewing and approving geologic al or geophysical decisions, the professional geologist or professional geophysicist shall be physically present or shall review and approve through the use of communication devices the geological or geophysical decisions prior to their implementation.

(b) Responsible Charge Criteria. In order to evaluate whether a professional geologist or professional geophysicist is in responsible charge, the following must be considered: The professional geologist or professional geophysicist who signs the geological or geophysical documents must be capable of answering questions asked by individuals who are licensed by the Board as a professional geologist or professional geophysicist as appropriate to the work relevant to the project and who are fully competent and proficient by education and experience in the field or fields relevant to the project. These questions would be relevant to the decisions made during the individual’s participation in the project, and in sufficient detail to leave little question as to the professional geologist’s or professional geophysicist’s technical knowledge of the work performed. It is not necessary to defend decisions as in an adversarial situation, but only to

demonstrate that the individual in responsible charge made, or reviewed and approved, them and possessed sufficient knowledge of the project to make, or review and approve, them.

Examples of questions to be answered could relate to criteria for the geologic or geophysical study, methods of analysis, quality assurance/quality control criteria, selection of field equipment, economics of alternate solutions, and environmental considerations. The individual should be able to clearly express the extent of control and how it is exercised and to demonstrate that the professional geologist or professional geophysicist is answerable within said extent of control.

(c) Successor Licensee. In situations when the professional geologist or professional geophysicist in responsible charge of a project is unavailable to complete the project, a professional geologist or professional geophysicist (hereinafter referred to as the "successor licensee") may assume responsible charge of the project as long as the successor licensee exercises the requisite extent of control and assumes responsibility for the project decisions as required by subdivision (a) and meets the criteria described in subdivision (b), as well as meeting the requirements of the Professional Geologist and Geophysicist Act and Section 3008. The original licensee is not relieved of any responsibility arising from the services of which he or she was in responsible charge.

(d) Portions of Projects. Nothing in this section prohibits a professional geologist or professional geophysicist from providing services for portions of or to add to or to modify a project started under the responsible charge of another licensee as long as the professional geologist or professional geophysicist exercises the requisite extent of control and assumes responsibility for the decisions as required by subdivision (a) and meets the criteria described in subdivision (b), as well as meeting the requirements of the Professional Geologist and Geophysicist Act and Section 3008. The professional geologist or professional geophysicist need only be in responsible charge of the portions, additions, or modifications or the portion of the project affected by the addition or modification and not of the entire project. The original licensee is not relieved of any responsibility arising from the services of which he or she was in responsible charge.

(e) The term "responsible charge" does not refer to any of the following:

- (1) the concept of financial liability;
- (2) management control in a hierarchy of professional geologists or professional geophysicists except as each of the individuals in the hierarchy exercises independent judgment and thus responsible charge;
- (3) such administrative and management functions as accounting, labor relations, personnel performance standards, marketing of services, or goal setting. While a professional geologist or professional geophysicist may also have such duties in this position, it should not enhance or decrease one's status of being in responsible charge of geology or geophysics.

Note: Authority cited: Section 7818, Business and Professions Code. Reference: Section 7805, Business and Professions Code.

IV. Administration

- A. Fiscal Year 2017/18 Budget Review
- B. Fiscal Year 2018/19 Budget Status

MEMORANDUM

DATE	August 28, 2018
TO	ALL Board Executive Officers/Bureau Chiefs
FROM	Janice Shintaku-Enkoji, Chief Fiscal Officer Budget Office
SUBJECT	DCA FI\$Cal Implementation Status Update

FI\$Cal is the new statewide system for budgets, accounting and procurement that the State of California has implemented for all state departments. Participation in the system is mandated by the state legislature and the Governor.

DCA integrated into FI\$Cal in July 2017. While the transition has and continues to be challenging, the system is working and capturing all expenditure and revenue transactions for DCA programs. During system implementation, DCA – among other state entities -- have encountered interface and other technical system issues that have hampered our ability to conduct timely month end closing and produce reconciled monthly expenditure and revenue reports. In response to these issues, the DCA Executive Office has met with the FI\$Cal Director and its executive team to relay our system concerns and address the technical system issues. As a result, DCA and FI\$Cal technical staff have been in contact on a weekly basis to work through and address programming, reporting and other technical concerns.

DCA continues to operate in FI\$Cal and is working towards closing its first full fiscal year in the system, however processing and workload issues associated with the system have yet to be fully resolved. Significant hurdles must be overcome for DCA to close and reconcile expenditure and revenue figures for year-end. As a result, DCA will be unable to close the fiscal year and produce official financial year-end statements until later this fiscal year (currently estimated for March 2019). Please note that this is a situation that is not unique to DCA but rather a statewide issue impacting many of the Departments that are transitioning to the FI\$Cal system. See the State Auditor's recent [FI\\$Cal status letter](#) for additional context.

To provide programs with estimated year-end expenditure and revenue figures, DCA will be producing preliminary fiscal month 12 (June) financial statements from FI\$Cal that will be disseminated to programs in late August. These reports will be utilized for year-end estimates until the official financial statements can be prepared.

DCA understands your concerns and share many of the same frustrations in not being able to provide timely reports that detail all expenditures and revenues for programs in a consolidated and understandable format.

DCA is fully dedicated to a successful transition into the FI\$Cal system. We appreciate your patience and understanding as we continue to address these technical and workload challenges.

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

Date Prepared

August 27, 2018

	FY 2016-17 Month 12 (7/16-6/17)	FY 2017-18 Month 12 (7/17-6/18)	% Change	FY 2017-18 FM 1 Projections	FY 2017-18 Updated Projections	% Change
Revenue						
1 Applications/Licensing Fees (125700)	2,423,072	1,649,123	-32%	2,829,000	1,799,043	-36%
2 Renewal fees (125800)	6,201,760	6,887,410	11%	6,138,000	6,986,410	14%
Delinquent fees (125900)	91,125	85,575	-6%	81,000	93,355	15%
Interest	44,610	97,400	118%		97,400	
Other	154,029	142,813	-7%	134,000	155,796	16%
Total Revenue:	8,914,596	8,862,321	-1%	9,182,000	9,132,004	-1%
Expense						
Personnel Services:						
Civil Service Perm.	2,802,231	2,585,777	-8%	2,962,803	2,820,848	-5%
Temp Help	165,998	117,098	-29%	206,002	127,743	-38%
Exam Proctor	5,215			5,082	5,000	-2%
Board Members	8,200	7,000	-15%	6,433	9,100	41%
Committee Members	2,100			2,250	1,500	-33%
3 Overtime/Other	862	63,809	7302%	1,483	63,809	4203%
Total Salaries and Wages	2,984,606	2,773,683	-7%	3,184,053	3,027,999	-5%
Total Benefits	1,532,227	1,459,314	-5%	1,528,585	1,591,979	4%
Total Personnel Services	4,516,833	4,232,997	-6%	4,712,638	4,619,978	-2%
Operating Expense and Equipment:						
Fingerprints	54,395			61,802		-100%
General Expense	59,498	66,226	11%	62,716	72,247	15%
Printing	30,619	45,597	49%	50,332	49,742	-1%
Communication	24,457	22,595	-8%	27,525	24,649	-10%
Postage	41,637	40,675	-2%	83,707	50,000	-40%
Travel Out-of-State	3,970	1,425	-64%	5,188	3,000	-42%
Travel In State	87,140	64,300	-26%	113,054	100,000	-12%
Training	209	290		430	710	65%
Facilities Operations	358,920	377,418	5%	368,931	411,729	12%
4 C & P Services - Interdept.	180,000	362,517	101%	179,840	200,000	11%
C & P Services - External	563,319	171,626	-70%	375,299	119,441	-68%
Minor Equipment	24,000		-100%	5,533	0	-100%
Prorata	1,809,345	1,732,733	-4%	2,236,987	2,204,000	-1%
Other Expense	175,063	19,373		5,177	94,373	1723%
Total General Expenses:	3,412,572	2,904,775	-15%	3,576,518	3,329,891	-7%
Examinations:						
Exam Rent - Non State				245	2,632	974%
5 External Exam Contract Services	797,115	737,056	-8%	713,143	755,505	6%
6 C/P Svs - Ext Expert Examiners	187,425	500,646	167%	177,185	500,647	183%
Total Examinations:	984,540	1,237,702	26%	890,573	1,258,783	41%
Enforcement:						
Attorney General	396,119	290,139	-27%	438,759	349,477	-20%
Office Admin. Hearing	84,892	84,940	0%	92,113	145,000	57%
Evidence / Witness Fees	200,957	229,401	14%	241,016	229,401	-5%
Court Reporters	3,933	650	-83%	3,531	709	-80%
7 DOI - Investigation	318,000	362,258		235,675	370,000	57%
Total Enforcement:	1,003,901	967,388	-4%	1,011,094	1,094,587	8%
Total OE&E	5,401,013	5,109,865	-5%	5,478,184	5,683,261	4%
Total Expense:	9,917,846	9,342,862	-6%	10,190,822	10,303,239	1%
Total Revenue:	8,914,596	8,862,321		9,182,000	9,132,004	
Total Expense:	9,917,846	9,342,862		10,190,822	10,303,239	
Difference:	-1,003,250	-480,541		-1,008,822	-1,171,235	

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 from 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. Three of the five contracts have not been encumbered on the FI\$Cal report. Staff projects invoices will not exceed 40% of all contracts encumbered (\$500,000).
- 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 for exam development.
- 7 DOI Investigations - This line item is now reported with Prorata in the FI\$Cal reports.

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

Prepared 8/27/18

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	PY 2017-18	Budget Act CY 2018-19	BY 2019-20	BY +1 2020-21
BEGINNING BALANCE					
Prior Year Adjustment	\$ 8,263	\$ 10,042	\$ 8,156	\$ 6,312	\$ 2,497
Adjusted Beginning Balance	\$ 8	\$ -	\$ -	\$ -	\$ -
	\$ 8,271	\$ 10,042	\$ 8,156	\$ 6,312	\$ 2,497
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	\$ 139	\$ 127	\$ 108	\$ 108	\$ 108
125700 Other regulatory licenses and permits	\$ 2,423	\$ 1,799	\$ 2,357	\$ 1,817	\$ 2,381
125800 Renewal fees	\$ 6,189	\$ 6,986	\$ 6,310	\$ 7,056	\$ 6,373
125800 Delinquent fees	\$ 91	\$ 93	\$ 98	\$ 94	\$ 99
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 62	\$ 97	\$ 13	\$ 7	\$ -
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	\$ 9,116	\$ 8,905	\$ 9,102	\$ 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	\$ 9,116	\$ 10,836	\$ 9,102	\$ 8,980
Totals, Resources	\$ 20,459	\$ 19,158	\$ 18,992	\$ 15,414	\$ 11,477
EXPENDITURES					
Disbursements:					
1110 Program Expenditures (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
1111 Department of Consumer Affairs (State Operations)	\$ 9,853	\$ 10,303	\$ 11,828	\$ 12,065	\$ 12,306
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	\$ 11,002	\$ 12,680	\$ 12,917	\$ 13,158
FUND BALANCE					
Reserve for economic uncertainties	\$ 10,042	\$ 8,156	\$ 6,312	\$ 2,497	\$ -1,681
Months in Reserve	11.0	7.7	5.9	2.3	-1.5

V. Legislation

A. Legislative Calendar

B. Discussion of Legislation for 2018:

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.

2018 TENTATIVE LEGISLATIVE CALENDAR
COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11/16/16

DEADLINES

Table with 7 columns (S, M, T, W, TH, F, S) and 6 rows for January. Dates 1, 3, 10, 12, 15, 19, 26, 31 are highlighted.

- 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)).

Table with 7 columns (S, M, T, W, TH, F, S) and 6 rows for February. Dates 16, 19, 23 are highlighted.

- Feb. 16 Last day for bills to be introduced (J.R. 61(b)(4), (J.R. 54(a)).
- Feb. 19 Presidents' Day.

Table with 7 columns (S, M, T, W, TH, F, S) and 6 rows for March. Dates 22, 30 are highlighted.

- Mar. 22 Spring Recess begins upon adjournment of this day's session (J.R. 51(b)(1)).
- Mar. 30 Cesar Chavez Day observed.

Table with 7 columns (S, M, T, W, TH, F, S) and 6 rows for April. Dates 2, 27 are highlighted.

- 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)).

Table with 7 columns (S, M, T, W, TH, F, S) and 6 rows for May. Dates 11, 18, 25, 28 are highlighted.

- 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

2018 TENTATIVE LEGISLATIVE CALENDAR
COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE
Revised 11/16/16

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)).

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

Status: 8/27/2018- Read second time. Ordered to third reading.

Location: 8/27/2018-Senate Floor

Last Amend: 8/24/2018

Calendar: 8/28/2018 #238 Senate Third Reading File – Assembly Bills

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

Updated 8/28/18

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 California 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 California 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: No vote needed.

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 AUGUST 24, 2018

AMENDED IN SENATE AUGUST 17, 2018

AMENDED IN SENATE JULY 2, 2018

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 amend Section 12096.3 of, to amend, renumber, and add Section 12097.1 of, and to add Article 4.3 (commencing with Section 12096.7) 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. 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 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 by requiring the GO-Biz Information Technology Unit to establish an electronic online government permit and license assistance center and by renaming the center the California Business License 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 California 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 experience~~
16 ~~as a priority.~~

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

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

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

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

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

1 (c) Market the business and investment opportunities available
2 in California by working in partnership with local, regional, federal,
3 and other state public and private institutions to encourage business
4 development and investment in the state.

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

6 (1) Economic and demographic data.

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

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

11 (4) Transportation and infrastructure information.

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

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

14 (7) Permitting, siting, and other regulatory information pertinent
15 to business operations in the state.

16 (e) Establish a well-advertised telephone number, an online
17 interactive and high-performance Internet platform, and an
18 administrative structure that effectively supports the facilitation
19 of business development and investment in the state.

20 (f) Encourage collaboration among research institutions, startup
21 companies, local governments, venture capitalists, and economic
22 development agencies to promote innovation.

23 (g) In cooperation with other state, federal, and local
24 governments, foster relationships with foreign and domestic entities
25 to improve the state's image as a destination for global business
26 investment and expansion.

27 (h) Conduct research on the state's business climate, including,
28 but not limited to, research on how the state can remain on the
29 leading edge of innovation and emerging sectors.

30 (i) Support small businesses by providing information about
31 accessing capital, complying with regulations, and supporting state
32 initiatives that support small business.

33 SEC. 3. Article 4.3 (commencing with Section 12096.7) is
34 added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the
35 Government Code, to read:

Article 4.3. GO-Biz Information Technology

12096.7. (a) **There shall be within the office, the GO-Biz** Information Technology Unit, which shall create an online Internet platform, called the California Business Development Portal.

(b) The Business Development Portal shall be an online platform that is comprised of three distinct elements, including economic and business development-related digital information, the systems and processes used to manage that information, and a public interface capability, which includes, but is not limited to, all of the following:

(1) Storing, retrieving, and exchanging economic and business development-related digital information with due regard to privacy statutes.

(2) An information service detailing business incentives, **financing, workforce training, geographic regions in the state, and** requirements to establish or engage in business in this state.

(3) **Identification and retrieval of economic and business** development digital information appropriate for a variety of business types, including sole proprietorships, partnerships, **associations, cooperatives, corporations, nonprofit organizations,** and social enterprises.

(4) **Identification and retrieval of economic and business** development digital information useful for state, federal, and local government agencies and other entities that support economic and business development activities in California.

(5) Accessibility through a variety of electronic presentation formats, including Internet Web sites, mobile applications, and other modes of delivery.

(6) A service or application for an individual, business, or other interested party to establish an online account that enhances the ability to conduct business or economic development activities in California.

(c) **The office, in developing new programs or services, shall** consider the added value of having all or portions of a program and service accessed digitally, including, but not limited to, **undertaking outreach, filing applications, and submitting progress and outcome reports to the office.**

(d) **The office shall adopt and periodically update a schedule** for the buildout and upgrading of the California Business

1 **Development Portal. The office shall undertake activities on the**
2 schedule after the director determines that funding for this project
3 is available and the project is in alignment with required elements
4 of the state planning practices for the development of state
5 information technology projects.

6 12096.8. **Beginning in the 2018–19 fiscal year, there shall be**
7 two additional state civil service positions in the GO-Biz
8 Information Technology Unit for the purposes of supporting the
9 ongoing enhancement of the functionality of the California
10 Business Development Portal, including the California Business
11 License Center, the California Business Navigator, the California
12 Business Mapping Tool, digital resources, and other online
13 products that improve the state government’s digital ecosystem.

14 SEC. 4. Section 12097.1 of the Government Code is amended
15 and renumbered to read:

16 12097.2. (a) **The director shall ensure that the office’s Internet**
17 Web site contains information on the licensing, permitting, and
18 registration requirements of state agencies, and shall include, but
19 not be limited to, information that does all of the following:

20 (1) Assists individuals with identifying the type of applications,
21 forms, or other similar documents an applicant may need.

22 (2) Provides a direct link to a digital copy of all state licensing,
23 permitting, and registration applications, forms, or other similar
24 documents where made available for download.

25 (3) Instructs individuals on how and where to submit
26 applications, forms, or other similar documents.

27 (b) **The director shall ensure that the office’s Internet Web site**
28 contains information on the fee requirements and fee schedules of
29 state agencies, and shall include, but not be limited to, information
30 that does all of the following:

31 (1) Assists individuals with identifying the types of fees and
32 their due dates.

33 (2) Provides direct links to the fee requirements and fee
34 schedules for all state agencies, where made available for
35 download.

36 (3) Instructs individuals on how and where to submit payments.

37 (c) **The office shall ensure that the Internet platform is**
38 user-friendly and provides accurate, updated information.

39 (d) (1) Each state agency that has licensing, permitting, or
40 registration authority shall provide direct links to information about

1 its licensing, permitting, and registration requirements and fee
2 **schedule to the office.**

3 (2) A state agency shall not use the Internet platform established
4 under this section as the exclusive source of information for the
5 public to access licensing requirements and fees for that agency.

6 (e) **The office may impose a reasonable fee, not to exceed the**
7 actual cost to provide the service, as a condition of accessing
8 information on the Internet Web site established under subdivisions
9 (a) and (b).

10 SEC. 5. Section 12097.1 is added to the Government Code, to
11 read:

12 12097.1. (a) The GO-Biz Information Technology Unit shall
13 establish an electronic online government permit and license
14 assistance center through the Internet, which shall be known as
15 the California Business License Center. The California Business
16 License Center shall be available for use by any business or other
17 entity subject to a law or regulation implemented by a state agency,
18 authority, bureau, board, commission, conservancy, council,
19 **department, or office, and shall provide a business or other entity**
20 with assistance in complying with those laws and regulations.

21 (b) The California Business License Center shall provide special
22 software, hotlinks, and other online resources and tools that may
23 be used by a business or other entity to streamline and expedite
24 compliance with laws and regulations implemented by a state
25 agency, authority, bureau, board, commission, conservancy,
26 **council, department, or office.**

27 (c) The California Business License Center shall, to the extent
28 feasible, incorporate permit assistance activities of local and federal
29 entities and of other entities of the state into its operations.

30 (d) The GO-Biz Information Technology Unit shall periodically
31 review and, when necessary, update the California Business
32 **License Center to assist businesses in the state that would benefit**
33 from information on permitting and regulatory compliance.

34 SEC. 6. Section 71040 of the Public Resources Code is
35 repealed.

36 SEC. 7. Section 71041 of the Public Resources Code is
37 repealed.

O

Opposed Legislation

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

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

Status: 8/27/2018- Read second time. Ordered to third reading.

Location: 8/27/2018-Senate Floor

Last Amend: 8/24/2018

Calendar: 8/28/2018 #148 Senate Third Reading File – Assembly Bills

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

Updated 8/28/18

Staff Analysis: AB 2138

Bill Summary: 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 bills revise and recast the provisions of law which authorize the board to deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime. The bill specifies a board may deny, revoke, or suspend a license on the grounds of criminal conviction only if the conviction, as defined, occurred within the preceding 7 years, except for serious felonies, and would require the crime to be substantially related to the qualifications, functions, or duties of the business or profession. Financial-based crimes, including fraud and embezzlement, are not considered serious felonies. This 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 provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. This bill would make these provisions operative on July 1, 2020.

Staff Comment: On 7/05/18 staff sent a letter of opposition to Assembly Members Chiu and Low which clearly outlined the Boards concerns with this bill. The amendments made on 8/24/2018, fail to address many of the Board's recorded concerns. The Board is concerned with the provisions of the bill which prohibit the Board from considering financially-related crimes after the seven-year washout period. The Board's applicants and licensees often hold positions at government agencies where they have a fiduciary responsibility for appropriately managing public funds, in addition to the fiduciary responsibility those in private practice owe to their clients and employers. As such, the professions the Board regulates should be included with the other professions that have been added to the bill so that the Board will also be allowed to consider financially-related crimes.

Furthermore, the August 24 amendments add back in the undefined and untested terminology of "directly and adversely related to the qualifications, functions, and duties" regarding the types of crimes that may be considered after the seven-year washout period. As expressed in the Senate Business, Professions and Economic Development Committee Analysis 5/25/28, the wording "directly and adversely related" would create a new

and higher standard to be used by licensing boards, whereas the current language of “substantially related” has been tested through the courts, and there is case law to guide the licensing boards and their applicants and licensees as to the definition. Because the inclusion of a new and untested standard would lead to more confusion, the bill should be amended to change the terminology to “substantially related.”

Additionally, this bill, in its current form, proposes to add the gravity of the offense and the number of years that have elapsed since the date of the offense as items that must be considered in determining whether or not a crime is substantially related. While these items are appropriately included as matters to be considered evidence of rehabilitation, they are not appropriate to be considered in determining whether or not the crime is substantially related.

Staff Recommendation: No vote needed.

Laws: An act to amend, repeal, Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

AMENDED IN SENATE AUGUST 24, 2018

AMENDED IN SENATE JUNE 20, 2018

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~~ *amend, repeal, and add* Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 ~~of of, and to add Section 480.2 to, 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 *subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee is presently incarcerated has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the conviction, as defined, occurred* applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except for serious felonies, and would require the crime to be substantially related **to the qualifications, functions, or duties of the business or profession.** *as specified.* 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~~ conviction, *as defined*, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence 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 require the board to develop criteria for determining **whether a crime is substantially related to the qualifications, functions, or duties of the business or profession.** The bill would require a board to ~~find that~~ *consider whether* 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, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some **of the more specific options that the board may take in these** circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

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 plea or verdict of guilty or a conviction following a plea of nolo
5 contendere. Any action which a board is permitted to take
6 following the establishment of a conviction may be taken when
7 the time for appeal has elapsed, or the judgment of conviction has
8 **been affirmed on appeal or when an order granting probation is**
9 made suspending the imposition of sentence, irrespective of a
10 subsequent order under the provisions of Section 1203.4 of the
11 Penal Code. However, a board may not deny a license to an
12 **applicant who is otherwise qualified pursuant to subdivision (b)**
13 of Section 480.
14 Nothing in this section shall apply to the licensure of persons
15 pursuant to Chapter 4 (commencing with Section 6000) of Division
16 3.

(b) *This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.*

SEC. 2. *Section 7.5 is added to the Business and Professions Code, to read:*

7.5. (a) *A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may 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) (1) *Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.*

(2) *This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:*

(A) *The State Athletic Commission.*

(B) *The Bureau for Private Postsecondary Education.*

(C) *The California Horse Racing Board.*

(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.*

(d) *This section shall become operative on July 1, 2020.*

SEC. 3. *Section 480 of the Business and Professions Code is amended to read:*

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may 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, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

1 (2) Done any act involving dishonesty, fraud, or deceit with the
2 **intent to substantially benefit himself or herself or another, or**
3 substantially injure another.

4 (3) (A) Done any act that if done by a licentiate of the business
5 or profession in question, would be grounds for suspension or
6 revocation of license.

7 (B) The board may deny a license pursuant to this subdivision
8 **only if the crime or act is substantially related to the qualifications,**
9 functions, or duties of the business or profession for which
10 application is made.

11 (b) Notwithstanding any other provision of this code, a person
12 shall not be denied a license solely on the basis that he or she has
13 **been convicted of a felony if he or she has obtained a certificate**
14 of rehabilitation under Chapter 3.5 (commencing with Section
15 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she
16 has been convicted of a misdemeanor if he or she has met all
17 applicable requirements of the criteria of rehabilitation developed
18 by the board to evaluate the rehabilitation of a person when
19 considering the denial of a license under subdivision (a) of Section
20 482.

21 (c) Notwithstanding any other provisions of this code, a person
22 shall not be denied a license solely on the basis of a conviction
23 that has been dismissed pursuant to Section 1203.4, 1203.4a, or
24 1203.41 of the Penal Code. An applicant who has a conviction that
25 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
26 of the Penal Code shall provide proof of the dismissal.

27 (d) A board may deny a license regulated by this code on the
28 ground that the applicant knowingly made a false statement of fact
29 that is required to be revealed in the application for the license.

30 (e) *This section shall become inoperative on July 1, 2020, and,*
31 *as of January 1, 2021, is repealed.*

32 *SEC. 4. Section 480 is added to the Business and Professions*
33 *Code, to read:*

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

39 *(1) The applicant has been convicted of a crime within the*
40 *preceding seven years from the date of application that is*

1 substantially related to the qualifications, functions, or duties of
2 the business or profession for which the application is made,
3 regardless of whether the applicant was incarcerated for that
4 crime, or the applicant has been convicted of a crime that is
5 substantially related to the qualifications, functions, or duties of
6 the business or profession for which the application is made and
7 for which the applicant is presently incarcerated or for which the
8 applicant was released from incarceration within the preceding
9 seven years from the date of application. However, the preceding
10 seven-year limitation shall not apply in either of the following
11 situations:

12 (A) The applicant was convicted of a serious felony, as defined
13 in Section 1192.7 of the Penal Code or a crime for which
14 registration is required pursuant to paragraph (2) or (3) of
15 subdivision (d) of Section 290 of the Penal Code.

16 (B) The applicant was convicted of a financial crime currently
17 classified as a felony that is directly and adversely related to the
18 fiduciary qualifications, functions, or duties of the business or
19 profession for which the application is made, pursuant to
20 regulations adopted by the board, and for which the applicant is
21 seeking licensure under any of the following:

22 (i) Chapter 1 (commencing with Section 5000) of Division 3.

23 (ii) Chapter 6 (commencing with Section 6500) of Division 3.

24 (iii) Chapter 9 (commencing with Section 7000) of Division 3.

25 (iv) Chapter 11.3 (commencing with Section 7512) of Division
26 3.

27 (v) Licensure as a funeral director or cemetery manager under
28 Chapter 12 (commencing with Section 7600) of Division 3.

29 (vi) Division 4 (commencing with Section 10000).

30 (2) The applicant has been subjected to formal discipline by a
31 licensing board in or outside California within the preceding seven
32 years from the date of application based on professional
33 misconduct that would have been cause for discipline before the
34 board for which the present application is made and that is
35 substantially related to the qualifications, functions, or duties of
36 the business or profession for which the present application is
37 made. However, prior disciplinary action by a licensing board
38 within the preceding seven years shall not be the basis for denial
39 of a license if the basis for that disciplinary action was a conviction
40 that has been dismissed pursuant to Section 1203.4, 1203.4a,

1 1203.41, or 1203.42 of the Penal Code or a comparable dismissal
2 or expungement.

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

11 (c) Notwithstanding any other provision of this code, a person
12 shall not be denied a license on the basis of any conviction, or on
13 the basis of the acts underlying the conviction, that has been
14 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or
15 1203.42 of the Penal Code, or a comparable dismissal or
16 expungement. An applicant who has a conviction that has been
17 dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or
18 1203.42 of the Penal Code shall provide proof of the dismissal if
19 it is not reflected on the report furnished by the Department of
20 Justice.

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

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

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

33 (1) A board issuing a license pursuant to Chapter 3
34 (commencing with Section 5500), Chapter 3.5 (commencing with
35 Section 5615), Chapter 10 (commencing with Section 7301),
36 Chapter 20 (commencing with Section 9800), or Chapter 20.3
37 (commencing with Section 9880), of Division 3, or Chapter 3
38 (commencing with Section 19000) or Chapter 3.1 (commencing
39 with Section 19225) of Division 8 may require applicants for

1 *licensure under those chapters to disclose criminal conviction*
2 *history on an application for licensure.*

3 *(2) Except as provided in paragraph (1), a board shall not*
4 *require an applicant for licensure to disclose any information or*
5 *documentation regarding the applicant's criminal history.*
6 *However, a board may request mitigating information from an*
7 *applicant regarding the applicant's criminal history for purposes*
8 *of determining substantial relation or demonstrating evidence of*
9 *rehabilitation, provided that the applicant is informed that*
10 *disclosure is voluntary and that the applicant's decision not to*
11 *disclose any information shall not be a factor in a board's decision*
12 *to grant or deny an application for licensure.*

13 *(3) If a board decides to deny an application for licensure based*
14 *solely or in part on the applicant's conviction history, the board*
15 *shall notify the applicant in writing of all of the following:*

16 *(A) The denial or disqualification of licensure.*

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

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

21 *(D) The processes for the applicant to request a copy of his or*
22 *her complete conviction history and question the accuracy or*
23 *completeness of the record pursuant to Sections 11122 to 11127*
24 *of the Penal Code.*

25 *(g) (1) For a minimum of three years, each board under this*
26 *code shall retain application forms and other documents submitted*
27 *by an applicant, any notice provided to an applicant, all other*
28 *communications received from and provided to an applicant, and*
29 *criminal history reports of an applicant.*

30 *(2) Each board under this code shall retain the number of*
31 *applications received for each license and the number of*
32 *applications requiring inquiries regarding criminal history. In*
33 *addition, each licensing authority shall retain all of the following*
34 *information:*

35 *(A) The number of applicants with a criminal record who*
36 *received notice of denial or disqualification of licensure.*

37 *(B) The number of applicants with a criminal record who*
38 *provided evidence of mitigation or rehabilitation.*

39 *(C) The number of applicants with a criminal record who*
40 *appealed any denial or disqualification of licensure.*

1 (D) *The final disposition and demographic information,*
2 *consisting of voluntarily provided information on race or gender,*
3 *of any applicant described in subparagraph (A), (B), or (C).*

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

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

12 (h) *"Conviction" as used in this section shall have the same*
13 *meaning as defined in Section 7.5.*

14 (i) *This section does not in any way modify or otherwise affect*
15 *the existing authority of the following entities in regard to*
16 *licensure:*

17 (1) *The State Athletic Commission.*

18 (2) *The Bureau for Private Postsecondary Education.*

19 (3) *The California Horse Racing Board.*

20 (j) *This section shall become operative on July 1, 2020.*

21 SEC. 5. *Section 480.2 is added to the Business and Professions*
22 *Code, to read:*

23 480.2. (a) *The Bureau for Private Postsecondary Education,*
24 *the State Athletic Commission, and the California Horse Racing*
25 *Board may deny a license regulated by it on the grounds that the*
26 *applicant has one of the following:*

27 (1) *Been convicted of a crime.*

28 (2) *Done any act involving dishonesty, fraud, or deceit with the*
29 *intent to substantially benefit himself or herself or another, or*
30 *substantially injure another.*

31 (3) (A) *Done any act that if done by a licensee of the business*
32 *or profession in question, would be grounds for suspension or*
33 *revocation of license.*

34 (B) *The Bureau for Private Postsecondary Education, the State*
35 *Athletic Commission, and the California Horse Racing Board may*
36 *deny a license pursuant to this subdivision only if the crime or act*
37 *is substantially related to the qualifications, functions, or duties*
38 *of the business or profession for which application is made.*

39 (b) *Notwithstanding any other provision of this code, a person*
40 *shall not be denied a license solely on the basis that he or she has*

1 *been convicted of a felony if he or she has obtained a certificate*
2 *of rehabilitation under Chapter 3.5 (commencing with Section*
3 *4852.01) of Title 6 of Part 3 of the Penal Code or that he or she*
4 *has been convicted of a misdemeanor if he or she has met all*
5 *applicable requirements of the criteria of rehabilitation developed*
6 *by the Bureau for Private Postsecondary Education, the State*
7 *Athletic Commission, and the California Horse Racing Board to*
8 *evaluate the rehabilitation of a person when considering the denial*
9 *of a license under paragraph (1) of subdivision (f).*

10 *(c) Notwithstanding any other provisions of this code, a person*
11 *shall not be denied a license by the Bureau for Private*
12 *Postsecondary Education, the State Athletic Commission, or the*
13 *California Horse Racing Board solely on the basis of a conviction*
14 *that has been dismissed pursuant to Section 1203.4, 1203.4a, or*
15 *1203.41 of the Penal Code. An applicant who has a conviction*
16 *that has been dismissed pursuant to Section 1203.4, 1203.4a, or*
17 *1203.41 of the Penal Code shall provide proof of the dismissal.*

18 *(d) The Bureau for Private Postsecondary Education, the State*
19 *Athletic Commission, and the California Horse Racing Board may*
20 *deny a license regulated by it on the ground that the applicant*
21 *knowingly made a false statement of fact that is required to be*
22 *revealed in the application for the license.*

23 *(e) The Bureau for Private Postsecondary Education, the State*
24 *Athletic Commission, and the California Horse Racing Board shall*
25 *develop criteria to aid it, when considering the denial, suspension*
26 *or revocation of a license, to determine whether a crime or act is*
27 *substantially related to the qualifications, functions, or duties of*
28 *the business or profession it regulates.*

29 *(f) (1) The Bureau for Private Postsecondary Education, the*
30 *State Athletic Commission, and the California Horse Racing Board*
31 *shall develop criteria to evaluate the rehabilitation of a person*
32 *either when:*

33 *(A) Considering the denial of a license under this section.*

34 *(B) Considering suspension or revocation of a license under*
35 *Section 490.*

36 *(2) The Bureau for Private Postsecondary Education, the State*
37 *Athletic Commission, and the California Horse Racing Board shall*
38 *take into account all competent evidence of rehabilitation furnished*
39 *by the applicant or licensee.*

1 (g) *Except as otherwise provided by law, following a hearing*
2 *requested by an applicant pursuant to subdivision (b) of Section*
3 *485, the Bureau for Private Postsecondary Education, the State*
4 *Athletic Commission, and the California Horse Racing Board may*
5 *take any of the following actions:*

6 (1) *Grant the license effective upon completion of all licensing*
7 *requirements by the applicant.*

8 (2) *Grant the license effective upon completion of all licensing*
9 *requirements by the applicant, immediately revoke the license,*
10 *stay the revocation, and impose probationary conditions on the*
11 *license, which may include suspension.*

12 (3) *Deny the license.*

13 (4) *Take other action in relation to denying or granting the*
14 *license as the Bureau for Private Postsecondary Education, the*
15 *State Athletic Commission, or the California Horse Racing Board,*
16 *in its discretion, may deem proper.*

17 (h) *Notwithstanding any other law, in a proceeding conducted*
18 *by the Bureau for Private Postsecondary Education, the State*
19 *Athletic Commission, or the California Horse Racing Board to*
20 *deny an application for a license or to suspend or revoke a license*
21 *or otherwise take disciplinary action against a person who holds*
22 *a license, upon the ground that the applicant or the licensee has*
23 *been convicted of a crime substantially related to the qualifications,*
24 *functions, and duties of the licensee in question, the record of*
25 *conviction of the crime shall be conclusive evidence of the fact*
26 *that the conviction occurred, but only of that fact, and the Bureau*
27 *for Private Postsecondary Education, the State Athletic*
28 *Commission, and the California Horse Racing Board may inquire*
29 *into the circumstances surrounding the commission of the crime*
30 *in order to fix the degree of discipline or to determine if the*
31 *conviction is substantially related to the qualifications, functions,*
32 *and duties of the licensee in question.*

33 (i) *Notwithstanding Section 7.5, a conviction within the meaning*
34 *of this section means a plea or verdict of guilty or a conviction*
35 *following a plea of nolo contendere. Any action that the Bureau*
36 *for Private Postsecondary Education, the State Athletic*
37 *Commission, or the California Horse Racing Board is permitted*
38 *to take following the establishment of a conviction may be taken*
39 *when the time for appeal has elapsed, the judgment of conviction*
40 *has been affirmed on appeal, or when an order granting probation*

1 *is made suspending the imposition of sentence, irrespective of a*
2 *subsequent order under the provisions of Section 1203.4, 1203.4a,*
3 *or 1203.41 of the Penal Code.*

4 *(j) This section shall become operative on July 1, 2020.*

5 *SEC. 6. Section 481 of the Business and Professions Code is*
6 *amended to read:*

7 481. (a) Each board under the provisions of this code shall
8 develop criteria to aid it, when considering the denial, suspension
9 or revocation of a license, to determine whether a crime or act is
10 **substantially related to the qualifications, functions, or duties of**
11 **the business or profession it regulates.**

12 *(b) This section shall become inoperative on July 1, 2020, and,*
13 *as of January 1, 2021, is repealed.*

14 *SEC. 7. Section 481 is added to the Business and Professions*
15 *Code, to read:*

16 481. (a) Each board under this code shall develop criteria to
17 aid it, when considering the denial, suspension, or revocation of
18 a license, to determine whether a crime is substantially related to
19 the qualifications, functions, or duties of the business or profession
20 it regulates.

21 (b) Criteria for determining whether a crime is substantially
22 related to the qualifications, functions, or duties of the business
23 or profession a board regulates shall include all of the following:

24 (1) *The nature and gravity of the offense.*

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

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

28 (c) *A board shall not deny a license based in whole or in part*
29 *on a conviction without considering evidence of rehabilitation*
30 *submitted by an applicant pursuant to any process established in*
31 *the practice act or regulations of the particular board and as*
32 *directed by Section 482.*

33 (d) *Each board shall post on its Internet Web site a summary*
34 *of the criteria used to consider whether a crime is considered to*
35 *be substantially related to the qualifications, functions, or duties*
36 *of the business or profession it regulates consistent with this*
37 *section.*

38 (e) *This section does not in any way modify or otherwise affect*
39 *the existing authority of the following entities in regard to*
40 *licensure:*

1 (1) *The State Athletic Commission.*

2 (2) *The Bureau for Private Postsecondary Education.*

3 (3) *The California Horse Racing Board.*

4 (f) *This section shall become operative on July 1, 2020.*

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

7 482. (a) Each board under the provisions of this code shall
8 develop criteria to evaluate the rehabilitation of a person when:

9 ~~(a)~~

10 (1) Considering the denial of a license by the board under
11 Section 480; or

12 ~~(b)~~

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

15 ~~Each~~

16 (b) *Each* board shall take into account all competent evidence
17 of rehabilitation furnished by the applicant or licensee.

18 (c) *This section shall become inoperative on July 1, 2020, and,*
19 *as of January 1, 2021, is repealed.*

20 SEC. 9. *Section 482 is added to the Business and Professions*
21 *Code, to read:*

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

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

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

29 (b) *Each* board shall consider whether an applicant or licensee
30 has made a showing of rehabilitation if either of the following are
31 met:

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

34 (2) *The board, applying its criteria for rehabilitation, finds that*
35 *the applicant is rehabilitated.*

36 (c) *This section does not in any way modify or otherwise affect*
37 *the existing authority of the following entities in regard to*
38 *licensure:*

39 (1) *The State Athletic Commission.*

40 (2) *The Bureau for Private Postsecondary Education.*

1 (3) *The California Horse Racing Board.*

2 (d) *This section shall become operative on July 1, 2020.*

3 SEC. 10. *Section 488 of the Business and Professions Code is*
4 *amended to read:*

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

8 ~~(a)~~

9 (1) Grant the license effective upon completion of all licensing
10 requirements by the applicant.

11 ~~(b)~~

12 (2) Grant the license effective upon completion of all licensing
13 requirements by the applicant, immediately revoke the license,
14 stay the revocation, and impose probationary conditions on the
15 license, which may include suspension.

16 ~~(c)~~

17 (3) Deny the license.

18 ~~(d)~~

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

21 (b) *This section shall become inoperative on July 1, 2020, and,*
22 *as of January 1, 2021, is repealed.*

23 SEC. 11. *Section 488 is added to the Business and Professions*
24 *Code, to read:*

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

28 (1) Grant the license effective upon completion of all licensing
29 requirements by the applicant.

30 (2) Grant the license effective upon completion of all licensing
31 requirements by the applicant, immediately revoke the license,
32 stay the revocation, and impose probationary conditions on the
33 license, which may include suspension.

34 (3) Deny the license.

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

37 (b) *This section does not in any way modify or otherwise affect*
38 *the existing authority of the following entities in regard to*
39 *licensure:*

40 (1) *The State Athletic Commission.*

1 (2) *The Bureau for Private Postsecondary Education.*

2 (3) *The California Horse Racing Board.*

3 (c) *This section shall become operative on July 1, 2020.*

4 SEC. 12. *Section 493 of the Business and Professions Code is*
5 *amended to read:*

6 493. (a) Notwithstanding any other provision of law, in a
7 proceeding conducted by a board within the department pursuant
8 to law to deny an application for a license or to suspend or revoke
9 a license or otherwise take disciplinary action against a person
10 who holds a license, upon the ground that the applicant or the
11 licensee has been convicted of a crime substantially related to the
12 **qualifications, functions, and duties of the licensee in question,**
13 the record of conviction of the crime shall be conclusive evidence
14 of the fact that the conviction occurred, but only of that fact, and
15 the board may inquire into the circumstances surrounding the
16 **commission of the crime in order to fix the degree of discipline or**
17 to determine if the conviction is substantially related to the
18 **qualifications, functions, and duties of the licensee in question.**

19 As

20 (b) *As used in this section, “license” includes “certificate,”*
21 *“permit,” “authority,” and “registration.”*

22 (c) *This section shall become inoperative on July 1, 2020, and,*
23 *as of January 1, 2021, is repealed.*

24 SEC. 13. *Section 493 is added to the Business and Professions*
25 *Code, to read:*

26 493. (a) Notwithstanding any other law, in a proceeding
27 conducted by a board within the department pursuant to law to
28 deny an application for a license or to suspend or revoke a license
29 or otherwise take disciplinary action against a person who holds
30 a license, upon the ground that the applicant or the licensee has
31 been convicted of a crime substantially related to the qualifications,
32 functions, and duties of the licensee in question, the record of
33 conviction of the crime shall be conclusive evidence of the fact
34 that the conviction occurred, but only of that fact.

35 (b) (1) *Criteria for determining whether a crime is substantially*
36 *related to the qualifications, functions, or duties of the business*
37 *or profession the board regulates shall include all of the following:*

38 (A) *The nature and gravity of the offense.*

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

40 (C) *The nature and duties of the profession.*

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

4 (c) As used in this section, “license” includes “certificate,”
5 “permit,” “authority,” and “registration.”

6 (d) This section does not in any way modify or otherwise affect
7 the existing authority of the following entities in regard to
8 licensure:

9 (1) The State Athletic Commission.

10 (2) The Bureau for Private Postsecondary Education.

11 (3) The California Horse Racing Board.

12 (e) This section shall become operative on July 1, 2020.

13 SEC. 14. Section 11345.2 of the Business and Professions Code
14 is amended to read:

15 11345.2. (a) An individual shall not act as a controlling person
16 for a registrant if any of the following apply:

17 (1) The individual has entered a plea of guilty or no contest to,
18 or been convicted of, a felony. Notwithstanding subdivision (c) of
19 Section 480, if the individual’s felony conviction has been
20 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the
21 Penal Code, the bureau may allow the individual to act as a
22 controlling person.

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

27 (b) Any individual who acts as a controlling person of an
28 appraisal management company and who enters a plea of guilty
29 or no contest to, or is convicted of, a felony, or who has a license
30 **or certificate as an appraiser refused, denied, canceled, or revoked**
31 **in any other state shall report that fact or cause that fact to be**
32 **reported to the office, in writing, within 10 days of the date he or**
33 **she has knowledge of that fact.**

34 (c) This section shall become inoperative on July 1, 2020, and,
35 as of January 1, 2021, is repealed.

36 SEC. 15. Section 11345.2 is added to the Business and
37 Professions Code, to read:

38 11345.2. (a) An individual shall not act as a controlling person
39 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, 1203.41, or 1203.42 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 in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

SECTION 1. ~~Section 7.5 of the Business and Professions Code is amended to read:~~

~~7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may 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) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.~~

~~(2) The changes made to this section by the act adding this paragraph do not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:~~

~~(A) The State Athletic Commission.~~

~~(B) The Bureau for Private Postsecondary Education.~~

~~(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.~~

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

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

8 (1) The applicant has been convicted of a crime for which the
9 applicant is presently incarcerated or for which the conviction
10 occurred within the preceding seven years. However, the preceding
11 seven-year limitation shall not apply to a conviction for a serious
12 **felony, as defined in the Penal Code.**

13 The board may deny a license pursuant to this subparagraph only
14 **if the crime is substantially related to the qualifications, functions,**
15 **or duties of the business or profession for which application is**
16 **made.**

17 (2) The applicant has been subjected to formal discipline by a
18 **licensing board within the preceding five years based on**——
19 professional misconduct that would have been cause for discipline
20 before the board for which the present application is made and that
21 **is substantially related to the qualifications, functions, or duties of**
22 the business or profession for which the present application is
23 made. However, prior disciplinary action by a licensing board
24 within the preceding seven years shall not be the basis for denial
25 of a license if the basis for that disciplinary action was a conviction
26 that has been dismissed pursuant to Section 1203.4, 1203.4a, or
27 1203.41 of the Penal Code or a comparable dismissal or
28 expungement.

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

37 (c) ~~Notwithstanding any other provision of this code, a person~~
38 ~~shall not be denied a license on the basis of any conviction, or on~~
39 ~~the basis of the acts underlying the conviction, that has been~~
40 ~~dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the~~

1 Penal Code, or a comparable dismissal or expungement. An
2 applicant who has a conviction that has been dismissed pursuant
3 to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code
4 **shall provide proof of the dismissal if it is not reflected on the**
5 report furnished by the Department of Justice.

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

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

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

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

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

24 (A) **The denial or disqualification of licensure.**

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

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

29 (D) The processes for the applicant to request a copy of his or
30 her complete conviction history and question the accuracy or
31 completeness of the record pursuant to Sections 11122 to 11127
32 of the Penal Code.

33 (g) (1) For a minimum of three years, each board under this
34 code shall retain application forms and other documents submitted
35 by an applicant, any notice provided to an applicant, all other
36 communications received from and provided to an applicant, and
37 criminal history reports of an applicant.

38 (2) Each board under this code shall retain the number of
39 applications received for each license and the number of
40 applications requiring inquiries regarding criminal history. In

1 addition, each licensing authority shall retain all of the following
2 information:

3 (A) The number of applicants with a criminal record who
4 **received notice of denial or disqualification of licensure.**

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

7 (C) The number of applicants with a criminal record who
8 **appealed any denial or disqualification of licensure.**

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

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

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

21 (h) "Conviction" as used in this section shall have the same
22 **meaning as defined in Section 7.5.**

23 (i) The changes made to this section by the act adding this
24 subdivision do not in any way modify or otherwise affect the
25 existing authority of the following entities in regard to licensure:

26 (1) The State Athletic Commission.

27 (2) The Bureau for Private Postsecondary Education.

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

30 481. (a) Each board under this code shall develop criteria to
31 aid it, when considering the denial, suspension, or revocation of
32 a license, to determine whether a crime is substantially related to
33 **the qualifications, functions, or duties of the business or profession**
34 it regulates.

35 (b) Criteria for determining whether a crime is substantially
36 **related to the qualifications, functions, or duties of the business or**
37 profession a board regulates shall include all of the following:

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

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

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

3 ~~(e) A board shall not deny a license based in whole or in part~~
4 ~~on a conviction without considering evidence of rehabilitation.~~

5 ~~(d) Each board shall post on its Internet Web site a summary of~~
6 ~~the criteria used to consider whether a crime is considered to be~~
7 ~~**substantially related to the qualifications, functions, or duties of**~~
8 ~~the business or profession it regulates consistent with this section.~~

9 ~~(e) The changes made to this section by the act adding this~~
10 ~~subdivision do not in any way modify or otherwise affect the~~
11 ~~existing authority of the following entities in regard to licensure:~~

12 ~~(1) The State Athletic Commission.~~

13 ~~(2) The Bureau for Private Postsecondary Education.~~

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

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

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

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

23 ~~(b) Each board shall consider that an applicant or licensee has~~
24 ~~made a showing of rehabilitation if either of the following are met:~~

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

27 ~~(2) **The applicant or licensee has satisfied criteria for**~~
28 ~~rehabilitation developed by the board.~~

29 ~~(e) The changes made to this section by the act adding this~~
30 ~~subdivision do not in any way modify or otherwise affect the~~
31 ~~existing authority of the following entities in regard to licensure:~~

32 ~~(1) The State Athletic Commission.~~

33 ~~(2) The Bureau for Private Postsecondary Education.~~

34 ~~SEC. 5. 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) Deny the license.~~

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

4 ~~(d) The changes made to this section by the act adding this~~
5 ~~subdivision do not in any way modify or otherwise affect the~~
6 ~~existing authority of the following entities in regard to licensure:~~

7 ~~(1) The State Athletic Commission.~~

8 ~~(2) The Bureau for Private Postsecondary Education.~~

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

11 ~~493. (a) Notwithstanding any other provision of law, in a~~
12 ~~proceeding conducted by a board within the department pursuant~~
13 ~~to law to deny an application for a license or to suspend or revoke~~
14 ~~a license or otherwise take disciplinary action against a person~~
15 ~~who holds a license, upon the ground that the applicant or the~~
16 ~~licensee has been convicted of a crime substantially related to the~~
17 **qualifications, functions, and duties of the licensee in question,**
18 ~~the record of conviction of the crime shall be conclusive evidence~~
19 ~~of the fact that the conviction occurred, but only of that fact.~~

20 ~~(b) (1) Criteria for determining whether a crime is substantially~~
21 **related to the qualifications, functions, or duties of the business or**
22 ~~profession the board regulates shall include all of the following:~~

23 ~~(A) The nature and gravity of the offense.~~

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

25 ~~(C) The nature and duties of the profession.~~

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

29 ~~(e) As used in this section, “license” includes “certificate,”~~
30 ~~“permit,” “authority,” and “registration.”~~

31 ~~(d) The changes made to this section by the act adding this~~
32 ~~subdivision do not in any way modify or otherwise affect the~~
33 ~~existing authority of the following entities in regard to licensure:~~

34 ~~(1) The State Athletic Commission.~~

35 ~~(2) The Bureau for Private Postsecondary Education.~~

36 ~~SEC. 7. Section 11345.2 of the Business and Professions Code~~
37 ~~is amended to read:~~

38 ~~11345.2. (a) An individual shall not act as a controlling person~~
39 ~~for a registrant if any of the following apply:~~

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

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

10 ~~(b) Any individual who acts as a controlling person of an~~
11 ~~appraisal management company and who enters a plea of guilty~~
12 ~~or no contest to, or is convicted of, a felony, or who has a license~~
13 ~~or certificate as an appraiser refused, denied, canceled, or revoked~~
14 ~~in any other state shall report that fact or cause that fact to be~~
15 ~~reported to the office, in writing, within 10 days of the date he or~~
16 ~~she has knowledge of that fact.~~

Supported Legislation

AB 2483 (Voepel-R) Santee

Indemnification of public officers and employees: antitrust awards.

Status: 6/29/2018-Failed Deadline pursuant to Rule 61(b)(13).

Location: 6/29/2018-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 8/21/18

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 Recommendation: No vote needed.

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~~ *demnification 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.

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

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

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

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

16 ~~473.3. (a) **Any person may file a complaint to the office about**~~
17 ~~a rule, policy, enforcement action, or other occupational licensure~~
18 ~~action of a covered board that the person believes is not consistent~~
19 ~~with Section 473.~~

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

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

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

Supported Legislation

SB 920 (Cannella R) Merced

Engineering, land surveying, and architecture: limited liability partnerships

Status: 7/20/2018-Approved by the Governor. Chaptered by Secretary of State. Chapter 150, Statutes of 2018.

Location: 7/20/2018- Chaptered

Last Amend: 4/30/2018

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

Updated 8/21/18

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.

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.

Senate Bill No. 920

CHAPTER 150

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.

[Approved by Governor July 20, 2018. Filed with Secretary of State July 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 920, 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, 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.**

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

SECTION 1. Section 6738 of the Business and Professions Code, as amended by Section 1 of Chapter 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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

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

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

(3) If the business name of a California engineering business contains the name of any person, then that person shall be licensed as a professional engineer, a licensed land surveyor, a licensed architect, or a geologist registered under the Geologist and Geophysicist Act (Chapter 12.5

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

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

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

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

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

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

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

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

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

(3) The person shall have been licensed as a professional engineer, or a land surveyor, or an architect, or a geologist, (A) by the appropriate licensing board if that person is operating a place of business or practice in this state,

or (B) by the applicable state board if no place of business existed in this state.

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

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

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

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

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

SEC. 3. Section 8729 of the Business and Professions Code, as amended by Section 3 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 business, other than by use of the name of the individual in the business name, shall clearly and **specifically designate the license or registration discipline of each individual** named.

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

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

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

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

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

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

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

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

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

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

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

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

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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, **firm, or corporation (hereinafter called business), if the following conditions are satisfied:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) "Electronic transmission by the partnership" means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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

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

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

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

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

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

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

(4) “Electronic transmission by the partnership” means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the partnership, (2) posting on an electronic

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

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

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

(B) For the purposes of clause (iii) of subparagraph (A), a partnership is related to a registered limited liability partnership or foreign limited liability partnership if (i) at least a majority of the partners in one partnership are also partners in the other partnership, or (ii) at least a majority in interest in each partnership hold interests in or are members of another person, except an individual, and each partnership renders services pursuant to an agreement

with that other person, or (iii) one partnership, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other partnership.

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

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

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

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

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

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

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

(13) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited

liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(14) “Professional limited liability partnership services” means the practice of public accountancy or the practice of law.

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

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

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

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

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

SEC. 7. Section 16956 of the Corporations Code, as amended by Section 7 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, “designated period”

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

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

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

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by

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

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

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

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under **the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee;** however, the maximum amount of insurance is not required to exceed **seven million five hundred thousand dollars (\$7,500,000) in any one designated period,** less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, “designated period” means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

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

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

(C) **Unless the partnership has satisfied the requirements of subparagraph**

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

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

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

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

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

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

(B) **Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five**

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

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

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

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

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for **partnerships with five or fewer licensees rendering professional services on**

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

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

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount **of security for partnerships with five or fewer licensees rendering** professional services on behalf of the partnership shall not be less than two **million dollars (\$2,000,000), and for partnerships with more than five** licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of **security is not required to exceed five million dollars (\$5,000,000). The** partnership remains in compliance with this section during a calendar year, notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, **or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency** of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in

compliance with this subparagraph as to a claim if, within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

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

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

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

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

The undersigned hereby confirms the following:

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

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

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this

section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

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

(f) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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, “designated period” means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the

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

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

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

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither

withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights **of contribution, subrogation, or indemnification.**

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

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

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under **the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services** on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed **seven million five hundred thousand dollars (\$7,500,000) in any one designated** period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, “designated period” means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate

limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

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

(C) **Unless the partnership has satisfied the requirements of subparagraph**

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

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

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a) or subparagraphs (A), (B), (C), and (D) of paragraph (2) 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) or subparagraph (D) of paragraph (2) 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) or SECTION 16956(a)(2)(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) 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 or fifteen million dollars (\$15,000,000)
in the case of a partnership providing legal 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) or subparagraph (D) of paragraph (2) 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) or (2) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

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

SEC. 9. Section 16959 of the Corporations Code, as amended by Section 9 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 to the Secretary of State an application for registration as a foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, **the street address of its principal office, the mailing address of the principal**

office if different from the street address, the name and street address of its agent for service of process in this state in accordance with subdivision (a) of Section 16309, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

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

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

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

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

(e) **A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a foreign limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.**

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

(g) **The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance**

with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials, provided in conjunction with the form for registration under subdivision (a), a **notice that filing the registration will obligate the limited liability** partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of this tax.

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

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

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

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

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

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

- (1) A shareholder of a domestic corporation.
- (2) A shareholder of a foreign corporation transacting intrastate business.
- (3) A limited partner of a foreign limited partnership transacting intrastate business.

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

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

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

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

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

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

(3) Maintaining bank accounts.

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

(5) Effecting sales through independent contractors.

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

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

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

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

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

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

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

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

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

(t) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state, or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right

to transact intrastate business, has its corporate rights, powers, and privileges suspended, or ceases to exist, the foreign limited liability partnership shall **promptly file an amended application for registration as a foreign limited liability partnership** designating a new agent.

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

(v) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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

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

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

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

(d) **The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid**

upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

(e) A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a foreign limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.

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

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

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

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

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

(k) A foreign limited liability partnership, transacting business in this state without registration, appoints the Secretary of State as its agent for

service of process with respect to causes of action arising out of the transaction of business in this state.

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

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

- (1) A shareholder of a domestic corporation.
- (2) A shareholder of a foreign corporation transacting intrastate business.
- (3) A limited partner of a foreign limited partnership transacting intrastate business.
- (4) A limited partner of a domestic limited partnership.
- (5) A member or manager of a foreign limited liability company transacting intrastate business.
- (6) A member or manager of a domestic limited liability company.

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

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.
- (2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.
- (3) Maintaining bank accounts.
- (4) **Maintaining offices or agencies for the transfer, exchange, and** registration of the foreign limited liability partnership’s securities or maintaining trustees or depositories with respect to those securities.
- (5) Effecting sales through independent contractors.
- (6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance without this state before becoming binding contracts.
- (7) Creating or acquiring evidences of debt or mortgages, liens, or security interest in real or personal property.
- (8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
- (9) Conducting an isolated transaction that is completed within 180 days and not in the course of a number of repeated transactions of a like nature.

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

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

(q) Nothing in this section is intended to, or shall, augment, diminish, or otherwise alter existing provisions of law, statutes, or court rules relating to services by a California public accountant or California attorney in another jurisdiction, or services by an out-of-state public accountant or out-of-state attorney in California.

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

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

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

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

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

Supported Legislation

SB 1098 (Cannella R) Merced

Geologists and geophysicists: fees.

Status: 7/20/2018-Approved by the Governor. Chaptered by Secretary of State. Chapter 154, Statutes of 2018.

Location: 7/20/2018-Chaptered

Last Amend: 4/12/2018

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

Updated 8/21/18

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.

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.

Senate Bill No. 1098

CHAPTER 154

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.

[Approved by Governor July 20, 2018. Filed with Secretary of State July 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1098, 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 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 fee for filing an application for certification as a geologist-in-training at no more than \$100 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 increase the maximum renewal fee for a specialty geologist or specialty geophysicist 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 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.

Appropriation: yes.

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

SECTION 1. Section 7840 of the Business and Professions Code is amended to read:

7840. **An application for licensure as a geologist, certification in a specialty in geology, certification as a geologist-in-training, licensure as a geophysicist, or certification in a specialty in geophysics shall be made to the board on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter.**

SEC. 2. Section 7847 of the Business and Professions Code is amended to read:

7847. The board, upon application therefor, on its prescribed form, and **upon the payment of the fee fixed by this chapter, which shall be retained by the board, may issue a certificate of registration as a geologist or as a geophysicist to a person holding an equivalent certificate of registration as a geologist or as a geophysicist, issued to him or her by any state or country when the applicant's qualifications meet the other requirements of this** chapter and the rules established by the board.

SEC. 3. Section 7850 of the Business and Professions Code is amended to read:

7850. Any applicant for licensure as a professional geologist who meets all the requirements prescribed in Section 7841 and who has otherwise **qualified hereunder as a geologist shall have a certificate of registration** issued to him or her as a professional geologist.

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

7850.1. Any applicant for licensure as a professional geophysicist who meets all the requirements prescribed in Section 7841.1 and who has **otherwise qualified hereunder as a geophysicist shall have a certificate of** registration issued to him or her as a professional geophysicist.

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

7850.5. **An applicant for certification as a certified specialty geologist** who meets all the requirements prescribed in Section 7842 and who has **otherwise qualified under this chapter in the specialty shall have a certificate** issued to him or her as a certified specialty geologist.

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

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

7850.6. **An applicant who has passed the examination for a certified specialty geophysicist and has otherwise qualified under this chapter in the specialty shall have a certificate issued to him or her as a certified specialty geophysicist. A certificate of certified specialty geophysicist shall be signed by the president and executive officer and issued under the seal of the board.**

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

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

(a) **The fee for filing an application for licensure as a geologist or a geophysicist or certification as a specialty geologist or a specialty**

geophysicist shall be fixed at not more than two hundred fifty dollars (\$250).
The 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 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).**

(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.

(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.

(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.**

(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.**

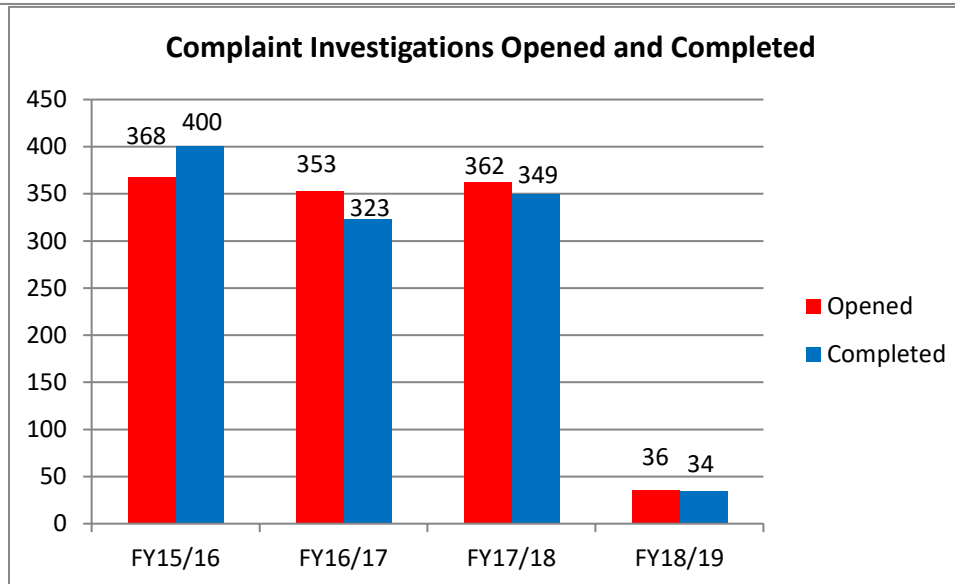
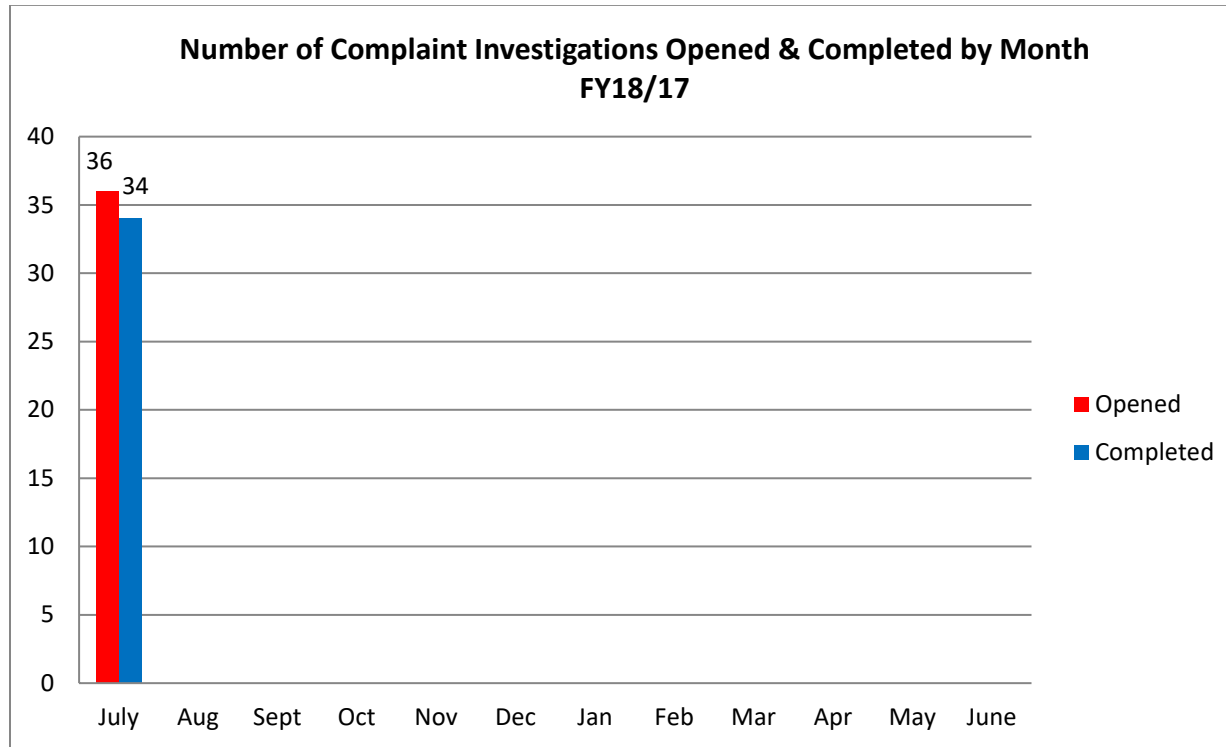
(h) All other document fees shall be established by the board by regulation and shall be set in an amount not to exceed a reasonable regulatory cost.

VI. Enforcement

A. Enforcement Statistical Reports

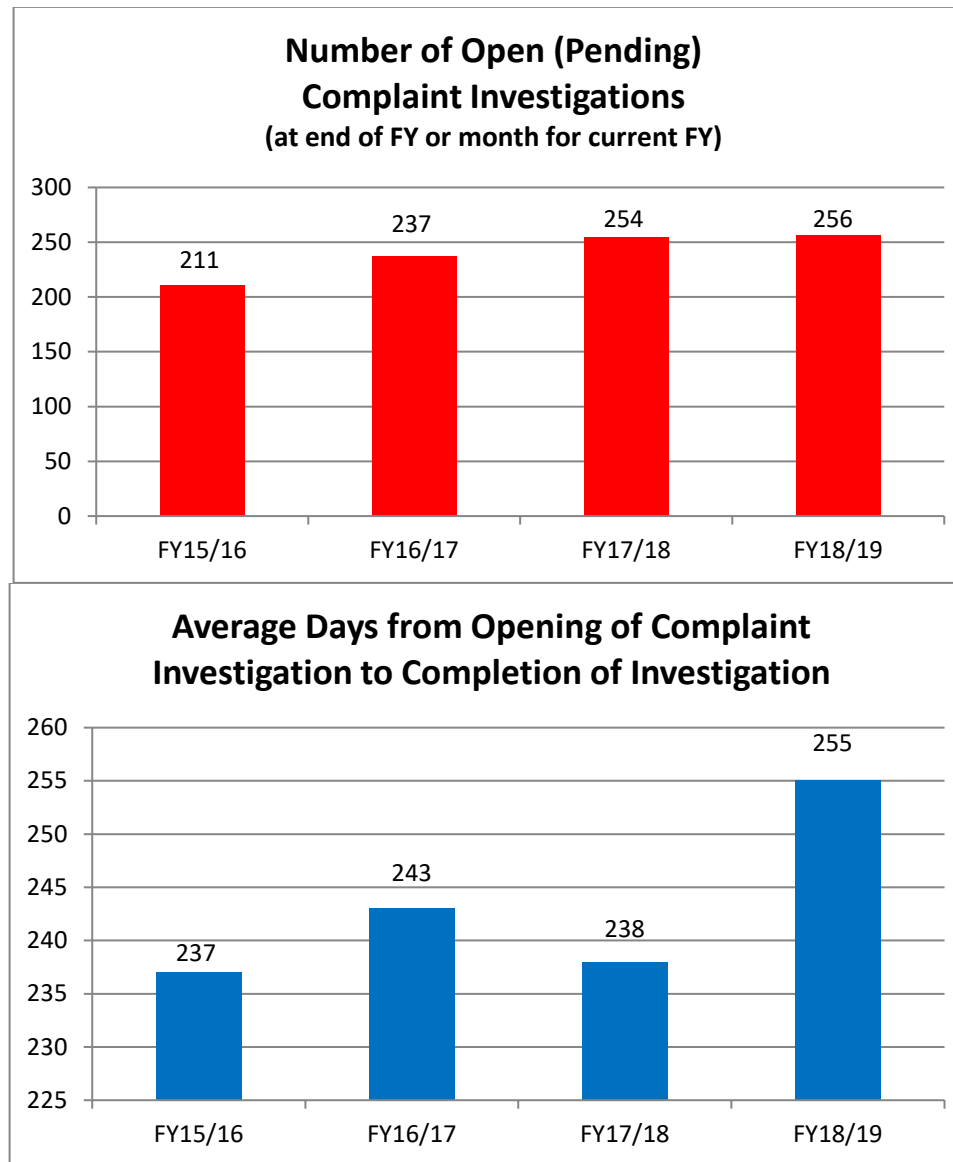
1. Fiscal Year 2018/19 Update

Complaint Investigation Phase



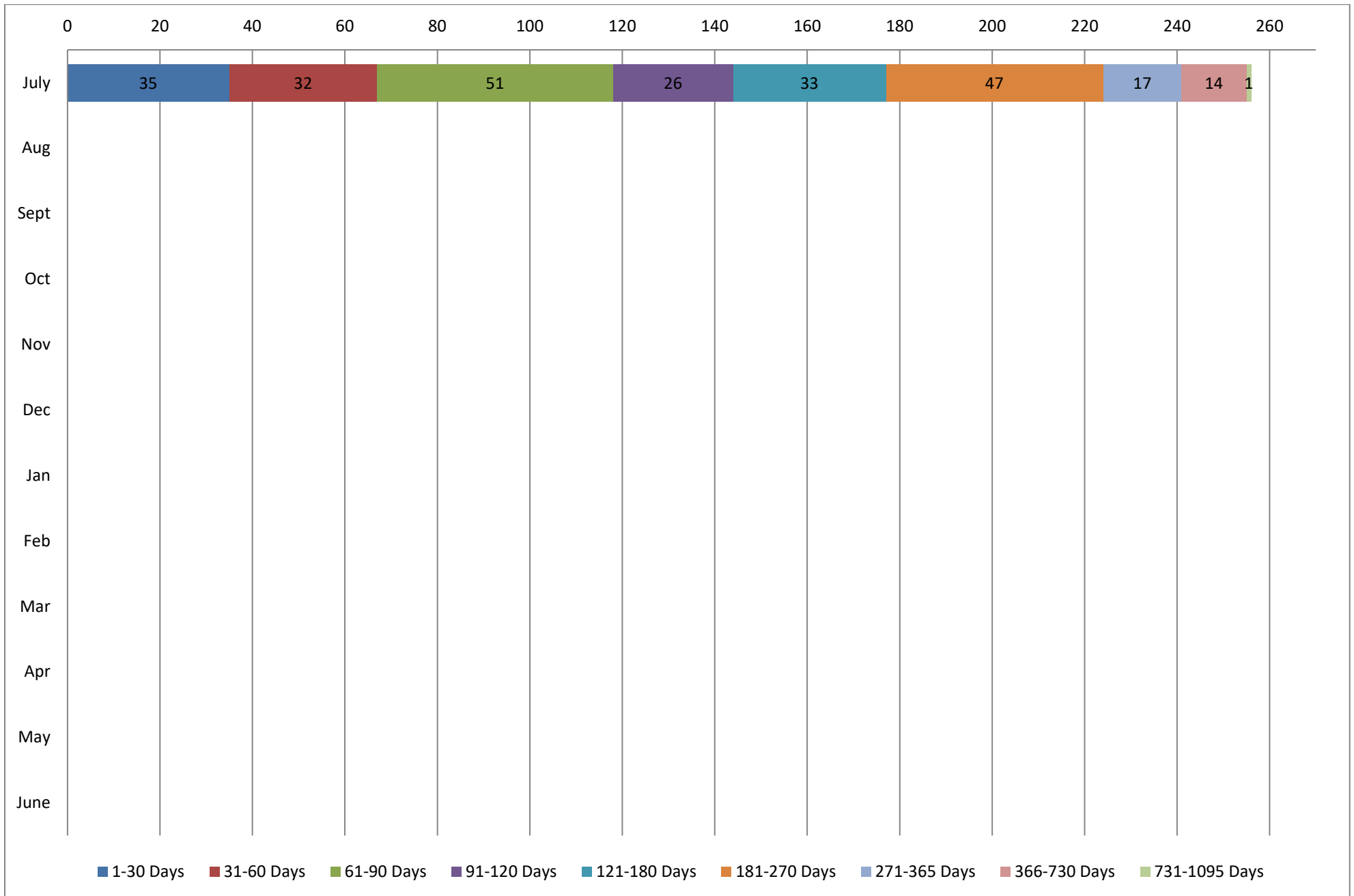
NOTE: FY18/17 statistics are through July 31, 2018

Complaint Investigation Phase

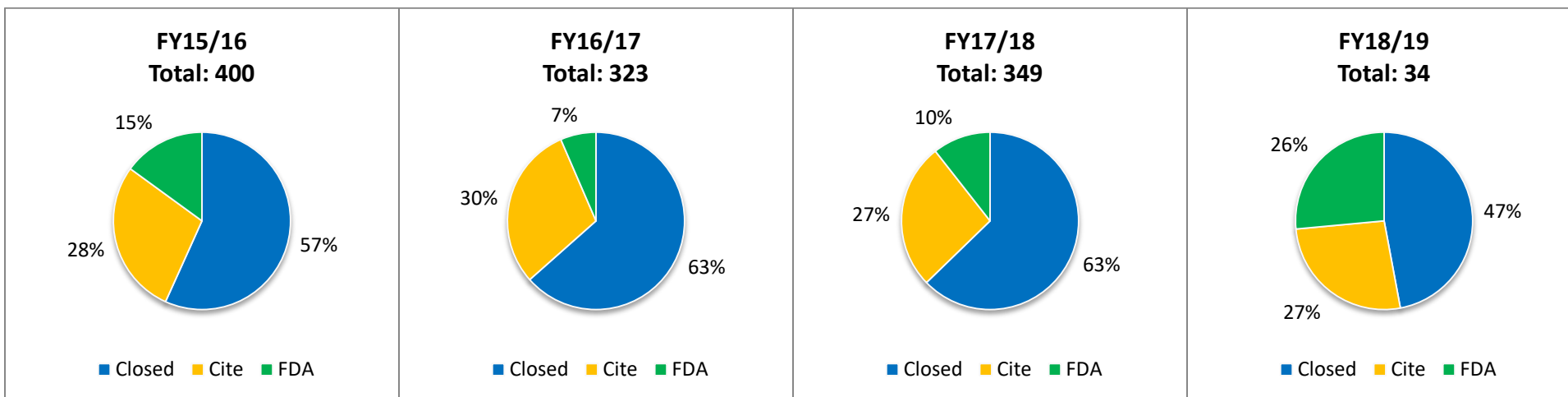
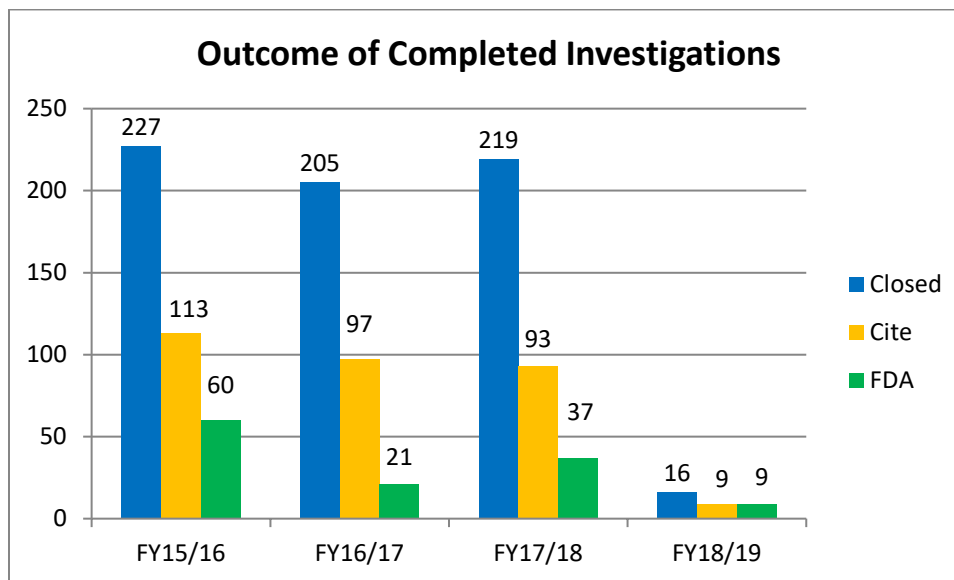


NOTE: FY18/17 statistics are through July 31, 2018

Aging of Open (Pending) Complaint Investigation Cases – FY18/17



Complaint Investigation Phase Outcome of Completed Investigations



NOTE: FY18/17 statistics are through July 31, 2018

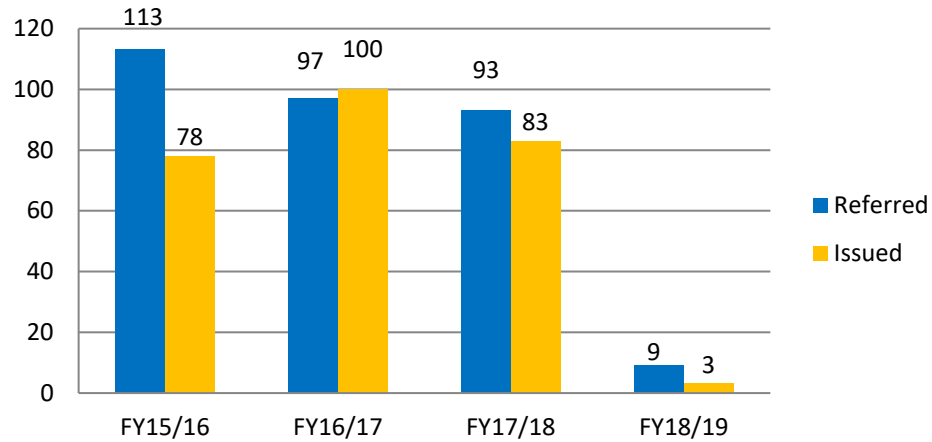
Closed = Closed with No Action Taken, includes the categories listed on the next page.

Cite = Referred for Issuance of Citation

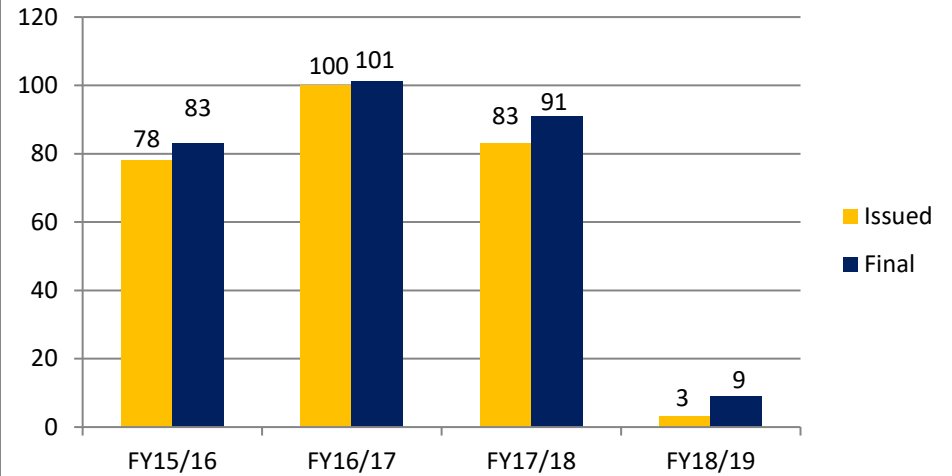
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)

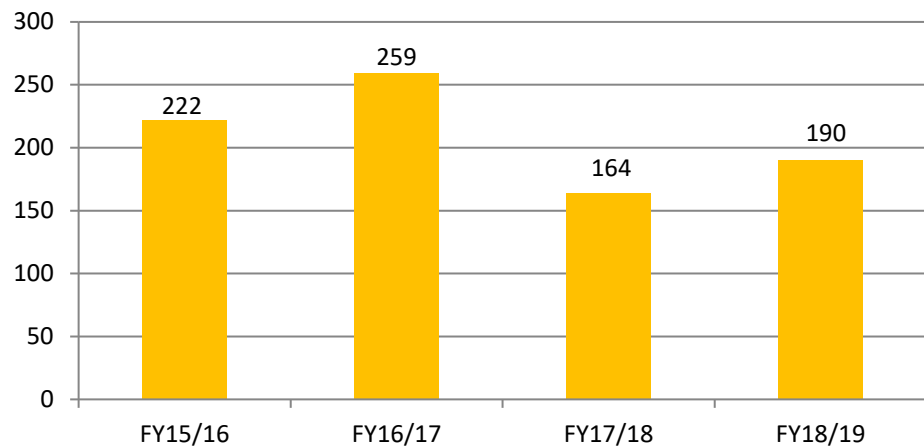
Number of Complaint Investigations Referred and Number of Citations Issued



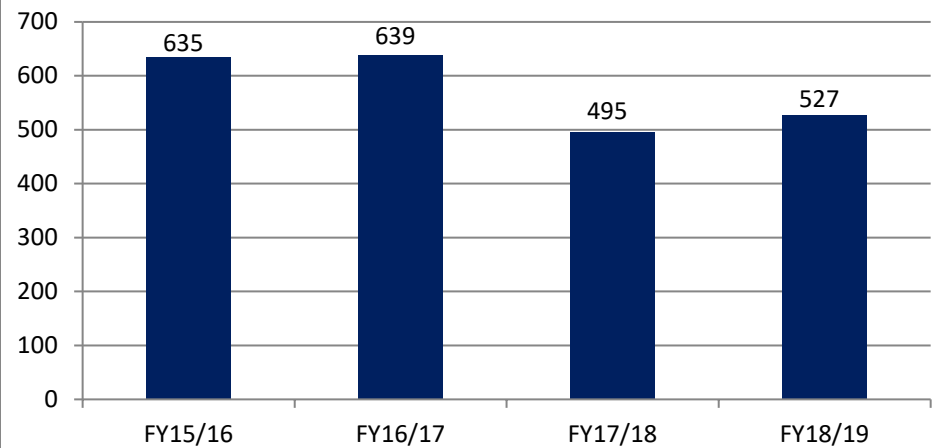
Number of Citations Issued and Final



Average Days Between Date of Issuance of Citation and Date Citation Becomes Final

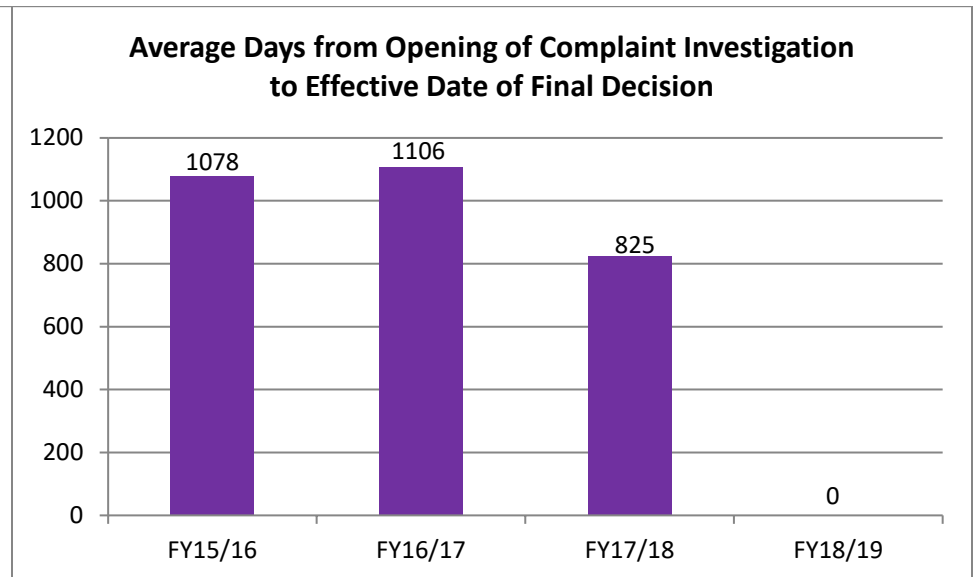
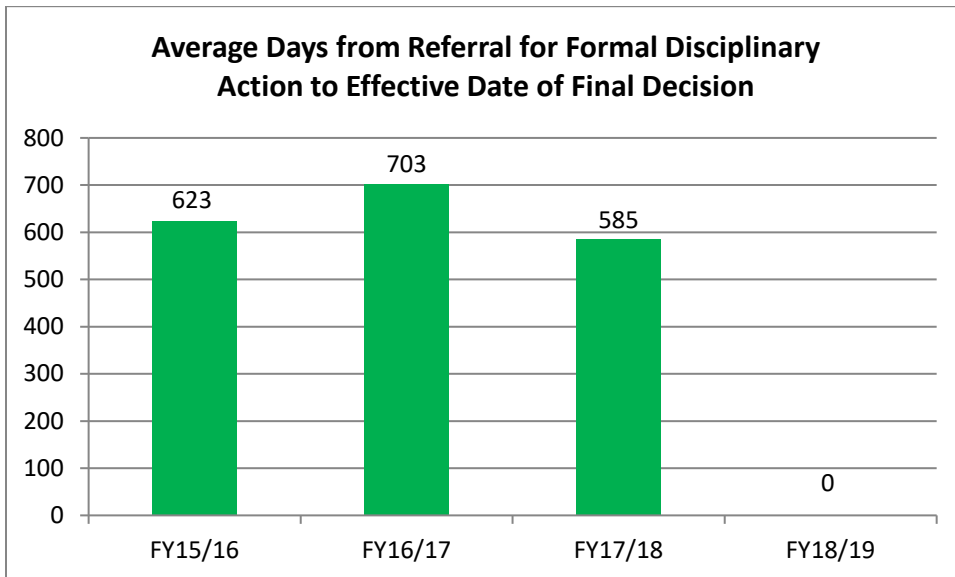
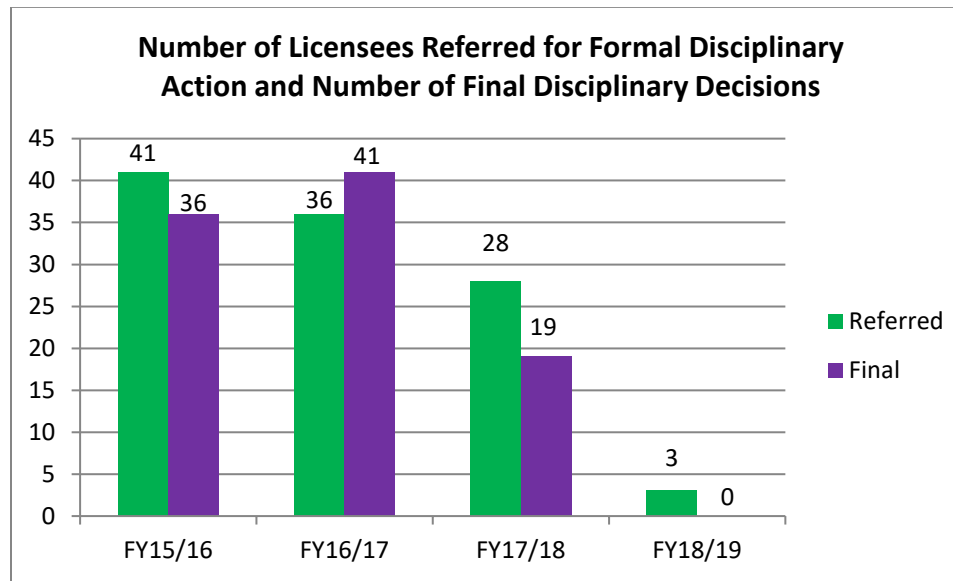


Average Days from Opening of Complaint Investigation to Date Citation Becomes Final



NOTE: FY18/17 statistics are through July 31, 2018

Formal Disciplinary Actions Against Licensees



NOTE: FY18/17 statistics are through July 31, 2018

VII. Exams/Licensing

- A. Update on 2018 Examinations - First and Second Quarter Examination Results

2018 California State Examination Results

Civil Engineer – Second Quarter 2018

Geotechnical Engineer – Spring 2018

Land Surveyor – Spring 2018

Professional Geologist – California Specific Exam – March 2018

Civil Engineer – Seismic Principles			
	Total Number of Candidates	Number Passed	Pass %
April	292		
May	385		
June	662		
Total	1,341	556	42%
Civil Engineer – Engineering Surveying			
	Total Number of Candidates	Number Passed	Pass %
April	262		
May	352		
June	640		
Total	1,254	485	39%
California Land Surveyor			
	Total Number of Candidates	Number Passed	Pass %
April	129	30	23%
Geotechnical Engineer			
	Total Number of Candidates	Number Passed	Pass %
May	39	13	33%
Professional Geologist – California Specific Exam (CSE)			
	Total Number of Candidates	Number Passed	Pass %
March	102	47	46%

2018 National Examination Results

NCEES Examination Results – April 2018

Pencil and Paper Exams

	California			National		
	Total Tested	Total Passed	Pass %	Total Tested	Total Passed	Pass %
Agricultural Engineer	4	3	75%	32	23	72%
Civil Engineer	2,590	1,184	46%	10,297	5,465	53%
Electrical Engineer	443	175	40%	1,875	908	48%
Industrial Engineer	13	6	46%	99	58	59%
Mechanical Engineer	467	269	58%	2,268	1,469	65%
Structural Engineer (Lateral)	100	21	21%	703	159	23%
Structural Engineer (Vertical)	107	33	31%	647	208	32%

Computer-Based Tests (CBT)

January 2018 – June 2018

	California			National		
	Total Tested	Total Passed	Pass %	Total Tested	Total Passed	Pass %
Chemical Engineer	33	25	76%	243	196	81%
Fundamentals of Engineering	2,776	1,707	62%	23,873	15,481	65%
Fundamentals of Surveying	120	36	30%	510	212	42%
Practice of Surveying	65	39	60%	319	203	64%

ASBOG Examination Results – March 2018

Pencil and Paper Exams

	Total Tested	Total Passed	Pass %	Total Tested	Total Passed	Pass %
Fundamentals of Geology (FG)	105	75	71%	760	485	64%
Practice of Geology (PG)	61	45	74%	301	233	77%

2018 EXAMINATION STATISTICS

		Civil Engineer Seismic Principles (CSP)			Civil Engineer Engineering Surveying (CES)		
		tested	passed	pass %	tested	passed	pass %
2014	Spring	1563	751	48	1569	662	42
	Fall	1644	675	41	1791	849	47
	Total	3207	1426	44	3360	1511	45
2015	Spring	1778	919	52	1770	764	43
	Fall	1634	671	41	1761	889	51
	Total	3412	1590	47	3530	1653	47
2016	Spring	1933	1035	54	1874	760	41
	Fall	1695	738	44	1900	1013	53
	Total	3628	1773	49	3774	1773	47
2017	Spring	1969	1080	55	1911	873	46
	Fall	1626	713	44	1794	972	54
	Total	3595	1793	50	3705	1845	50
2018	Q1	No exams administered			No exams administered		
	Q2	1341	556	42	1254	485	39
	Q3						
	Q4						
Total							

		Professional Land Surveyor - State Exam (PLS)			Traffic Engineer (TR)			Geotechnical Engineer (GE)		
		tested	passed	pass %	tested	passed	pass %	tested	passed	pass %
2014	Spring	220	48	22	N/A	N/A	N/A	N/A	N/A	N/A
	Fall	207	53	26	95	63	66	N/A	N/A	N/A
	Total	427	101	24	95	63	66	N/A	N/A	N/A
2015	Spring	193	42	22	N/A	N/A	N/A	N/A	N/A	N/A
	Fall	158	29	18	71	34	48	104	24	23
	Total	351	71	20	71	34	48	104	24	23
2016	Spring	206	43	21	N/A	N/A	N/A	N/A	N/A	N/A
	Fall	167	47	28	81	31	38	58	22	38
	Total	373	90	24	81	31	38	58	22	38
2017	Spring	203	44	22	N/A	N/A	N/A	N/A	N/A	N/A
	Fall	154	34	22	117	38	32	68	23	22
	Total	357	78	22	117	38	32	68	23	22
2018	Spring	129	30	23	N/A	N/A	N/A	39	13	33
	Total									

For results to NCEES exams, please visit the NCEES websites: www.NCEES.org

		California Specific Exam (CSE)			Certified Engineering Geologist (CEG)			Certified Hydrogeologist (CHG)			Professional Geophysicist (PGp)			Professional Geologist - ASBOG - (PG)			Fundamentals of Geology - ASBOG - (FG)		
		tested	passed	pass %	tested	passed	pass %	tested	passed	pass %	tested	passed	pass %	tested	passed	pass %	tested	passed	pass %
2014	Spring	93	38	41	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	62	49	79	90	66	73
	Fall	107	54	51	53	14	26	31	15	48	6	1	17	66	47	71	48	30	63
	Total	200	92	46	53	14	26	31	15	48	6	1	17	128	96	75	138	96	70
2015	Spring	87	25	29	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	49	36	73	38	26	68
	Fall	82	51	62	49	24	49	18	12	67	8	4	50	52	34	65	86	55	64
	Total	169	76	45	49	24	49	18	12	67	8	4	50	101	70	69	124	81	65
2016	Spring	98	66	67	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	60	46	77	126	86	68
	Fall	100	57	57	37	23	62	27	21	78	9	5	56	78	57	73	100	57	57
	Total	198	123	62	37	23	62	27	21	78	9	5	56	138	103	75	226	143	63
2017	Spring	103	46	45	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	73	56	77	137	101	74
	Fall	134	73	54	37	11	30	22	11	50	6	5	83	93	73	78	159	117	74
	Total	237	119	50	37	11	30	22	11	50	6	5	83	166	129	78	296	218	74
2018	Spring	102	47	46	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	61	45	74	105	75	71
	Total																		

Past Exam Results: http://www.bpelsg.ca.gov/applicants/exam_statistics.shtml

VIII. Executive Officer's Report

- A. Rulemaking Status Report
- B. Update on Board's Business Modernization Report
- C. Strategic Plan Discussion
- D. Sunset Review
 - 1. Suggestions for New Issues to Address in Sunset Report
- E. Personnel
- F. ABET
 - 1. Status of Board Observer Assignments for Fall 2018
- G. Association of State Boards of Geology (ASBOG)
 - 1. Update on Annual Meeting – Monterey Fall 2018
 - a. Designate Voting Delegate
 - b. Annual Meeting Motions
- H. National Council of Examiners for Engineering and Surveying (NCEES)
 - 1. Annual Meeting Report
- I. Update on Outreach Efforts

Item VIII. C. Strategic Plan Discussion (Possible Action)

Report on the status of strategic plan objectives as last adopted July 27, 2017 by the Board:

Objective 1.1 Develop and implement an integrated licensing and enforcement case management system.

Status – As part of the Board’s Business Modernization Process Study, staff worked with consultants to identify ‘As-Is’ and ‘To-Be’ processes workflows which resulted in the establishment of a little over 1,000 separate requirements across all units of operation within the Board. While realistically, all of those requirements directly or indirectly involve some facet of case management, whether that is licensing applications or enforcement cases, staff can attribute about 85% of those requirements as related directly to this objective. These requirements are currently serving as the basis for the Board’s efforts in proceeding through Department of Technology’s PAL process towards acquiring a new integrated system.

Objective 2.1 Monitor and report annually whether national exams continue to meet California’s licensing requirements.

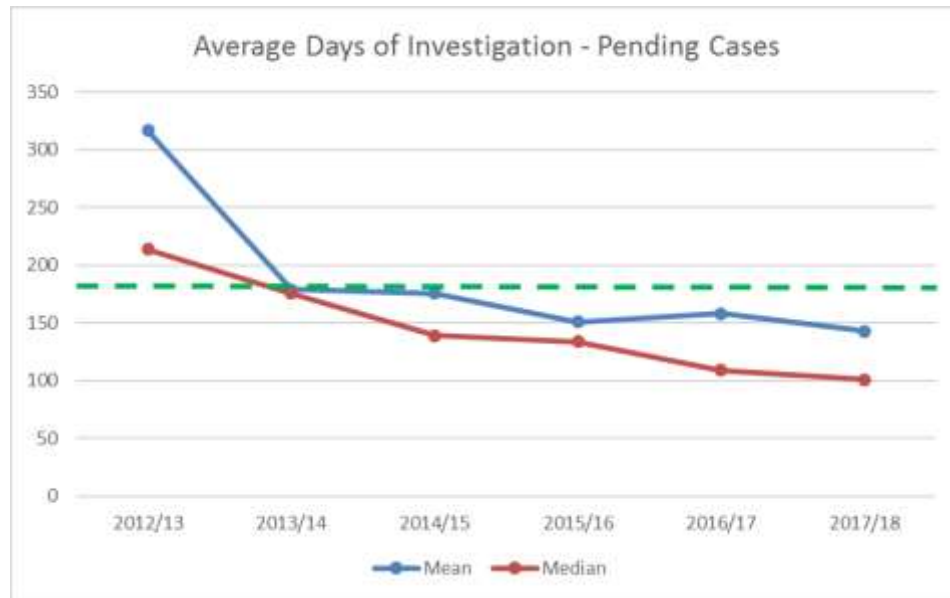
Status – The Board monitors national exam performance in two primary ways, participation on NCEES and ASBOG examination oversight committees and review of national exam results as released by NCEES and ASBOG. In 2017-18, Steve Wilson served on the NCEES Examinations for Professional Surveyors (EPS) Committee and Ric Moore served on the NCEES Survey Exam Module Task Force while also assisting with item development. Additionally, Laurie Racca currently serves as the ASBOG Examination Chair for the national geologist exams. It is anticipated that California representatives, both staff and members, will continue to be involved in these processes with national exams vendors.

Objective 3.2 Proactively monitor and clarify as needed laws and regulations.

Status – Please refer to Item IX of this meeting agenda for an example related to the Professional Land Surveyors’ Act. Also, Item III on the rulemaking efforts to revise Title 16, CCR Sections 3003 and 3003.1.

Objective 4.1 Maintain complaint investigation cycle times under 180 calendar days.

Status –



Objective 4.2 Reduce formal disciplinary action process cycle times to the DCA-established time period of 540 calendar days.

Status – Please refer to Item VI – Enforcement in the meeting agenda. These statistics are regularly reported each board meeting.

Objective 5.3 Report annually to the Board the steps taken to educate university administrators and students about the importance of licensure.

Status – Please refer to the Outreach topic under the Executive Officer's Report each meeting. This topic was last reported on in depth at the March 2018 board meeting and is regularly included in the outreach reports.

ASBOG Summary

The annual business meeting, annual administrator's workshop, and fall council of examiners will be held in Monterey, CA October 30-November 4, 2018. California is the host state. Board staff have been assisting ASBOG with suggestions for logistics.

Staff request that the Board provide direction on the following:

1. Designate the voting delegate (or assign a proxy) to attend the Annual Meeting representing the Board. Any member of BPELSG is welcome to attend and observe any of the ASBOG activities in Monterey.

Provide instructions on how the Board wishes the voting delegate to cast votes on the following four topics:

- David Svingen from Nebraska was nominated to fill the ASBOG secretary position on the Executive Committee. The current Executive Committee members will progressively succeed to each higher office.

President	William Ernst (WA)
President Elect	Brenda Halminiak (WI)
Treasurer	Jason Patton (AR)
Secretary	David Svingen (NE)
Past President	Erick Weiland (AZ)

David Svingen holds dual licensure as a PG and PE in multiple states and served as a member of the Nebraska Board of Geologists for 8 years. He has significant management experience and a strong professional network. He is semi-retired from Terracon Consulting.

Staff Recommendation: Vote to accept Mr. Svingen as the ASBOG secretary and confirm the slate of officers.

- ASBOG budget
 - The current Executive Director has managed the budget well, greatly increasing the cash reserves such that ASBOG no longer charges a fee to Member Boards for attendance at the Annual Meeting.
 - ASBOG income is highly dependent on the number of examinees which has been trending upwards, therefore income and cash reserves have been trending upwards.
 - The fee increase for the fundamentals exam has been implemented in 2018.
 - ASBOG's income has outpaced spending for 2017 and 2018 resulting in transfers to cash reserves. The proposed 2019 budget includes an anticipated shortfall of \$1,500. The current Treasurer indicates that this projected shortfall is unlikely to actually occur and is an artifact of conservative budgeting. The 2020 budget projection anticipates that income will exceed expenses.

Staff Recommendation: Vote to accept the proposed ASBOG budget.

- ASBOG meeting minutes.

Staff Recommendation: Vote to accept the 2017 Annual Meeting minutes.

- Proposed merger of Charter and Bylaws documents:

Staff Recommendation: Vote to approve the merger the Charter and Bylaws including the proposed amendments.

Item VIII. H. 1. NCEES – Annual Meeting Report

The 98th Annual Meeting of NCEES was held in Scottsdale, AZ August 14-18, 2018. The California Board was well represented with sufficient attendees to be able to monitor the simultaneous breakout sessions on engineering licensure, surveying licensure, and member board administration. NCEES President and former California Board Member Pat Tami, PLS presided over the important business sessions and publically acknowledged that it was satisfying to hear California Board representatives refer to him as 'Mr. President'.

Items of Interest

Jerry Carter is retiring from his position as CEO effective September 30, 2018 and will assume the role of CEO Emeritus through the end of the calendar year to assist with the transition.

David Cox, Executive Director of the Kentucky Engineers and Surveyors Board was selected as the new CEO and will assume those duties as of October 1, 2018

Pat Tami, PLS completed his year as President and assumed the role of Immediate Past-President on the NCEES Board of Directors.

Jim Purcell, PE of the New Jersey Board assumed the role as 2018-19 NCEES President.

The Council elected Dean Ringle, PE, PS of Ohio as 2018-19 NCEES President-Elect.

California Board Member Steve Wilson, PE, PLS served as a panel member involving a discussion on how new technological advancements in equipment is affecting the land surveying profession.

California Enforcement Program Manager Tiffany Criswell provided a presentation to enforcement representatives from many other licensing boards from across the nation on a recent high profile incident of unlicensed engineering in Southern California and responded to questions about how the California Board collaborated with local county law enforcement agencies to help ensure the charges.

California Executive Officer Ric Moore served as a panelist for a discussion on a report from the Survey Exam Module Task Force pertaining to a study of the current Principles and Practice of Surveying (PS) exam content.

Business Session Summary

Most of the actions discussed and voted on by the Council ended up generally consistent with the discussion and desire by the California Board at the June 28, 2018 board meeting. California Board representatives actively discussed the motions including amendments and floor discussion and voted accordingly. Most of these motions pertained to how committee members are chosen to serve on national committees, budget reports related to exam population numbers, and financial support of Engineers without Borders.

BOARD OUTREACH REPORT

Quarter Two: April - June 2018

SOCIAL MEDIA & WEBSITE

Top 5 Twitter “Tweets”

Posts	Date Posted	Views
1. Senior Registrar Recruitment - Civil	June 21	1204
2. Meeting Materials (May) Published	June 22	1180
3. PE Nuclear Exam Info	May 8	945
4. NCEES Surveying Study	May 7	899
5. Notice and Agenda – May	April 25	598

Top 5 Facebook Posts

Posts	Date Posted	Views
1. Throwback Thursday – Richter Scale Day	April 26	697
2. Senior Registrar Recruitment - Civil	June 21	634
3. NCEES Surveying Study	May 7	612
4. PE Nuclear Exam Info	May 8	596
5. Notice and Agenda – May	April 25	548

Top 5 Webpage Views of Quarter

Page Title	Views
1. Applicants Information Page	75,000+
2. EIT/LSIT Certificate Info	52,000+
3. Application Instructions for Engineer License	44,000+
4. Professional Engineer Application	30,000+
5. Home Page	21,000+

OUTREACH EVENTS

April 2 - USC – Engineering Presentation to students - Mike & Brooke



Students at USC Presentation on April 2, 2018

April 10 - CSU Stanislaus Geology Presentation to students - Laurie

April 17 - CSU Northridge Geology Presentation to students - Laurie

April 22 & 23 - American Society of Civil Engineers (ASCE)/ Utility Engineering & Surveying Institute (UESI) Conference at Cal Poly Pomona – Licensing as it relates to Subsurface Utility Engineering(SUE) -Ric

April 3 - Humboldt State – Engineering Presentation to students - Mike

April 23 - Cal Poly Pomona - American Society of Civil Engineers (ASCE), Utility Engineering & Surveying Institute (UESI) UESI Conference- presentation on licensure requirements - Dallas

April 24 - Surface Mining and Reclamation Act (SMARA) workshop (licensing talk in support of the Division of Mines) - Laurie/Dallas

April 27 – CSU Northridge – Senior Project Day - Mike

May 3 – UCLA - Presentation to students - Mike & Brooke



Presentation at UCLA on May 3, 2018

May 4 - UC San Diego – Presentation to students - Mike & Brooke

May 9 - ASCE San Jose Branch – BPELSG Update - Ric

May 10 - Monterey Bay Geological Society, licensing update - Laurie

May 21 - Camp Pendleton Military Presentation – Mike

June 5 - Tahoe Engineers, Architects & Surveyors (TEAS) South Lake Tahoe, Board update - RIC, Tiffany, Dallas

June 20 - CalGeo Sacramento – Board Update - Ric

June 26 - Surface Mining and Reclamation Act(SMARA) Workshop (In support of the DMR) - Laurie

PRINTED MATERIAL

Summer 2018 Bulletin:



http://www.bpelsg.ca.gov/pubs/bulletin.latest_.pdf

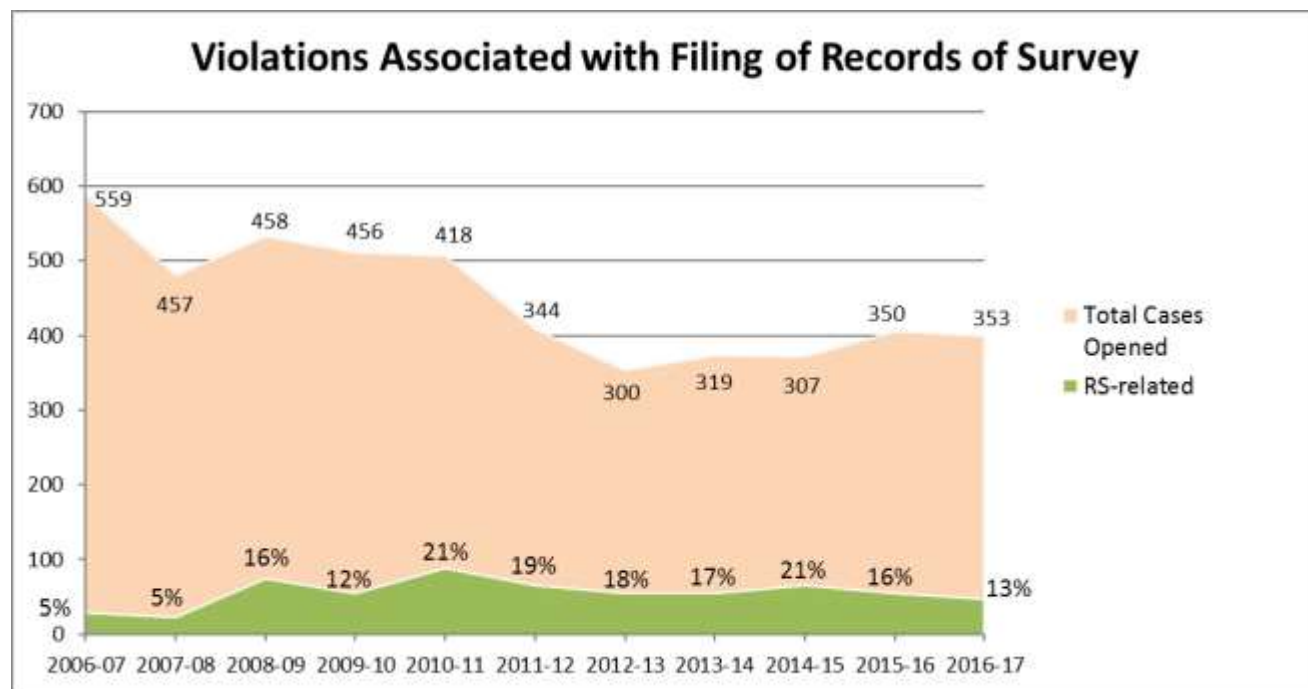
IX. Review of Professional Land Surveyors' Act and Board Rules related to the Preparation and Submittal of Record of Survey and Corner Record Requirements

Item IX. Review of Professional Land Surveyors' Act and Board Rules related to the Preparation and Submittal of Record of Survey and Corner Record Requirements (Possible Action)

Background

Professional Land Surveyors' Act, Sections 8762-8770.5 are primarily associated with Records of Survey and Sections 8773-8773.4 along with Board Rule 464, with Corner Records.

Due to the unique nature of these requirements being considered as administrative while simultaneously related to the technical nature of the practice, the Board chose to monitor these violations separately for at least the last 25 years.



(Data currently not available for 2017-18)

An average of 15% of the total investigation cases opened annually during the last decade correspond to allegations related to violations of the Board's laws associated with the requirements to file a Record of Survey or a Corner Record, with a peak of 21% occurring in 2010-11 and 2014-15. This trend has become increasingly more noticeable given that the number of these subject cases has remained relatively constant over the last decade while the overall number of cases opened has decreased. It is important to note that this data only represents what was actually reported to the Board and according to informal industry accounts, the number of violations are likely much higher.

As expected, Board staff is regularly exposed to incidents associated with substandard map submittals as well as inconsistencies with how County Surveyor Offices across the state interpret and implement the applicable requirements associated with their responsibilities on these matters. More recently over the last couple of years and primarily due to these reasons, Board staff has initiated outreach with the intent to assist various County Surveyor offices around the state by reviewing their procedures and policies related to the County Surveyor's responsibilities in receiving, reviewing, and processing submitted Records of Survey and Corner Records.

As a result, Board staff has informally sought the level of interest among those County Surveyors and the private (submitting) practitioners for the Board to provide an increased level of clarification of the requirements to help with resolving the inconsistencies.

Goals

1. Clarify the role and responsibilities of the 'submitting' land surveyor relative to documenting the survey on the mandated map.
2. Clarify the role and responsibilities of the County Surveyor as it relates to the responsibilities to receive/review and file the submitted map.
3. Reduce the level of non-compliance which should result in a decrease in volume of related enforcement cases.

Objectives

1. Identify areas of concern associated with the current statutory/regulatory requirements.
2. Evaluate how best the Board can assist with clarifying the administrative requirements associated with the preparation and filing of Records of Survey and Corner Records.
3. Create or revise regulations for the purposes of establishing clarity and expectations for all the licensed professionals to follow in these processes.

Proposed Process

Several months ago, Steve Wilson, Land Surveyor Board Member requested and was approved by the Board, to have the LSTAC meet to discuss such concerns.

Informally, Board staff has at least two outreach events coming up in September related to these concerns, one with the County Engineers Association of California (CEAC) – Survey Policy Committee, which is comprised of County Surveyor representatives from around the state and another at an event involving a County Surveyor panel discussion.

Staff recommends that the Board approve staff to proceed with the following tentative schedule as we work to ensure effective collaboration within the professional surveying community while also striving to standardize the responsibilities and processes more effectively throughout the state:

- A. Introduce these efforts collaboratively with the licensed surveying community.
- B. Facilitate "workshops" for the purposes of capturing and identifying areas of concern relative to the current statutory/regulatory requirements while also educating/advising on compliance.
- C. Staff compile information learned from these efforts.
- D. Interim report to Board with findings.
- E. Schedule an LSTAC meeting to obtain technical input relative to the recommendations
- F. Final report to Board with recommendations on how best to proceed which may include regulatory and/or legislative actions.

X. Technical Advisory Committees (TACs)

- A. Assignment of Items to TACs
- B. Appointment of TAC Members
- C. Reports from the TACs

XI. President's Report/Board Member Activities

XII. Approval of Meeting Minutes

A. Approval of the Minutes of the June 28, 2018, Board Meeting

DRAFT

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

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

Thursday, June 28, 2018, beginning at 9:00 a.m.

Thursday, June 28, 2018

Board Members Present:	Eric Johnson, President; Betsy Mathieson, Vice President; Fel Amistad; Alireza Asgari; Andrew Hamilton; Kathy Jones Irish; Coby King; Asha Lang; Mohammad Qureshi; Jerry Silva; Robert Stockton; and Steve Wilson
Board Members Absent:	Natalie Alavi and Frank Ruffino
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Administrative Manager); and Michael Santiago (Legal Counsel)

I. Roll Call to Establish a Quorum

President Johnson called the meeting to order at 9:00 a.m., and a quorum was established.

II. Public Comment for Items Not on the Agenda

Tim Gubbins, Interim District Director with CalTrans District 11, welcomed the Board and expressed his appreciation. Lima Saft, District 11 employee, and Seana Urquhart shared their organization's mission and offered to collaborate with the Board to promote licensure.

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

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

XVIII. 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)]
- 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

V. Open Session to Announce the Results of Closed Session

The Board met in Closed Session following the Hearing on the Petition for Early Termination to decide that matter.

XIX. Open Session to Announce the Results of Closed Session

During Closed Session, the Board took action on one stipulation, two default decisions, a petition for reconsideration, and two proposed decisions. The Board also discussed pending litigation as noticed.

VI. Administration

A. Fiscal Year 2017/18 Budget Review

Mr. King and Mr. Stockton met with Mr. Moore, Ms. Eissler, Mr. Alameida, and the Board's DCA Budget Analyst Brian Skewis to gain a better understanding of the annual processes that take place to determine the upcoming budget and to discuss any changes that may take place.

Mr. Alameida provided a brief overview of the Board's Financial Statement to the new Board members and highlighted what line items they should focus on. He explained the Fund Condition and the revenue and expenses projected throughout the year. He noted that the Fund Balance and Months in Reserve are important components of the fund condition, which identifies the amount of money in reserve that could be used to continue operations.

Dr. Qureshi noted a sizeable increase in projections compared to the previous Fiscal Years; he recommended including an explanation in the Financial Statement notes and suggested highlighting the items the Board should focus on.

VII. Legislation

A. Legislative Calendar

Ms. Eissler reviewed important dates on the legislative calendar.

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

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

The Board voted to take an Oppose Unless Amended position on AB 2138, as amended on June 20, 2018. They are opposed unless AB 2138 is amended to strengthen the public protection aspects so that protection of the public is given the highest priority. For example, the boards should have the authority to consider all felonies that are substantially related to the qualifications, functions, and duties of the profession even after the seven-year wash out period.

MOTION:	Mr. King and Mr. Stockton moved to oppose unless amended AB 2138, as amended on June 20, 2018.
VOTE:	12-0, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Alireza Asgari	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton	X				
Steve Wilson	X				

AB 2483 Indemnification of public officers and employees: antitrust awards.
No Action Taken.

SB 920 Engineering, land surveying, and architecture: limited liability partnerships.
No Action Taken.

SB 1098 Geologists and geophysicists: fees.
No Action Taken.

AB 767 Master Business License Act.

MOTION:	Mr. Stockton and Ms. Irish moved to take a watch position on AB 767, as amended June 18, 2018.
VOTE:	12-0, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
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Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Alireza Asgari	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton	X				
Steve Wilson	X				

IX. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2017/18 Update

Ms. Criswell reported that there was a significant number of related complaints received in May. The complaints relate to allegations of not meeting requirements specified in the laws and, therefore, should not require a significant amount of investigation or expert review.

She also reported that the Board's Enforcement Unit had assisted the Los Angeles County Sheriff's Office and District Attorney's Office in the investigation of two unlicensed individuals who have now been apprehended and charged with 480 felony counts of identity theft and forgery.

X. Exams/Licensing

A. Update on 2018 - First and Second Quarter Examinations

Mr. Moore highlighted the change in the civil examinations and reviewed how the candidates scheduled and tested. An update for the quarter and pass rates will be provided at the next Board meeting.

XI. Executive Officer's Report

A. Rulemaking Status Report

Mr. Moore reported that Title 16, California Code of Regulations §3031, Education Criteria for Geologists, remains with DCA's Deputy Director's office.

B. Update on Board's Business Modernization Report

Mr. Alameida updated the Board on the Business Modernization Report and explained that the Project Approval Lifecycle is a four-stage process that all departments must go through if they have IT projects of this nature. The Board's project request is to replace two existing legacy systems. The Board is

currently going through Stage II, Alternatives Analysis stage. With the support of a consultant, the information was gathered for submission. Stages III and IV will include the analysis and approval of the Board's alternative and open procurement options to seek a vendor and evaluate those options to assemble a procurement package with the main goal of replacing our current systems.

C. Sunset Review (Possible Action)

Mr. Moore reported that assignments have been provided to staff. He will assemble a report for the November meeting for approval in order to present it to the Legislature by December 1, 2018. The Board has not received any specific concerns or questions from the legislative committees; therefore, staff is proceeding with what was provided in the template. This is an opportunity for the Board to present new issues. Ms. Eissler suggested the Board decide on what new issues they want to introduce at the September meeting. Mr. Moore suggested having two Board Members review the report and provide input to staff between the September and November meetings. It was decided that the Board members would be selected at the September meeting when the new issues are determined. The full Board will review the report in order to approve it at the November meeting.

D. Personnel

Mr. Moore reported that applications are being accepted through the end of July for the Senior Registrar Civil position. Stephanie Orozco has accepted a position with another agency and is leaving the Licensing Unit. The Licensing Unit is also accepting applications to fill three permanent positions and one limited term. Daniel Quanchi is leaving the Board's Licensing Unit to work for the Board's Enforcement Unit.

E. ABET

Dr. Qureshi was selected to become a program evaluator. He will be going to an out-of-state university to review their civil engineering program.

F. Association of State Boards of Geology (ASBOG)

September 15-23, 2018 is the International AEG meeting in San Francisco. Ms. Racca has been accepted to make a presentation on the 50th Anniversary of the licensing of geologists for the state. ASBOG's Annual Meeting will be held October 29 through November 3 in Monterey. ASBOG is seeking guidance on computer based testing and has coordinated a meeting with Jerry Carter and Davy McDowell with NCEES.

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

Ms. Eissler reported that the proposal is to add an additional funded delegate position for the Annual meeting and for the Zone meeting that would be specific to the Member Board Administrator (MBA).

There were concerns raised at the Western Zone meeting that perhaps adding another funded delegate position may not sit well with Member Boards, and it may be better if they designated one of the already specified three funded delegate positions to be for any staff person.

MOTION:	Mr. King and Mr. Qureshi move to support additional delegates and broaden proposal to include staff for council activities.
VOTE:	12-0, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Alireza Asgari	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton	X				
Steve Wilson	X				

- b. ACCA Motion 8 – Relating to Bylaws 7.02, Advisory Committee on Council Activities
- e. Committee on Examinations for Professional Surveyors (EPS) Motion 1 – Relating to Bylaws 7.07, Committee on Examinations for Professional Surveyors.
- g. Committee on Member Board Administrators (MBA) Motion 1 – Relating to Bylaws 7.11, Committee on Member Board Administrators

Ms. Eissler reported that motions (b), (e), and (g) are all related to specifying the makeup of the committees and the Board of Directors is not endorsing those motions as they place restrictions on who the President Elect can choose to serve on the committees. When the Board

of Directors does not endorse a motion, they will explain their reasoning in more detail at the Annual Meeting.

- c. Committee on Examination Policy and Procedures (EPP) Motion 1 – Relating to Bylaws 7.08, Committee on Examination Policy and Procedures
No Action Taken.
- d. Committee on Examinations for Professional Engineers (EPE) Motion 1 – Relating to Bylaws 7.06, Committee on Examinations for Professional Engineers

Ms. Eissler reported that this is related to the bylaws wording about the committee. The Board of Directors is not endorsing because they believe the proposed wording is confusing.

- f. Committee on Finances Motion 3 – Relating to Member Board Membership Fees

Ms. Eissler reported that the Board of Directors is endorsing this motion and has placed it on consent. It relates to the membership fees that each member board pays. There are three tiers, and it is based on the licensees the member board has. \$750 annually for 1-150 licensees, \$2,600 annually for 151-500 licensees, and \$6,500 annually for 500+ licensees. This proposal would raise the maximum number of licensees to qualify for the lowest level to 200 and consequently affect the second tier.

- h. Committee on Uniform Procedures and Legislative Guidelines (UPLG) Motion 6 – Relating to Model Law 120.20, Board Qualifications
No report given.
- i. UPLG Motion 20 – Relating to Model Laws and Model Rules Sections Pertaining to Structural Engineering Licensure

The Board of Directors is endorsing this motion but has not placed it on the consent agenda.

- j. Technology Task Force Motion 3 – Relating to Building Information Modeling (BIM) Guidelines

Originally, the Board of Directors had concerns with this motion and had not placed it on consent. The motion was revised, and now they are endorsing it and placing it on consent.

- k. Board of Directors Motion 1 – Relating to the Term of Office of NCEES Treasurer Timothy Rickborn, P.E.

This motion would change his term from a two-year term that could be followed by a consecutive 2-year term to just one three-year term.

- l. Northeast Zone Motion 1 – Relating to NCEES Examination Fees for the Fundamentals of Engineering and Fundamentals of Surveying Examinations

Ms. Eissler reported that the Northeast Zone has presented a motion to direct NCEES to investigate the possibility of reducing the exam fees for those who take them within one calendar year of graduation from an ABET accredited college program, culminating in awarding a bachelor of science degree or equivalent. The college program must require a prerequisite for graduation that students take the Fundamentals of Engineering examination or the Fundamentals of Surveying examination.

The Board discussed that the wording seemed to be contradictory.

Ms. Eissler announced that Ms. Criswell has been invited to be a guest speaker as part of the Law Enforcement Forum at the Annual Meeting for NCEES.

VIII. Update from the Department of Consumer Affairs (DCA)

Chris Castrillo, Deputy Director with Board and Bureau Services, thanked Board staff for participating in the licensing and enforcement workgroups. These workgroups take place on a bi-monthly basis where they identify challenges and discuss best practices.

Mr. Castrillo reported that the Department organized a Future Leadership Development Program, which is intended to identify up-and-coming future leaders of the Department. The Department is currently accepting applications for the next group of candidates.

He reminded newly appointed Board members that the Board Member Orientation Training is required within a year of appointment.

Mr. Castrillo noted that DCA did an Executive Officer salary study in 2011. They also implemented a new salary study in 2018 as part of the Strategic Plan. In doing so, they wanted to solicit input from Executive Officers that were in office in 2011 when the initial study was done. A key piece of feedback that was received was that it was recommended that they solicit additional vendors aside from the third party that conducted the initial study. They assembled a Request for Proposal (RFP) to ensure they are engaging as many third parties as they can. They hope

to have a contract awarded by the end of July. They have stipulated for a six-month timeline for the study.

XI. Executive Officer's Report (Cont.)

H. Update on Outreach Efforts

Mr. Moore reported that the Senate will be presenting a Senate Resolution recognizing Professional Geologist and Professional Geophysicist Week. Ms. Racca and Ms. Mathieson will be in attendance to accept the resolution.

XII. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs (Possible Action)

No report given.

B. Appointment of TAC Members (Possible Action)

MOTION:	Mr. Wilson and Mr. Stockton moved to re-appoint Greg Hopkins and Edward Reading and appoint Adam Rivera to the LS TAC.
VOTE:	12-0, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Alireza Asgari	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton	X				
Steve Wilson	X				

C. Reports from the TACs (Possible Action)

No report given.

XIII. President's Report/Board Member Activities

President Johnson participated in a conference call with DCA.

Mr. Wilson reported that he has researched salaries of Executive Officers for other states along with the number of licensees and staff. He has found that California

does not fare well in comparison to other states. Mr. Castrillo reported they developed a scope of work in the RFP for comparable positions in other states.

President Johnson recognized both Karen Roberts and Jerry Silva and presented proclamations to them for their service with the Board.

XIV. Nomination and Election of President and Vice President for Fiscal Year 2018/19

The Nomination Committee, comprised of members Mr. King and Ms. Mathieson, provided a slate to the members for consideration.

Nominations for President and Vice-President were closed.

MOTION:	Mr. King and Mr. Silva recommended and moved to nominate and elect Dr. Qureshi as President and Dr. Amistad as Vice-President.
VOTE:	12-0, Motion Carried.

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Alireza Asgari	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Frank Ruffino				X	
William Silva	X				
Robert Stockton	X				
Steve Wilson	X				

Ms. Irish took an opportunity to thank President Johnson for his leadership. President Johnson thanked everyone for their support.

XV. Approval of Meeting Minutes (Possible Action)

A. Approval of the Minutes of the May 3, 2018, Board Meeting

MOTION:	Dr. Amistad and Ms. Lang moved to approve the minutes as amended.
VOTE:	9--3, Motion carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Alireza Asgari	X				
Andrew Hamilton	X				
Kathy Jones Irish			X		
Coby King	X				
Asha Lang	X				
Mohammad Qureshi	X				
Frank Ruffino				X	
William Silva			X		
Robert Stockton			X		
Steve Wilson	X				

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

Mr. Moore stated he planned to report on the Strategic Plan topic discussion at the next meeting.

XVII. Other Items Not Requiring Board Action

Mr. Moore thanked President Johnson for his service as Board President and presented him with a gavel plaque.

XX. Adjourn

Meeting adjourned at 4:55 p.m.

PUBLIC PRESENT

Dilip Khatri
Lima Saft, CalTrans
Ray Mathe, County of San Diego
Rob McMillan, CLSA

XIII. Discussion Regarding Proposed Agenda Items for Next Board Meeting

- A. November 1-2, 2018, Board Meeting will be held in Monterey at the Monterey-Salinas Transit, 19 Upper Ragsdale Drive, Boardroom, Monterey, CA 93940

XIV. Other Items Not Requiring Board Action

XV. 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

XVI. Open Session to Announce the Results of Closed Session

XVII. Adjourn
