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

Thursday, May 7, 2020, beginning at 9:00 a.m.,

Teleconference Public Board Meeting
I. Roll Call to Establish a Quorum

II. Pledge of Allegiance

III. 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.

IV. Consideration of Rulemaking Proposals
A. Approval and/or Adoption of Rulemaking Proposal to Amend Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria) and sections 418 and 3061 (Criteria for Rehabilitation) to Conform to Statutory Changes Made by AB 2138 (Chapter 995, Statutes of 2018) (Possible Action)

V. Administration
A. Fiscal Year 2018/19 Budget Status
B. Fiscal Year 2019/20 Budget Report

VI. Legislation
A. 2020 Legislative Calendar
B. Discussion of Legislation for 2020 (Possible Action)
   AB 1263 Contracts: consumer services: consumer complaints.
   AB 1616 Department of Consumer Affairs: boards: expunged convictions.
   AB 2028 State agencies: meetings.
   AB 2113 Refugees, asylees, and immigrants: professional licensing.
   AB 2185 Professions and vocations: applicants licensed in other states: reciprocity.
   AB 2454 Department of Consumer Affairs: retired or inactive status license: discipline.
   AB 2549 Department of Consumer Affairs: temporary licenses.
   AB 2631 License fees: military partners and spouses.
   AB 3334 Professional Land Surveyors’ Act.
   SB 865 Excavations: subsurface installations.
   SB 878 Department of Consumer Affairs Licensing: applications: wait times.
   SB 1057 Land.
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<td>D.</td>
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</tr>
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<td>National Council of Examiners for Engineering and Surveying (NCEES)</td>
<td></td>
</tr>
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<td>Presentation from Western Zone Vice President Brian Robertson, P.E.</td>
<td></td>
</tr>
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<td></td>
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<td>Assignment of Items to TACs (Possible Action)</td>
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<td>C.</td>
<td>TAC Appointment (Possible Action)</td>
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<td>D.</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>XIII.</td>
<td>Approval of Meeting Minutes (Possible Action)</td>
<td></td>
</tr>
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<td>Approval of the Minutes of the March 12, 2020, Board Meeting</td>
<td></td>
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<td>Discussion Regarding Proposed Agenda Items for Next Board Meeting</td>
<td></td>
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<td>Closed Session – The Board will meet in Closed Session to discuss, as needed:</td>
<td></td>
</tr>
<tr>
<td>A.</td>
<td>Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]</td>
<td></td>
</tr>
<tr>
<td>B.</td>
<td>Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]</td>
<td></td>
</tr>
<tr>
<td>C.</td>
<td>Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]</td>
<td></td>
</tr>
<tr>
<td>D.</td>
<td>Pending Litigation [Pursuant to Government Code section 11126(e)]</td>
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<tr>
<td>XVI.</td>
<td>Adjourn</td>
<td></td>
</tr>
</tbody>
</table>
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II. Pledge of Allegiance
III. Public Comment for Items Not on the Agenda

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Report will be included in an Addendum.
V. Administration

A. Fiscal Year 2018/19 Budget Status
B. Fiscal Year 2019/20 Budget Report
### Revenue

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 19-20 REV &amp; EXP</th>
<th>FY 19-20 FM 1</th>
<th>FY 19-20 PROJECTIONS TO YEAR END</th>
<th>% CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications/Licensing Fees</td>
<td>1,196,248</td>
<td>1,646,000</td>
<td>1,646,000</td>
<td>0%</td>
</tr>
<tr>
<td>1 Renewal fees</td>
<td>6,116,355</td>
<td>6,891,000</td>
<td>6,891,000</td>
<td>0%</td>
</tr>
<tr>
<td>2 Delinquent fees</td>
<td>48,633</td>
<td>88,000</td>
<td>88,000</td>
<td>0%</td>
</tr>
<tr>
<td>Other &amp; Reimbursements</td>
<td>68,720</td>
<td>140,000</td>
<td>140,000</td>
<td>0%</td>
</tr>
<tr>
<td>3 Interest</td>
<td>74,492</td>
<td>163,000</td>
<td>163,000</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Total Revenue:</strong></td>
<td><strong>7,504,448</strong></td>
<td><strong>8,928,000</strong></td>
<td><strong>8,928,000</strong></td>
<td><strong>0%</strong></td>
</tr>
</tbody>
</table>

### Expense

#### Personnel Services:

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 19-20 REV &amp; EXP</th>
<th>FY 19-20 FM 1</th>
<th>FY 19-20 PROJECTIONS TO YEAR END</th>
<th>% CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Salary &amp; Wages (Staff)</td>
<td>1,956,776</td>
<td>2,924,425</td>
<td>2,923,341</td>
<td>0%</td>
</tr>
<tr>
<td>Temp Help</td>
<td>88,479</td>
<td>123,785</td>
<td>137,509</td>
<td>11%</td>
</tr>
<tr>
<td>Statutory Exempt (EO)</td>
<td>89,056</td>
<td>135,526</td>
<td>133,584</td>
<td>-1%</td>
</tr>
<tr>
<td>Board Member Per Diem</td>
<td>6,100</td>
<td>10,000</td>
<td>15,000</td>
<td>50%</td>
</tr>
<tr>
<td>Overtime/Flex Elect/Lump Sum</td>
<td>725</td>
<td>0</td>
<td>450</td>
<td>100%</td>
</tr>
<tr>
<td>Staff Benefits</td>
<td>1,172,709</td>
<td>1,713,980</td>
<td>1,759,064</td>
<td>3%</td>
</tr>
<tr>
<td><strong>Total Personnel Services:</strong></td>
<td><strong>3,313,845</strong></td>
<td><strong>4,907,716</strong></td>
<td><strong>4,968,947</strong></td>
<td><strong>1%</strong></td>
</tr>
</tbody>
</table>

#### Operating Expense and Equipment:

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 19-20 REV &amp; EXP</th>
<th>FY 19-20 FM 1</th>
<th>FY 19-20 PROJECTIONS TO YEAR END</th>
<th>% CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Expense</td>
<td>51,411</td>
<td>67,000</td>
<td>80,000</td>
<td>19%</td>
</tr>
<tr>
<td>5 Printing</td>
<td>623</td>
<td>8,000</td>
<td>30,000</td>
<td>275%</td>
</tr>
<tr>
<td>Communication</td>
<td>15,592</td>
<td>44,000</td>
<td>26,844</td>
<td>-39%</td>
</tr>
<tr>
<td>Postage</td>
<td>0</td>
<td>50,000</td>
<td>25,000</td>
<td>-50%</td>
</tr>
<tr>
<td>Insurance</td>
<td>103</td>
<td>16,000</td>
<td>17,000</td>
<td>6%</td>
</tr>
<tr>
<td>Travel In State</td>
<td>35,346</td>
<td>60,000</td>
<td>50,000</td>
<td>-17%</td>
</tr>
<tr>
<td>Travel, Out-of-State</td>
<td>0</td>
<td>800</td>
<td>4,800</td>
<td>500%</td>
</tr>
<tr>
<td>Training</td>
<td>20</td>
<td>150</td>
<td>300</td>
<td>100%</td>
</tr>
<tr>
<td>Facilities Operations</td>
<td>248,250</td>
<td>416,004</td>
<td>375,000</td>
<td>-10%</td>
</tr>
<tr>
<td>6 C &amp; P Services - Interdept.</td>
<td>326,410</td>
<td>457,090</td>
<td>699,628</td>
<td>53%</td>
</tr>
<tr>
<td>7 C &amp; P Services - External</td>
<td>907,944</td>
<td>1,243,885</td>
<td>2,146,903</td>
<td>73%</td>
</tr>
<tr>
<td>8 DCA Pro Rata</td>
<td>1,184,247</td>
<td>1,579,000</td>
<td>1,615,000</td>
<td>2%</td>
</tr>
<tr>
<td>DOI - Investigations</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Interagency Services</td>
<td>10,861</td>
<td>27,000</td>
<td>21,000</td>
<td>-22%</td>
</tr>
<tr>
<td>Consolidated Data Center</td>
<td>20,760</td>
<td>22,000</td>
<td>31,000</td>
<td>41%</td>
</tr>
<tr>
<td>9 Information Technology</td>
<td>14,442</td>
<td>1,143,000</td>
<td>29,192</td>
<td>-97%</td>
</tr>
<tr>
<td>Equipment</td>
<td>10,533</td>
<td>0</td>
<td>101,610</td>
<td>100%</td>
</tr>
<tr>
<td>10 Other Items of Expense (ARF Deposit)</td>
<td>0</td>
<td>0</td>
<td>200,000</td>
<td>100%</td>
</tr>
<tr>
<td><strong>Total OE&amp;E</strong></td>
<td><strong>2,826,542</strong></td>
<td><strong>5,133,929</strong></td>
<td><strong>5,453,277</strong></td>
<td><strong>6%</strong></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Description</th>
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<tr>
<td><strong>Total Expense:</strong></td>
<td><strong>6,140,387</strong></td>
<td><strong>10,041,645</strong></td>
<td><strong>10,422,224</strong></td>
<td><strong>4%</strong></td>
</tr>
</tbody>
</table>

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<td><strong>8,928,000</strong></td>
<td><strong>0%</strong></td>
</tr>
<tr>
<td><strong>Total Expense:</strong></td>
<td><strong>6,140,387</strong></td>
<td><strong>10,041,645</strong></td>
<td><strong>10,422,224</strong></td>
<td><strong>4%</strong></td>
</tr>
<tr>
<td><strong>Difference:</strong></td>
<td><strong>1,364,061</strong></td>
<td><strong>(1,113,645)</strong></td>
<td><strong>(1,494,224)</strong></td>
<td></td>
</tr>
</tbody>
</table>
Financial Statement Notes

1 **Renewal fees** - Renewal fees are not collected equally throughout the year. On average, the Board collects 75% of its renewal fees revenue in the first half of the fiscal year.

2 **Delinquent fees** - Approximately 90% of delinquent fee revenue is collected in the second half of the fiscal year.

3 **Interest** - Includes income from surplus money investments earned on money in the Board’s fund. The state treasury manages this money and the Board earns income based on the current interest rate.

4 **Salary & Wages (Staff)** - The projected expenditures for salaries and wages is due to the Board almost being fully staffed, additional merit salary adjustments, and new bargaining unit agreements. The Board has the following vacancies: 1.0 AGPA/SSA and 1.0 OT.

5 **Printing** - $25,000 in contract encumbrances in FI$Cal reports. Board staff is working with DCA Budgets to identify contracts.

6 **C&P Services Interdepartmental** - Includes all contract services with other state agencies for examination services (Dept. of Conservation and Water Resources). This line item also now includes enforcement expenses for the Attorney General and the Office of Administrative Hearings.

7 **C&P Services External** - Includes all external contracts (examination development, exam site rental, expert consultant agreements, and credit card processing). This line also includes our executed agreements for our business modernization project (system developer, project management, oversight, and software license subscription services).

8 **DCA Pro Rata** - Includes distributed costs of programmatic and administrative services from DCA.

9 **Information Technology** - California Department of Technology (CDT) oversight for review and approval of the Project Approval Lifecycle (PAL) project.

10 **Other Items of Expense (ARF Deposit)** - The Board has created an architectural revolving fund (ARF) to support tenant improvements throughout the office and the majority of costs will be new modular furniture procurement.
### Governor's Budget 2020-21

#### Revenues and Transfers

<table>
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<tr>
<th>Description</th>
<th>PY 2018-19</th>
<th>CY 2019-20</th>
<th>Governor's Budget BY 2020-21</th>
<th>Governor's Budget BY + 1 2021-22</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REVENUES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delinquent fees</td>
<td>$7,955</td>
<td>$6,651</td>
<td>$5,383</td>
<td>$4,579</td>
</tr>
<tr>
<td>Renewal fees</td>
<td>$6,258</td>
<td>$6,891</td>
<td>$10,366</td>
<td>$11,623</td>
</tr>
<tr>
<td>Other regulatory fees</td>
<td>$100</td>
<td>$140</td>
<td>$127</td>
<td>$127</td>
</tr>
<tr>
<td>Other regulatory licenses and permits</td>
<td>$1,842</td>
<td>$1,646</td>
<td>$2,011</td>
<td>$2,017</td>
</tr>
<tr>
<td>Sales of documents</td>
<td>$1,412</td>
<td>$1</td>
<td>$1</td>
<td>$1</td>
</tr>
<tr>
<td>Miscellaneous services to the public</td>
<td>$12,900</td>
<td>$14,000</td>
<td>$12,985</td>
<td>$13,985</td>
</tr>
<tr>
<td>Sales of documents</td>
<td>$1,400</td>
<td>$1</td>
<td>$1</td>
<td>$1</td>
</tr>
<tr>
<td>Interest Income from interfund loans</td>
<td>$145</td>
<td>$259</td>
<td>$259</td>
<td>$66</td>
</tr>
<tr>
<td>Sale of fixed assets</td>
<td>$1,646</td>
<td>$1</td>
<td>$1</td>
<td>$1</td>
</tr>
<tr>
<td>Escheat of unclaimed checks and warrants</td>
<td>$22</td>
<td>$22</td>
<td>$22</td>
<td>$22</td>
</tr>
<tr>
<td>Miscellaneous revenues</td>
<td>$1,250</td>
<td>$1</td>
<td>$1</td>
<td>$1</td>
</tr>
<tr>
<td><strong>Totals, Revenues</strong></td>
<td>$8,467</td>
<td>$9,047</td>
<td>$12,914</td>
<td>$13,985</td>
</tr>
<tr>
<td><strong>Transfers from Other Funds</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue Transfer from Geology/General Fund</td>
<td>$800</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Proposed GF Loan Repayment per item</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>1110-011-0770, Budget Act of 2011</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Totals, Revenues and Transfers</strong></td>
<td>$9,267</td>
<td>$9,047</td>
<td>$12,914</td>
<td>$13,985</td>
</tr>
<tr>
<td><strong>Totals, Resources</strong></td>
<td>$17,838</td>
<td>$15,698</td>
<td>$18,297</td>
<td>$18,564</td>
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</tbody>
</table>

#### EXPENDITURES

<table>
<thead>
<tr>
<th>Description</th>
<th>PY 2018-19</th>
<th>Governor's Budget BY 2020-21</th>
<th>Governor's Budget BY + 1 2021-22</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disbursements:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Department of Consumer Affairs (State Operations)</td>
<td>$10,335</td>
<td>$12,874</td>
<td>$13,260</td>
</tr>
<tr>
<td>Financial Information System for CA (State Operations)</td>
<td>$1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Supplemental Pension Payments (State Operations)</td>
<td>$98</td>
<td>$209</td>
<td>$209</td>
</tr>
<tr>
<td>Statewide Admin. (State Operations)</td>
<td>$753</td>
<td>$635</td>
<td>$635</td>
</tr>
<tr>
<td>Less funding provided by General Fund (State Operations)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Disbursements</strong></td>
<td>$11,187</td>
<td>$13,718</td>
<td>$14,104</td>
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#### FUND BALANCE

<table>
<thead>
<tr>
<th>Description</th>
<th>PY 2018-19</th>
<th>Governor's Budget BY 2020-21</th>
<th>Governor's Budget BY + 1 2021-22</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reserve for economic uncertainties</td>
<td>$6,651</td>
<td>$4,579</td>
<td>$4,460</td>
</tr>
<tr>
<td>Months in Reserve</td>
<td>7.7</td>
<td>4.7</td>
<td>3.9</td>
</tr>
</tbody>
</table>
VI. Legislation

A. 2020 Legislative Calendar

B. Discussion of Legislation for 2020 (Possible Action)
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   SB 1057 Land.
# 2020 Tentative Legislative Calendar

Compiled by the Offices of the Secretary of the Senate and the Office of the Chief Clerk

October 18, 2019 (Final)

## January

<table>
<thead>
<tr>
<th>S</th>
<th>M</th>
<th>T</th>
<th>W</th>
<th>TH</th>
<th>F</th>
<th>S</th>
</tr>
</thead>
<tbody>
<tr>
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<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>5</td>
<td>6</td>
<td>7</td>
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**Deadlines**

- **Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- **Jan. 6** Legislature Reconvenes (J.R. 51(a)(4)).
- **Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- **Jan. 17** 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. 20** Martin Luther King, Jr. Day.
- **Jan. 24** 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 (Art. IV, Sec. 10(c)), (J.R. 61(b)(3)).

## February

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**Mar. 27** Cesar Chavez Day observed

## March

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**Deadlines**

- **Apr. 2** Spring Recess begins upon adjournment of this day’s session (J.R. 51(b)(1)).
- **Apr. 13** Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- **Apr. 24** Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house (J.R. 61(b)(5)).

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**Deadlines**

- **May 1** Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house (J.R. 61(b)(6)).
- **May 8** Last day for policy committees to meet prior to June 1 (J.R. 61(b)(7)).
- **May 15** 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 1 (J.R. 61(b)(9)).
- **May 25** Memorial Day

**May 26 - 29** Floor Session Only. No committees, other than conference or Rules Committees, may meet for any purpose (J.R. 61(b)(10)).

**May 29** Last day for each house to pass bills introduced in that house (J.R. 61(b)(11)).

*Holiday schedule subject to Senate Rules committee approval.*
## JUNE

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- **June 1**: 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 25**: Last day for a legislative measure to qualify for the November 3 General Election ballot (Election code Sec. 9040).
- **June 26**: Last day for policy committees to hear and report fiscal bills to fiscal committees (J.R. 61(b)(13)).

## JULY

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- **July 2**: 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)).
- **July 3**: Independence Day observed.

## AUGUST

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- **Aug. 3**: Legislature reconvenes from Summer Recess (J.R. 51(b)(2)).
- **Aug. 14**: Last day for fiscal committees to meet and report bills (J.R. 61(b)(15)).
- **Aug. 17 – 31**: Floor Session only. No committees, other than conference and Rules committees, may meet for any purpose (J.R. 61(b)(16)).
- **Aug. 21**: Last day to amend bills on the Floor (J.R. 61(b)(17)).
- **Aug. 31**: Last day for each house to pass bills (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 FINAL RECESS

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<th>Date</th>
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<tr>
<td>Sept. 30</td>
<td>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)).</td>
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<td>Nov. 3</td>
<td>General Election</td>
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<td>Nov. 30</td>
<td>Adjournment Sine Die at midnight (Art. IV, Sec. 3(a)).</td>
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<td>Dec. 7</td>
<td>12 m. convening of 2021-22 Regular Session (Art. IV, Sec. 3(a)).</td>
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<td>Jan. 1</td>
<td>Statutes take effect (Art. IV, Sec. 8(c)).</td>
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Summary of Legislation

AB 1263 Contracts: consumer services: consumer complaints. (Low)
3/12/2020 – Support, as amended 1/6/2020
* 5/7/2020 – No action needed

AB 1616 Department of Consumer Affairs: boards: expunged convictions. (Low)
3/12/2020 – Watch, as amended 1/6/2020
* 5/7/2020 – No action needed

AB 2028 State agencies: meetings. (Aguiar-Curry)
3/12/2020 – Watch (there should be some exceptions for matters that are urgent or have changed within the 10-day notice period)
* 5/7/2020 – No action needed

AB 2113 Refugees, asylees, and immigrants: professional licensing. (Low)
3/12/2020 – Watch
* 5/7/2020 – No action needed

AB 2185 Professions and vocations: applicants licensed in other states: reciprocity. (Patterson & Gallagher)
3/12/2020 – Oppose unless Amended to exempt BPELSG because our existing statutes provide the correct balance between the need for comity/reciprocity licensure and the need to protect the health, safety, welfare, and property of the public.
NOTE: Amended 3/16/2020 – now only applies to military spouses and exempts boards with license portability; staff recommends Board change position to “watch” since new language provides exemption.
* 5/7/2020 – Action needed – recommend changing to WATCH position based on amendments

AB 2454 Bureau of Automotive Repair: administration: trusted dealer certification (as amended 3/16/2020). (Low, as amended 3/16/2020)
3/12/2020 – Support
NOTE: Amended 3/16/2020 – now pertains to BAR; staff recommends Board remove its position of “support” and take no position as bill no longer affects Board.
* 5/7/2020 – Action needed – recommend removing Support position and taking NO POSITION based on amendments

AB 2549 Department of Consumer Affairs: temporary licenses. (Salas)
3/12/2020 – No action taken
* 5/7/2020 – No action needed

AB 2631 License fees: military partners and spouses. (Cunningham)
3/12/2020 – Watch (authorized change in Board’s position to Oppose if the bill is amended to require waiver of “any and all fees associated with obtaining a license”; concerned with pass through fees.)
* 5/7/2020 – No action needed
AB 3334 Professional Land Surveyors’ Act. (Chen)
3/12/2020 – Watch (directed staff to work with the author and sponsor on any proposed amendments in order to address the concerns previously expressed by the Board relating to SB 556)
* 5/7/2020 – No action needed

SB 865 Excavations: subsurface installations. (Hill)
3/12/2020 – Watch (directed staff to work with the author, sponsors, and Dig Safe Board staff to determine the actual intent of this amendment and to assist them with developing language that would more appropriately reflect that used with GIS systems and would address any issues relating to compliance with the Professional Land Surveyors’ Act)
* 5/7/2020 – No action needed

SB 878 Department of Consumer Affairs Licensing: applications: wait times. (Jones)
3/12/2020 – Watch
* 5/7/2020 – No action needed

SB 1057 Land. (Jones)
3/12/2020 – Oppose unless Amended to remove amendments to Section 8726 (Board is requesting bill be amended because it believes it needs more time to review, through its LSTAC, the definition of cadastral surveying and what definition, if any, would be appropriate to be included in Section 8726)
* 5/7/2020 – No action needed
AB 1263 (Low, D-Cupertino)
Contracts: consumer services: consumer complaints.

**Status:** 1/30/2020 – In Senate. Read first time. To Committee on Rules for Assignment.

**Location:** 4/23/2020 – Senate Rules Committee

**Amended:** 1/6/2020

**Board Position:** Support, as amended 1/6/2020 (as of 3/12/2020)

**Board Staff Analysis:** 4/23/2020

**Bill Summary:** Assembly Bill (AB) 1263, as amended January 6, 2020, would add Section 1670.8.5 to the Civil Code. This new section would prohibit the inclusion in a contract or a proposed contract involving the provision of a consumer service by a licensee regulated by a licensing board of a provision limiting the consumer’s ability to file a complaint with that board or to participate in the board’s investigation of the licensee. The section would also contain a statement that any waiver of the provisions of this section is contrary to public policy and void and unenforceable. The section would further provide that a violation of it would subject the licensee to disciplinary action by the licensing board.

**Staff Comment:** This bill is sponsored by the author, Assembly Member Evan Low, who serves as the Chair of the Assembly Business and Professions Committee. Assembly Member Low states

> “Existing law has already been enacted with the intent to prohibit non-disparagement clauses in consumer contracts. This bill has been introduced [because] companies providing professional services are nevertheless seeking to restrict their customer’s authority to make substantiated complaints to regulatory boards through refund agreements and other contracts. This bill would expressly prohibit these provisions in any contract governing the provision of professional services that are subject to licensure and oversight by the state.”

Section 143.5 of the Business and Professions Code prohibits a licensee from including a provision in a settlement of a civil action that would prohibit the other party from contacting, filing a complaint, or cooperating with the Department of Consumer Affairs or a licensing board regarding the licensee or requiring the other party to withdraw a complaint that has already been filed. This bill would add a similar restriction on the inclusion of a similar provision in contracts.

**Staff Recommendation:** No action needed at this time.

**Laws:** An act to add Section 1670.8.5 to the Civil Code, relating to business regulation.
An act to add Chapter 1.6 (commencing with Section 1939.60) to Title 5 of Part 4 of Division 3 of the Civil Code, to add Article 5.1 (commencing with Section 11629.6) to Chapter 1 of Part 3 of Division 2 of, and to repeal Section 11580.24 of, the Insurance Code, and to amend Sections 11752, 11754, and 11760 of the Vehicle Code, Section 1670.8.5 to the Civil Code, relating to business regulation.

LEGISLATIVE COUNSEL’S DIGEST


Existing law regulates the formation and enforcement of contracts, including what constitutes an unlawful contract. Under existing law, a contract is unlawful if it is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals.

Existing law regulates licensees who are subject to the jurisdiction of a state licensing entity, including the State Bar of California, the Department of Real Estate, the Department of Consumer Affairs, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

This bill would prohibit a contract or proposed contract involving the provision of a consumer service by a licensee regulated by a
licensing board from including a provision limiting the consumer’s ability to file a complaint with that board or to participate in the board’s investigation into the licensee. The bill would specify that a waiver of these provisions is contrary to public policy and is void and unenforceable. The bill would provide that a violation of these provisions by a licensee constitutes unprofessional conduct subject to discipline by the licensee’s regulatory board.

Existing law defines a personal vehicle sharing program as a legal entity qualified to do business in the state that is engaged in the business of facilitating the sharing of private passenger vehicles for noncommercial use by individuals within the state.

This bill would rename “personal vehicle sharing program” to “peer-to-peer car sharing program” and would require specified disclosures to be made in a peer-to-peer car sharing contract. This bill would authorize a peer-to-peer car sharing program to only enter into a contract with a licensed driver, as specified. The bill would make a peer to peer car sharing program responsible for any equipment that is to be installed in a vehicle to facilitate car sharing transactions. The bill would authorize airports to regulate access and use by peer-to-peer car sharing vehicles. The bill would also require peer-to-peer car sharing programs and participants to be insured, as specified.

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

SECTION 1. Section 1670.8.5 is added to the Civil Code, to read:

1670.8.5. (a) A contract or proposed contract involving the provision of a consumer service by a licensee regulated by a licensing board shall not include a provision limiting the consumer’s ability to file a complaint with that board or to participate in the board’s investigation into the licensee.

(b) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

(c) For purposes of this section, the following terms apply:

(1) “Consumer service” means any service which is obtained for use primarily for personal, family, or household purposes.

(2) “Licensing board” means any entity contained in Section 101 of the Business and Professions Code, the State Bar of California.
California, the Department of Real Estate, or any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(d) Violation of this section by a licensee shall constitute unprofessional conduct subject to discipline by the licensee’s licensing board.

SECTION 1. Chapter 1.6 (commencing with Section 1939.60) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 1.6. PEER-TO-PEER CAR SHARING PROGRAMS

1939.60. This chapter may be cited as the Peer to Peer Car Sharing Program Act.

1939.61. As used in this chapter, the following terms have the following meanings:

(a) “Car sharing delivery period” means the period of time during which a shared vehicle is being delivered to the location where the car sharing start time will commence, if applicable, as documented by the governing car sharing program agreement.

(b) “Car sharing period” means the period of time from the commencement of the car sharing delivery period or, if there is no car sharing delivery period, from the car sharing start time, through the car sharing termination time.

(c) “Car sharing program agreement” means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer to peer car sharing program.

(d) “Car sharing start time” means the time when the shared vehicle driver takes control of the shared vehicle at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer to peer car sharing program.

(e) “Car sharing termination time” means the time when the shared vehicle is returned to the location designated by the shared vehicle owner through a peer to peer car sharing program, and the earliest of one of the following occurs:

(1) The intent to terminate the use of the shared vehicle is verifiably communicated by the shared vehicle driver to the shared vehicle owner using the peer to peer car sharing program.
(2) The shared vehicle owner or the shared vehicle owner’s authorized designee takes possession and control of the shared vehicle.

(3) The period of time established for the use of a shared vehicle in the governing car sharing program agreement expires.

(f) “Peer-to-peer car sharing” means the authorized use of a vehicle by an individual other than the vehicle’s owner through a peer to peer car sharing program.

(g) “Peer-to-peer car sharing program” means a business platform that connects vehicle owners with licensed drivers to enable the sharing of vehicles for financial consideration. “Peer to peer car sharing program” does not mean car rental agency.

(h) “Shared vehicle” means a vehicle that is available for sharing through a peer-to-peer car sharing program.

(i) “Shared vehicle driver” means a person who is authorized to drive a shared vehicle by the shared vehicle owner under a car sharing program agreement.

(j) “Shared vehicle owner” means the registered owner of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

1939.62. Each car sharing program agreement made in the state shall disclose to the shared vehicle owner and the shared vehicle driver all of the following:

(a) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer to peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(b) That an automobile liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer to peer car sharing program.

(c) That the peer to peer car sharing program’s insurance coverage on the shared vehicle owner and the shared vehicle driver, required pursuant to Article 5.1 (commencing with Section 11629.6) to Chapter 1 of Part 3 of Division 2 of the Insurance Code, is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the
ear-sharing termination time, the shared vehicle driver and the shared vehicle owner may not be covered.

(d) The amounts of the daily rate, additional mandatory charges, fees, and, if applicable, any insurance or protection plan costs that are charged to the shared vehicle owner or the shared vehicle driver.

(e) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle.

(f) An emergency telephone number for customer service inquiries, including requests for emergency roadside assistance.

1939.63. A peer-to-peer car sharing program shall disclose the daily rate, charges, fees, and costs when providing a quote and shall not require any other fees or charges to be paid as a condition of using the shared vehicle.

1939.64. (a) A peer-to-peer car sharing program shall only enter into a car sharing program agreement with a shared vehicle driver who is at least 18 years of age and who provides documentation of either of the following documents:

(1) A valid, unexpired California driver’s license that authorizes the driver to operate a vehicle of the same class as the shared vehicle.

(2) A valid, unexpired driver’s license issued by the state or country of the shared vehicle driver’s residence that authorizes the driver in that state or country to drive a vehicle of the same class as the shared vehicle.

1939.65. A peer-to-peer car sharing program shall have sole responsibility for any equipment that is installed in or on the vehicle to facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the shared vehicle owner for any damage to or theft of the equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the car sharing period.

1939.66. (a) Notwithstanding any other law, a commercial airport authority is authorized to regulate access to an airport and set access fees for peer-to-peer car sharing programs. If required, a peer to peer car sharing program shall obtain a permit or other written authorization from the airport operator prior to facilitating the sharing of vehicles at that airport.
(b) This section does not affect the authority of any political subdivision of the state to regulate access to an airport it owns or operates and to set access fees or requirements for a peer-to-peer car sharing program:

SEC. 2. Section 11580.24 of the Insurance Code is repealed.

SEC. 3. Article 5.1 (commencing with Section 11629.6) is added to Chapter 1 of Part 3 of Division 2 of the Insurance Code, to read:

1 Article 5.1. Peer-to-Peer Car Sharing Programs

11629.6. For purposes of this article, the definitions set forth in Section 1939.61 of the Civil Code shall apply.

11629.61. (a) A peer-to-peer car sharing program shall assume the liability of a shared vehicle owner for any property damage to the shared vehicle or any bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amount may not be less than those set forth in Section 16056 of the Vehicle Code. In addition, a peer-to-peer car sharing program shall also assume liability for the shared vehicle.

The assumption of liability does not apply if the shared vehicle owner makes an intentional or fraudulent material misrepresentation to the peer-to-peer car sharing program before the car sharing period in which the loss occurred.

(b) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage in amounts no less than .

(c) The insurance described in subdivision (b) may be satisfied by motor vehicle liability insurance maintained by any of the following:

(1) The shared vehicle owner.

(2) The shared vehicle driver.

(3) The peer-to-peer car sharing program.

(4) Any combination of the above.

(d) The peer-to-peer car sharing program shall assume primary liability for a claim when it is, in whole or in part, providing the
insurance required under subdivision (b) and both of the following are true:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss.

(2) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required pursuant to Section 11629.65.

(e) If a peer to peer car sharing program assumes liability for a claim pursuant to subdivision (d), and it is later determined that the shared motor vehicle’s owner was in control of the shared motor vehicle at the time of the loss, the shared motor vehicle’s insurer shall indemnify the car sharing program to the extent of its obligation, if any, under the applicable insurance policy.

(f) If the insurance described in subdivision (e) maintained by a shared vehicle owner or shared vehicle driver has lapsed or does not provide the required coverage, insurance maintained by the peer to peer car sharing program shall provide the coverage required pursuant to subdivision (b) beginning with the first dollar of a claim and shall have the duty to defend such a claim.

(g) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(h) This article does not limit either of the following:

(1) The liability of a peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program.

(2) The ability of a peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer to peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

11629.62.—Before a shared vehicle is made available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without
physical damage coverage, may violate the terms of the contract with the lienholder.

11629.63. An authorized insurer that writes motor vehicle liability insurance may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's personal motor vehicle liability insurance policy. This article does not invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use:

11629.64. A motor vehicle insurer may not deny, cancel, void, terminate, rescind, or nonrenew a policy of personal private passenger automobile liability insurance of a shared vehicle owner solely on the basis that vehicle covered under the policy has been made available for sharing through a peer-to-peer car sharing program.

11629.65. A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner and provide that information upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation. The peer-to-peer car sharing program shall retain the records for not less than five years unless a longer retention period is otherwise required by law.

11629.66. A motor vehicle insurer that defends or indemnifies a claim involving a shared vehicle that is excluded under the terms of its policy shall have the right to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program if both of the following are true:

(a) The claim is made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period;

(b) Coverage for peer-to-peer vehicle sharing is excluded under the terms of its policy.

11629.67. A peer-to-peer car sharing program shall, for each vehicle that it facilitates the use of, provide the registered owner of the vehicle with a Department of Motor Vehicles Form REG 5085 or other suitable proof of compliance with the insurance
requirements of this section and the requirements of the California
Financial Responsibility Law in Section 1656.2 of the Vehicle
Code, a copy of which shall be maintained in the vehicle by the
vehicle’s registered owner during any time when the vehicle is
operated by any person other than the vehicle’s owner pursuant to
a peer-to-peer car sharing program.

SEC. 4. Section 11752 of the Vehicle Code is amended to read:
11752. As used in this article, the following definitions apply:
(a) The term “dealer” has the same meaning as in Section 285.
(b) (1) A “manufacturer’s recall” is a recall conducted pursuant
to Sections 30118 to 30120, inclusive, of Title 49 of the United
States Code.
(2) A manufacturer’s recall does not include a service campaign
or emission recall when the vehicle manufacturer or the National
Highway Traffic Safety Administration has not issued a recall
notice to owners of affected vehicles, pursuant to Section 30118
of Title 49 of the United States Code.
(c) A “peer-to-peer car sharing program” has the same meaning
as defined in Section 1939.61 of the Civil Code.
(d) A “recall database” is a database from which an individual
may obtain vehicle identification number (VIN) specific
manufacturer’s recall information relevant to a specific vehicle.
(1) For a vehicle manufacturer that is not subject to the
regulations adopted pursuant to Section 31301 of the federal
Moving Ahead for Progress in the 21st Century Act (Public Law
112-141), a recall database is one of the following:
(A) The recall data on a vehicle manufacturer’s internet website
for a specific vehicle’s line make.
(B) The recall data in a vehicle manufacturer’s internal system
that provides information to its franchisees on vehicles subject to
recall.
(C) The recall data in subparagraph (A) or (B) that is contained
in a commercially available vehicle history system.
(2) For a vehicle manufacturer that is subject to the regulations
adopted pursuant to Section 31301 of the federal Moving Ahead
for Progress in the 21st Century Act (Public Law 112-141), a recall
database shall include, at a minimum, the recall information
required pursuant to Section 573.15 of Title 49 of the Code of
Federal Regulations.
(e) A “recall database report” is a report, specific to a vehicle that is identified by its VIN, containing information obtained from a recall database.

(f) A “rental car company” is a person or entity in the business of renting passenger vehicles to the public in California.

SEC. 5. Section 11754 of the Vehicle Code is amended to read:

11754. (a) No later than 48 hours after receiving a notice of a manufacturer’s recall, or sooner if practicable, a dealer or rental car company with a motor vehicle fleet of 34 or fewer loaner or rental vehicles shall not loan, rent, or offer for loan or rent a vehicle subject to that recall until the recall repair has been made.

(b) If a recall notification indicates that the remedy for the recall is not immediately available and specifies actions to temporarily repair the vehicle in a manner to eliminate the safety risk that prompted the recall, the dealer or rental car company, after having the repairs completed, may loan or rent the vehicle. Once the remedy for the vehicle becomes available to the dealer or rental car company, the dealer or rental car company shall not loan or rent the vehicle until the vehicle has been repaired.

(c) As soon as practicable but not more than 48 hours after a vehicle is subject to a manufacturer’s recall, as defined in subdivision (b) of Section 11752, and a recall notice has been issued by the manufacturer and appears in the recall database provided by the National Highway Traffic Safety Administration pursuant to Section 573.15 of Title 49 of the Code of Federal Regulations, or not more than 48 hours after the peer-to-peer car sharing program receives notification of a manufacturer’s recall by a third party with which the peer to peer car sharing program contracts to provide notification of active recalls, a peer-to-peer car sharing program shall not facilitate or otherwise arrange for transportation with that vehicle until after any recall notices for that vehicle no longer appear in the recall database provided by the National Highway Traffic Safety Administration.

(d) The changes to this section made by Chapter 591 of the Statutes of 2018 do not apply in any manner to litigation pending as of January 1, 2019.

(e) This section does not affect the determination of whether or not a company is a rental car company or whether or not a company is a peer to peer car sharing company.

SEC. 6. Section 11760 of the Vehicle Code is amended to read:
11760. (a) This article does not create any legal duty upon the dealer, rental car company, peer-to-peer car sharing program, or department related to the accuracy, errors, or omissions contained in a recall database report or any legal duty to provide information added to a recall database after the dealer, rental car company, peer-to-peer car sharing program, or department obtained the recall database report pursuant to Sections 11754 and 11758.

(b) The changes to this section made by Chapter 591 of the statutes of 2018 shall not apply in any manner to litigation that is pending as of January 1, 2019.

(c) This section does not affect the determination of whether or not a company is a rental car company or whether or not a company is a peer-to-peer car sharing program.
AB 1616 (Introduced by Low, D-Cupertino; Coauthor: Eduardo Garcia, D-Coachella)
Department of Consumer Affairs: boards: expunged convictions.

Status: 1/30/2020 – In Senate. Read first time. To Committee on Rules for Assignment.
Location: 4/23/2020 – Senate Rules Committee
Amended: 1/6/2020
Board Position: Watch, as amended 1/6/2020 (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: Assembly Bill (AB) 1616, as amended January 6, 2020, would add Section 493.5 to the Business and Professions Code. This new section would require a board within the Department of Consumer Affairs (DCA) that has posted on its website that a person’s license was revoked because the person was convicted of a crime to, within six months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order on the website if the person applies for licensure or is relicensed, or remove the initial posting regarding the revocation if the person is not currently licensed and does not reapply for licensure. The bill also provides that the person shall pay the board a fee in an amount to be determined by DCA that does not exceed the reasonable cost of administering this section.

Staff Comment: This bill is sponsored by Assembly Member Low, one of the authors. According to Assembly Member Low

“[This bill] is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose conviction has been dismissed, or expunged, through the judicial process. Under current law, individuals who have successfully rehabilitated may continue to face stigma and barriers to find employment. Although they are intent on positively contributing to society by finding employment and self-sufficiency, state records may not reflect an expungement that was granted by the courts. [This bill] allows individuals who were formerly licensed through the state of California to appropriately reflect the record of their rehabilitation as granted by the judicial branch, and improve their opportunity to seek meaningful employment.”

DCA, based on information from the boards, provided information regarding the fiscal effect to the Assembly Committee on Appropriations. DCA indicated that the costs were unknown but would likely be in the range of the low tens of thousands of dollars to the low hundreds of thousands of dollars to the board to post notifications of expungements on their websites.

Staff Recommendation: No action needed at this time.

Laws: An act to add Section 493.5 to the Business and Professions Code, relating to professions and vocations.
An act to amend Section 10295.6 of the Insurance Code, relating to insurance; add Section 493.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST


Existing law establishes the Department of Consumer Affairs, which is composed of various boards, and authorizes a board to suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. Existing law, the Medical Practice Act, provides for the licensure and regulation of the practice of medicine by the Medical Board of California and requires the board to post certain historical information on current and former licensees, including felony and certain misdemeanor convictions. Existing law also requires the Medical Board of California, upon receipt of a certified copy of an expungement order from a current or former licensee, to post notification of the expungement order and the date thereof on its internet website.
This bill would require a board within the department that has posted on its internet website that a person’s license was revoked because the person was convicted of a crime to, within 6 months of receiving the expungement order for the underlying offense from the person, post notification of the expungement order and the date thereof on the board’s internet website if the person applies for licensure or is relicensed, or remove the initial posting on its internet website that the person’s license was revoked if the person is not currently licensed and does not reapply for licensure, as specified. The bill would require a person to pay a fee, to be determined by the department, to the board for the cost of administering the bill’s provisions.

Existing law regulates classes of insurance, including life insurance, and prescribes certain requirements governing the payment of an accelerated death benefit under a life insurance policy. Existing law authorizes an accelerated death benefit to be added to a life insurance policy to provide for the advance payment of a part of the death proceeds if a qualifying event, including a terminal or chronic illness, occurs. Existing law prohibits an accelerated death benefit from being effective more than 30 days following the effective date of the policy provision, rider, endorsement, or certificate.

This bill would authorize the effective period of an accelerated death benefit to be extended to not more than 60 days following the effective date of the policy provision, rider, endorsement, or certificate.


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

SECTION 1. Section 493.5 is added to the Business and Professions Code, to read:

493.5. (a) A board within the department that has posted on its internet website that a person’s license was revoked because the person was convicted of a crime, upon receiving from the person a certified copy of an expungement order granted pursuant to Section 1203.4 of the Penal Code for the underlying offense, shall, within six months of receiving the expungement order, unless it is otherwise prohibited by law, or by other terms or conditions, do either of the following:
(1) If the person reapply for licensure or has been relicensed, post notification of the expungement order and the date thereof on its internet website.

(2) If the person is not currently licensed and does not reapply for licensure, remove the initial posting on its internet website that the person’s license was revoked.

(b) A person described in subdivision (a) shall pay to the board a fee in an amount to be determined by the department that does not exceed the reasonable cost of administering this section. The fee shall be deposited by the board into the appropriate fund and shall be available only upon appropriation by the Legislature.

(c) For purposes of this section “board” means an entity listed in Section 101.

(d) If any provision in this section conflicts with Section 2027, Section 2027 shall prevail.

SECTION 1. Section 10295.6 of the Insurance Code is amended to read:

10295.6. (a) If a policyholder or certificate holder requests an acceleration of death benefits, the insurer shall send a statement to the policyholder or certificate holder and irrevocable beneficiary showing any effect that the payment of the accelerated death benefit would have on the policy’s cash value, accumulation account, death benefit, premium, policy loans, and policy liens. The statement shall disclose that receipt of accelerated death benefit payments may adversely affect the recipient’s eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated death benefit payment may be taxable and assistance should be sought from a personal tax adviser. If a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyholder or certificate holder and irrevocable beneficiary.

(b) The accelerated death benefit shall be effective not more than 60 days following the effective date of the policy provision, rider, endorsement, or certificate.

(c) If the insurer charges a separate premium for the accelerated death benefit, then the insurer may also offer a waiver of premium benefit as defined in subdivision (a) of Section 10271.1. At the time the waiver of the accelerated death benefit premium benefit
is claimed, the insurer shall explain any continuing premium
requirement to keep the underlying policy in force.
(d) An insurer shall not unfairly discriminate among insureds
with different qualifying events covered under the policy or among
insureds with similar qualifying events covered under the policy.
An insurer shall not apply further conditions on the payment of
the accelerated death benefits other than those conditions specified
in the accelerated death benefit.
(e) No later than one month after payment of an accelerated
death benefit, the insurer shall provide the policyholder or
certificate holder with a report of any accelerated death benefits
paid out during the prior month, an explanation of any changes to
the policy or certificate, death benefits, and cash values on account
of the benefits being paid out, and the amount of the remaining
benefits that may be accelerated at the end of the prior month. The
insurer may use a calendar month or policy or certificate month.
(f) The conversion benefit available to group certificate holders
on termination of employment pursuant to paragraph (2) of
subdivision (a) of Section 10209 shall include a benefit comparable
to the accelerated death benefit. This requirement may be satisfied
by an individual policy or certificate. This requirement, subject to
the approval of the commissioner, may be satisfied by arrangement
with another insurer to provide the required coverage.
(g) If payment of an accelerated death benefit results in a pro
rata reduction in cash value, the payment may be applied toward
repaying a portion of the loan equal to a pro rata portion of any
outstanding policy loans if disclosure of the effect of acceleration
upon any remaining death benefit, cash value or accumulation
account, policy loan, and premium payments, including a statement
of the possibility of termination of any remaining death benefit,
is provided to the policyholder or certificate holder. The
policyholder or certificate holder shall provide written consent
authorizing any other arrangement for the repayment of outstanding
policy loans:
REVISIONS:

Heading—Line 2.
AB 2028 (Aguiar-Curry, D-Napa)
State agencies: meetings.

Status: 2/14/2020 – Referred to Assembly Committee on Government Organization.
Location: 4/23/2020 – Assembly Committee on Government Organization
Introduced: 1/30/2020
Board Position: Watch (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public and that all person be permitted attend any meeting of a state body, except as otherwise provided in the act. Existing law also requires the state body to provide notice of the meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting. Additionally, existing law requires a state body to provide an opportunity for members of the public to directly address the state body on each agenda item; however, existing laws provides an exemption from this requirement for, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would require that the notice of the meeting also include all writings or materials provided for the meeting to a member of the state body by the staff of a state agency, board, or commission or by another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. These writings or materials would be required to be made available on the internet at least 10 days in advance of the meeting and to any person who requests that notice in writing. A state body would be allowed to distribute or discuss writings or materials at a meeting of the state body only if it had complied with this provision. These requirements would not apply to writings or materials prepared for a matter to be discussed in closed session. This bill would also delete the exemption relating to public comment, thus providing the public with an opportunity to address the state body on any agenda item, even if the public had already had an opportunity to address it at a public meeting of a committee of the state body.

Staff Comment: The “writings or materials” referred to in this bill are what this Board refers to as the “meeting materials.” The meeting materials prepared by staff are provided to the Board members and posted on the Board’s website approximately seven days (one week) before the meeting. If new or updated information becomes available after the meeting materials packet is distributed, the new information is distributed to the Board members and made available to the public, either by posting on the Board’s website if time allows or by having them available as handouts at the meeting. Current law requires that writings, as defined, that are distributed to members of the state body prior to or during a meeting pertaining to an item to be considered during the meeting be made available for public inspection at the meeting if prepared by the state body or a member of the state body. The Department of Consumer Affairs’ Legal Office has previously indicated that this means any written materials the Board will review or discuss at a meeting must be made available to the public at any time prior to the Board’s discussion, which allows for handouts of updated information to be provided at meetings. This bill would require that any writings or materials that are to be reviewed or discussed by the Board members at a meeting be made available to the public at least 10 days prior to the meeting, which would preclude the opportunity for new or updated information to be provided to the Board within that 10-day period.

At its March 12, 2020, meeting, the Board took a position of “Watch” on this bill. However, the Board does believe there should be exceptions for matters that are urgent or have changed within the 10-day notice period.

Staff Recommendation: No action needed at this time.

Laws: An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.
An act to amend Sections 11125 and 11125.7 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL’S DIGEST

AB 2028, as introduced, Aguiar-Curry. State agencies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would, except for closed sessions, require that this notice include all writings or materials provided for the noticed meeting to a member of the state body by staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require these writings and materials to be made available on the internet at least 10 days in advance of the meeting. The bill would provide that a state body may only distribute or discuss these writings or materials at a meeting of the state body if it has complied with these requirements.

Existing law requires that a state body provide an opportunity for members of the public to directly address the body on each agenda item.
Existing law exempts from this requirement, among other things, an agenda item that has already been considered by a committee composed exclusively of members of the state body at a public meeting where members of the public were afforded an opportunity to address the committee on the item.

This bill would delete this exception, thereby making the requirement to provide an opportunity to address the state body applicable to an agenda item for which the public had an opportunity to address it at a public meeting of a committee of the state body.


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

SECTION 1. The Legislature finds and declares the following:
(a) The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) (hereafter “Bagley-Keene”) was intended to implement Section 3 of Article I of the California Constitution, which states in part, “The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”
(b) Bagley-Keene was written to protect public meetings and public notice and to ensure the transparency of actions taken by state agencies, boards, and commissions.
(c) Californians have the right to participate in state body deliberations. This includes the public’s ability to comment on all agenda items discussed at a meeting of the state body, regardless of whether an item has been discussed previously in a committee of the state body.
(d) The purpose of public notice is so that state bodies give the public adequate time for review of the substance of a state body meeting and for comment.
(e) Public notice must also include any writings or materials provided by a state body’s staff or by a member of the state body to other members of the state body for a noticed meeting of the body held at least 10 days prior to the meeting.
(f) Bagley-Keene affirms these rights by stating in Section 11120 of the Government Code, “The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

SEC. 2. Section 11125 of the Government Code is amended to read:

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) (1) Except as otherwise provided in paragraph (4), any notice provided pursuant to subdivision (a) shall include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body, that are in connection with a matter subject to discussion or consideration at the meeting.

(2) The writings or materials described in paragraph (1) shall be made available on the Internet at least 10 days in advance of the meeting, and to any person who requests that notice in writing.
A state body may distribute or discuss writings or materials described in paragraph (1) at a meeting of the state body only if it has complied with this subdivision.

This subdivision does not apply to writings or materials prepared for a matter to be discussed in a closed session of the state body.

(d) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body’s meeting is announced during the open and public state body’s meeting, and provided that the advisory body’s meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body’s discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(g) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

SEC. 3. Section 11125.7 of the Government Code is amended to read:
11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body’s discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee’s consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to closed any of the following:

(1) Closed sessions held pursuant to Section 11126.

(f) This section is not applicable to decisions
(2) *Decisions* regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(g) This section is not applicable to hearings conducted by the California Victim Compensation Board pursuant to Sections 13963 and 13963.1.

(h) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission’s consideration of the item.
AB 2113 (Introduced by Assembly Member Low, D-Cupertino; Coauthors: Assembly Members Carrillo, D-Los Angeles; Medina, D-Riverside; and Blanca Rubio, D-West Covina)
Refugees, asylees, and immigrants: professional licensing.

Status: 2/27/2020 – Referred to Assembly Committee on Business and Professions.
Location: 4/23/2020 – Assembly Committee on Business and Professions
Introduced: 2/6/2020
Board Position: Watch (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: This bill would add Section 135.4 to the Business and Professions Code. This new section would require that a board within the Department of Consumer Affairs “shall expedite, and may assist, the initial licensure process” for applicants who supply satisfactory evidence that they have been admitted to the United States as a refugee or granted political asylum under specified provisions of the United States Code or who have a special immigrant visa (SIV) that has been granted a status under specified provisions of the Public Law.

Staff Comment: Existing Section 115.4 of the Business and Professions Code uses this same “shall expedite, and may assist, the initial licensure process” for applicants who were honorably discharged from active duty military service. Existing Section 115.5 of the Business and Professions Code states “shall expedite the initial licensure process” for applicants who are spouses or domestic partners of active duty military members. Under these sections, the applicants must still meet all of the requirements for licensure specified in the applicable licensing act.

This bill would provide for the same expedited licensure process for refugees, individuals granted political asylum, and individuals with an SIV. As with the provisions of law pertaining to former military members and military spouses, applicants under this provision would still have to meet all of the requirements for licensure specified in the Professional Engineers Act, the Professional Land Surveyors’ Act, and the Geologist and Geophysicist Act.

Staff Recommendation: No action needed at this time.

Laws: An act to add Section 134.5 to the Business and Professions Code, relating to professions and vocations.
An act to add Section 135.4 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2113, as introduced, Low. Refugees, asylees, and immigrants: professional licensing.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law prohibits an entity within the department from denying licensure to an applicant based upon their citizenship or immigration status.

This bill, notwithstanding any other law, would require a board within the department to expedite, and authorize it to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they are a refugee, have been granted political asylum, or have a special immigrant visa, as specified. The bill would authorize a board to adopt regulations necessary to administer these provisions.

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

SECTION 1. Section 135.4 is added to the Business and Professions Code, to read:

135.4. (a) Notwithstanding any other law, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that they have been admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code, have been granted political asylum by the Secretary of Homeland Security or the Attorney General of the United States pursuant to Section 1158 of Title 8 of the United States Code, or they have a special immigrant visa (SIV) that has been granted a status under Section 1244 of Public Law 110-181, under Public Law 109-163, or under Section 602(b) of Title VI of Division F of Public Law 111-8.

(b) A board may adopt regulations necessary to administer this section.
This bill would add Section 117 to the Business and Professions Code. This new section would require boards within the Department of Consumer Affairs to issue a license to an applicant if the applicant meets all of the following requirements:

1. The person is either (a) a resident of California, or (b) is married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.
2. The person is licensed in good standing in another state in the discipline and practice level for which the person is applying.
3. The person has held the license and has practiced in the licensed field in the other state for at least three of the last five years.
4. The person has not had any disciplinary actions imposed against their license and has not had a license in the discipline for which the person is applying revoked or suspended in any other state.
5. The person submits verification that they have satisfied all education, work, examination, and other requirements for licensure in the other state in which the person holds the license in good standing.
6. The person would not be denied licensure under any provision of the Business and Professions Code, including, but not limited to, disqualification for criminal history relating to the license sought.
7. The person pays all applicable fees for licensure.
8. If required by the Board, the person has passed a California jurisprudence and ethics examination or other examination otherwise required for applicants by the board on the statutes and regulations relating to the license.

This bill also provides that this new section shall not supersede any other reciprocity agreement, compact membership, or statute that provides reciprocity for a person who holds a valid license in another state.

Staff Comment: The Board’s three licensing acts contain provisions that address the requirements for individuals applying for licensure in California who hold a license in the same discipline in another state (Business and Professions Code sections 6759, 7847, and 8748). These existing provisions require that the applicant hold a current license in another state or country and meet all of the qualifications for licensure specified in the statutes and regulations, which are generally the same as items 2 and 4-8 specified above in the new section. However, the Board’s existing sections of law do not require that the applicant be a resident of California or a military spouse nor do they require the applicant to have practiced in the other state for three of the last five years. As such, this new section would actually add more requirements to an applicant than the Board’s laws currently impose. The new section would provide that it would not supersede existing statutes that provide for reciprocity; therefore, the Board’s existing laws would still apply.

At its March 12, 2020, meeting, the Board took a position of Oppose Unless Amended to exempt the Board because the Board’s existing statutes provide the correct balance between the need for comity/reciprocity licensure and the need to protect the health, safety, welfare, and property of the public.

This bill was amended on March 16, 2020, to remove the provision that it would apply to all residents; as such, the bill now only applies to military spouses. Additionally, a provision was added to the bill that states, “This section shall not apply to the Board of Registered Nursing, any board that has a mandatory license portability requirement in statute, and any board that currently authorizes license portability as a component of qualifying for licensure in.
this state.” According to the author’s staff, the intent of this new language is to exempt any board that already provides for “license portability,” such as through comity or reciprocity. Since our Board already provides for licensure through comity, this new language would exempt the Board. As such, it is likely not necessary for the Board to seek an amendment to be specifically exempted. Therefore, staff recommends that the Board change its position to Watch based on the amendments made on March 16, 2020.

**Staff Recommendation:** Staff recommends the Board take a position of WATCH on AB 2113, as amended March 16, 2020.

**Laws:** An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.
An act to add Section 117 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2185, as amended, Patterson. Professions and vocations: applicants licensed in other states: reciprocity.

Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions and vocations to ensure that certain businesses and professions that have potential impact upon the public health, safety, and welfare are adequately regulated. Existing law makes a violation of some of those licensure provisions a crime.

Existing law authorizes certain boards, for purposes of reciprocity, to waive examination or other requirements and issue a license to an applicant who holds a valid license in another state and meets specified other requirements, including, among others, a license to practice veterinary medicine.

This bill, with exceptions, would require each board within the department to issue a license to an applicant in the discipline for which the applicant applies if the person meets certain requirements, including, but not limited to, that the person is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States, who is assigned to a duty station in this state, the person currently holds a license in good standing in
another state in the discipline and practice level and with the same scope of practice for which the person applies and if applies, the person meets specified requirements, including that the person has held the license and has practiced in the licensed field in the other state for at least 3 of the last 5 years, and the person pays all applicable fees and complies with any applicable surety bond and insurance requirements.

By expanding the applicants who are authorized to be licensed and who may be prosecuted for a violation of those licensure provisions constituting a crime, the bill would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.


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

SECTION 1. Section 117 is added to the Business and Professions Code, to read:

117. (a) Notwithstanding any law, each board within the department shall issue a license in the discipline for which the applicant applies if the applicant meets all of the following requirements:

1. The person is a resident in this state or is married to, or is in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

2. The person currently holds a license in good standing in another state in the discipline and practice level and with the same scope of practice for which the person is applying.

3. The person has held the license and has practiced in the licensed field in the other state for at least three of the last five years.

4. The person has not had any disciplinary actions imposed against their license and has not had a license in the discipline for which the person is applying revoked or suspended in any other state.
(5) The person submits verification that they have satisfied all education, work, examination, and other requirements for licensure in the other state in which the person holds a license in good standing and those requirements are similar to the standards required for licensure in this state.

(6) The person would not be denied licensure under any other provision of this code, including, but not limited to, disqualification for criminal history relating to the license sought.

(7) The person pays all applicable fees for licensure and complies with any applicable surety bond and insurance requirements.

(8) If required by the board, the person has passed a California jurisprudence and ethics examination or other examination otherwise required for applicants by the board on the statutes and regulations relating to the license.

(b) This section shall not supersede any other reciprocity agreement, compact membership, or statute that provides reciprocity for a person who holds a valid license in another state.

(c) This section shall not apply to the Board of Registered Nursing, any board that has a mandatory license portability requirement in statute, and any board that currently authorizes license portability as a component of qualifying for licensure in this state.

(d) Notwithstanding any law, the fees, fines, penalties, or other money received by a board pursuant to this section shall not be continuously appropriated and shall be available only upon appropriation by the legislature.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
AB 2454 (Assembly Member Low, D-Cupertino)
Department of Consumer Affairs: retired or inactive status license: discipline.

Status: 3/17/2020 – Re-referred to Assembly Committee on Business and Professions after amendment.
Location: 4/23/2020 – Assembly Committee on Business and Professions
Introduced: 2/19/2020
Amended: 3/16/2020
Board Position: Support, as introduced 2/19/2020 (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: This bill would add Section 110.7 to the Business and Professions Code to allow boards within the Department of Consumer Affairs to discipline a licensee who has placed their license in a retired or inactive status.

Staff Comment: The Board’s three licensing acts contain provisions authorizing the Board to issue a retired license if the applicant meets certain specified conditions (Business and Professions Code sections 6762.5, 7851, and 8747.5). These existing sections provide that the holder of a retired license shall not engage in any activity for which an active license is required, except that the holder may use the restricted titles associated with the active license along with the word “retired” (such as, “Retired Professional Engineer”). These existing sections also indicate that in order to restore a retired license to an active license, the individual must pass the examination(s) required for initial licensure.

This new section would make it clear that the Board could take disciplinary action against a retired license if the holder were to commit any actions that constitute violations of the Board’s laws.

This bill was amended on March 16, 2020. Section 110.7 was removed from the bill, and all of the new language added to the bill pertains solely to the Bureau of Automotive Repair (BAR). As such, this bill no longer affects this Board. Therefore, staff recommends that the Board remove its position of “Support” and take no position on the bill.

Staff Recommendation: Staff recommends the Board remove its position of SUPPORT and take NO POSITION on AB 2454, as amended March 16, 2020.

Laws: An act to amend Sections 9884.12 and 9884.22 of, to add Section 9882.7 to, and to add Article 3.5 (commencing with Section 9885) to Chapter 20.3 of Division 3 of, the Business and Professions Code, and to amend Section 11041 of the Government Code, relating to professions and vocations.
An act to add Section 110.7 to the Business and Professions Code, relating to professions and vocations. An act to amend Sections 9884.12 and 9884.22 of, to add Section 9882.7 to, and to add Article 3.5 (commencing with Section 9885) to Chapter 20.3 of Division 3 of the Business and Professions Code, and to amend Section 11041 of the Government Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST


Existing law, the Automotive Repair Act, provides for the registration and regulation of automotive repair dealers by the Bureau of Automotive Repair in the Department of Consumer Affairs. A violation of these provisions is a misdemeanor unless otherwise specified, and may subject a licensee to disciplinary action, including license suspension or revocation. Existing law requires the Director of Consumer Affairs to investigate on a continuous basis and gather evidence of violations of the act, as specified, and authorizes the director to revoke, suspend, or deny a registration on any grounds for disciplinary action provided in the act.

Existing law requires disciplinary proceedings to be conducted pursuant to specified administrative adjudication provisions of the Administrative Procedure Act. Those provisions require an agency to
take one of specified actions within 100 days of receiving a proposed
decision by an administrative law judge in a contested case. Existing
law prohibits a state agency from employing any in-house counsel to
act on behalf of the agency unless the agency has first obtained the
written consent of the Attorney General.

This bill would require the Director of Consumer Affairs to appoint
at least one administrative law judge for each regional office of the
bureau to conduct proceedings under the act, and to appoint a chief
administrative law judge to organize, coordinate, supervise, and direct
the operations of the administrative law judges. The bill would require
the director to employ legal counsel, legal assistants, and other
personnel that may be necessary for the administration and enforcement
of the act. The bill would require the director to take one of specified
actions within 10 days of receiving a proposed decision from an
administrative law judge in a contested case.

This bill would also require the bureau, by July 1, 2022, to establish
by regulation a trusted dealer certification program for automotive
repair dealers, as specified. The bill would require the bureau to issue
a trusted dealer certification to an automotive repair dealer who meets
specified requirements, including payment of an annual fee and agreeing
to be subject to up to 2 investigations by the bureau’s enforcement
program each year.

This bill would, commencing July 1, 2022, prohibit an automotive
repair dealer from using the term “trusted dealer” unless the automobile
repair dealer holds a valid trusted dealer certification issued by the
bureau. Because a violation of these provisions by a automotive repair
dealer would be a crime, the bill would impose a state-mandated local
program.

The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that
reimbursement.

This bill would provide that no reimbursement is required by this act
for a specified reason.

Existing law provides for the licensure and regulation of various
professions and vocations by boards within the Department of Consumer
Affairs. Existing law authorizes the Board of Registered Nursing within
the department to discipline every certificate holder or licensee,
including licensees holding licenses placed in an inactive status.
This bill would authorize all boards within the department to discipline a licensee who has put their license on retired or inactive status.


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

SECTION 1. Section 9882.7 is added to the Business and Professions Code, to read:

9882.7. (a) The director shall appoint at least one administrative law judge for each regional office of the bureau to conduct proceedings at the regional office. The director shall appoint a chief administrative law judge to organize, coordinate, supervise, and direct the operations of the administrative law judges. Each administrative law judge appointed by the director shall be admitted to practice law in this state, shall have the powers, jurisdiction, and authority granted by law, and shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notwithstanding any law, including, but not limited to, Section 11042 of the Government Code, the director shall employ legal counsel, legal assistants, and any other personnel that may be necessary for the administration and enforcement of this chapter.

(c) Notwithstanding subdivision (c) of Section 11517 of the Government Code, within 10 days of receiving a proposed decision by an administrative law judge in a contested case, the director shall take one of the actions specified in subparagraphs (A) to (E), inclusive, of paragraph (2) of subdivision (c) of Section 11517 of the Government Code.

SEC. 2. Section 9884.12 of the Business and Professions Code is amended to read:

9884.12. All proceedings to deny, suspend, revoke, or place on probation a registration shall be conducted by an administrative law judge appointed pursuant to Section 9882.7 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 9884.22 of the Business and Professions Code is amended to read:
9884.22. (a) Notwithstanding any other provision of law, the
director may revoke, suspend, or deny at any time any registration
required by this article on any of the grounds for disciplinary action
provided in this article. The proceedings under this article shall be
conducted by an administrative law judge appointed pursuant to
Section 9882.7 in accordance with Chapter 5 (commencing with
Section 11500) of Part 1 of Division 3 of Title 2 of the Government
Code, and the director shall have all the powers granted therein.
(b) The director may deny a registration to an applicant on any
of the grounds specified in Section 480.
(c) In addition to the requirements provided in Sections 485 and
486, upon denial of an application for registration to an applicant,
the director shall provide a statement of reasons for the denial that
does the following:
(1) Evaluates evidence of rehabilitation submitted by the
applicant, if any.
(2) Provides the director’s criteria relating to rehabilitation,
formulated pursuant to Section 482, that takes into account the age
and severity of the offense, and the evidence relating to
participation in treatment or other rehabilitation programs.
(3) If the director’s decision was based on the applicant’s prior
criminal conviction, justifies the director’s denial of a registration
and conveys the reasons why the prior criminal conviction is
substantially related to the qualifications, functions, or duties of a
registered automotive repair dealer.
(d) Commencing July 1, 2009, all of the following shall apply:
(1) If the denial of a registration is due at least in part to the
applicant’s state or federal criminal history record, the director
shall, in addition to the information provided pursuant to paragraph
(3) of subdivision (c), provide to the applicant a copy of his or her
criminal history record if the applicant makes a written request
to the director for a copy, specifying an address to which it is to
be sent.
(A) The state or federal criminal history record shall not be
modified or altered from its form or content as provided by the
Department of Justice.
(B) The criminal history record shall be provided in such a
manner as to protect the confidentiality and privacy of the
applicant’s criminal history record and the criminal history record
shall not be made available by the director to any employer.
(C) The director shall retain a copy of the applicant’s written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The director shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the director shall conduct a hearing of a registration denial within 90 days of receiving an applicant’s request for a hearing. For all other hearing requests, the director shall determine when the hearing shall be conducted.

SEC. 4. Article 3.5 (commencing with Section 9885) is added to Chapter 20.3 of Division 3 of the Business and Professions Code, to read:

Article 3.5. Trusted Dealer Certification

9885. (a) By July 1, 2022, the bureau shall establish through regulation a trusted dealer certification program for automotive repair dealers in accordance with this article.

(b) The bureau shall consult with all stakeholders identified during the rulemaking process, including representatives of the automotive repair industry.

(c) The bureau shall consider including a letter grading system as a feature of the trusted dealer certification program established pursuant to this article.

9885.1. Commencing July 1, 2022, an automotive repair dealer shall not use the term “trusted dealer” or any words or symbols indicating or tending to indicate that the dealer is certified under this article unless the automotive repair dealer holds a valid trusted dealer certification issued by the bureau pursuant to this article.

9885.2. A trusted dealer certification shall not be a requirement for registration or licensure, but may be obtained by an automotive repair dealer in addition to their licensure or registration with the bureau.

9885.3. The bureau shall issue a trusted dealer certification to an automotive repair dealer who meets all of the following requirements:
(a) The automotive repair dealer pays an annual certification fee in an amount determined by the bureau, but no more than the reasonable cost to the bureau to implement this article.

(b) The automotive repair dealer agrees that by obtaining a trusted dealer certification, the automotive repair dealer shall be subject to up to two investigations by the bureau’s enforcement program per calendar year, regardless of whether a complaint has been made against the automotive repair dealer, which may include the use of undercover vehicles pursuant to Section 9882.6.

(c) The automotive repair dealer acknowledges that if any violations of this chapter are uncovered by an investigation made through the trusted dealer certification program, the automotive repair dealer may have its certification revoked and may be subject to any other discipline authorized by law.

9885.4. A trusted dealer certification shall be valid for one year and may be renewed concurrently with an automotive repair dealer’s registration renewal.

SEC. 5. Section 11041 of the Government Code is amended to read:

11041. (a) Section 11042 does not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of Transportation, Division of Labor Standards Enforcement of the Department of Industrial Relations, Workers’ Compensation Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor Department of Consumer Affairs with respect to the Bureau of Automotive Repair, or any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

(b) The Trustees of the California State University shall pay the cost of employing legal counsel from their existing resources.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.

SECTION 1. Section 110.7 is added to the Business and
Professions Code, to read:

110.7. (a) Notwithstanding any other law, a board within the
department may discipline a licensee who has put their license on
retired or inactive status.
AB 2549 (Salas, D-Bakersfield)
Department of Consumer Affairs: temporary licenses.

Status: 3/16/2020 – Re-referred to Assembly Committee on Business and Professions after amendment.
Location: 4/23/2020 – Assembly Committee on Business and Professions
Introduced: 2/19/2020
Amended: 3/12/2020
Board Position: No position (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: This bill would amend Sections 115.6 and 5132 of the Business and Professions Code. Existing Section 115.6 requires that certain boards within the Department of Consumer Affairs issue a temporary license for certain license types if the applicant meets the requirements specified in the section. All licenses issued by this Board are included. This bill would add other license types regulated by the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, and the California Board of Accountancy. [Section 5132 relates specifically to the California Board of Accountancy.]

Staff Comment: This bill does not make any changes to the provisions of existing law that apply to this Board and the license types it regulates. This bill is being brought to the Board’s attention for informational purposes.

This bill was amended on March 12, 2020, to include additional boards and to indicate that the temporary license must be issued within 30 days of the applicant meeting all the requirements specified in the statute. It would also provide that the temporary license would become a standard license 12 months after issuance if the applicant meets all the requirements for licensure. For the licenses issued by this Board, there are no differences between the requirements for a temporary license and for a standard license. If we were to receive applications under this section, we would issue a “standard” license initially.

Staff Recommendation: No action needed at this time.

Laws: An act to amend Sections 115.6 and 5132 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.
An act to amend Sections 115.6 and 5132 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

AB 2549, as amended, Salas. Department of Consumer Affairs: temporary licenses.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is comprised of various boards, as defined, that license and regulate various professions and vocations. Existing law requires a board within the department to issue, after appropriate investigation, certain types of temporary licenses to an applicant if the applicant meets specified requirements, including that the applicant supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board. Existing law authorizes a board to adopt regulations necessary to administer these provisions.
This bill would expand that requirement to issue temporary licenses to include licenses issued by the Veterinary Medical Board, the Dental Board of California, the Dental Hygiene Board of California, the California State Board of Pharmacy, the State Board of Barbering and Cosmetology, the Board of Psychology, the California Board of Occupational Therapy, the Physical Therapy Board of California, and the California Board of Accountancy, and certain registered dental assistant licenses issued by the Dental Board of California. The bill would require a board to issue a temporary license within 30 days of receiving the required documentation. The bill would specifically direct revenues from fees for temporary licenses issued by the California Board of Accountancy to be credited to the Accountancy Fund, a continuously appropriated fund. By establishing a new source of revenue for a continuously appropriated fund, the bill would make an appropriation. The bill would require a temporary license to be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public. The bill would require a board to adopt regulations necessary to administer these provisions and to publish regulations on its internet website and in application materials by January 1, 2022.


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

SECTION 1. Section 115.6 of the Business and Professions Code is amended to read:

115.6. (a) A board within the department shall, after appropriate investigation, issue the following eligible temporary licenses to an applicant if the applicant meets the within 30 days of receiving the required documentation pursuant to meeting the requirements set forth in subdivision (c):

1. Registered nurse license by the Board of Registered Nursing.

2. Vocational nurse license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
(3) Psychiatric technician license issued by the Board of Vocational Nursing and Psychiatric Technicians of the State of California.
(4) Speech-language pathologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(5) Audiologist license issued by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
(6) Veterinarian license—All licenses issued by the Veterinary Medical Board.
(7) All licenses issued by the Board for Professional Engineers, Land Surveyors, and Geologists.
(8) All licenses issued by the Medical Board of California.
(9) All licenses issued by the Podiatric Medical Board of California.
(10) Registered dental assistant license or registered dental assistant in extended functions license—All licenses issued by the Dental Board of California.
(11) All licenses issued by the Dental Hygiene Board of California.
(12) All licenses issued by the California State Board of Pharmacy.
(13) All licenses issued by the State Board of Barbering and Cosmetology.
(14) All licenses issued by the Board of Psychology.
(15) All licenses issued by the California Board of Occupational Therapy.
(16) All licenses issued by the Physical Therapy Board of California.
(17) All licenses issued by the California Board of Accountancy.
Revenues from fees for temporary licenses issued under this paragraph shall be credited to the Accountancy Fund in accordance with Section 5132.
(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.
(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:
(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that the applicant meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of the applicant’s knowledge. The application shall also include written verification from the applicant’s original licensing jurisdiction stating that the applicant’s license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(d) A board may adopt regulations necessary to administer this section.

(e) A temporary license issued pursuant to this section may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or provided substantively inaccurate information that would affect the person’s eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue
a notice of termination that shall require the temporary licenseholder to immediately cease the practice of the licensed profession upon receipt.

(e) An applicant seeking a temporary license as a civil engineer, geotechnical engineer, structural engineer, land surveyor, professional geologist, professional geophysicist, certified engineering geologist, or certified hydrogeologist pursuant to this section shall successfully pass the appropriate California-specific examination or examinations required for licensure in those respective professions by the Board for Professional Engineers, Land Surveyors, and Geologists.

(f) A temporary license issued pursuant to this section shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, a license by endorsement, or upon denial of the application for expedited licensure by the board, whichever occurs first.

(g) A temporary license issued pursuant to this section shall be converted to a standard license if, within 12 months of issuance, the applicant demonstrates having met all of the requirements for a standard license or submits documents demonstrating that the requirements to obtain the out-of-state license were substantially equivalent to the requirements for a standard license as determined by the board in order to protect the public.

(h) A board shall adopt regulations necessary to administer this section and shall publish these regulations on its internet website and in application materials by January 1, 2022.

SEC. 2. Section 5132 of the Business and Professions Code is amended to read:

5132. (a) All moneys received by the board under this chapter from any source and for any purpose and from a temporary license issued under Section 115.6 shall be accounted for and reported monthly by the board to the Controller and at the same time the moneys shall be remitted to the State Treasury to the credit of the Accountancy Fund.

(b) The secretary-treasurer of the board shall, from time to time, but not less than once each fiscal year, prepare or have prepared on their behalf, a financial report of the Accountancy Fund that
contains information that the board determines is necessary for
the purposes for which the board was established.
(c) The report of the Accountancy Fund, which shall be
published pursuant to Section 5008, shall include the revenues and
the related costs from examination, initial licensing, license
renewal, citation and fine authority, and cost recovery from
enforcement actions and case settlements.
AB 2631 (Introduced by Assembly Member Cunningham, R-San Luis Obispo; Coauthors: Assembly Members Boerner Horvath, D-Carlsbad; Fong, R-Bakersfield; Lackey, R-Palmdale; and Mayes, I-Rancho Mirage Senators Jones, R-El Cajon; and Wilk, R-Lancaster)
License fees: military partners and spouses.

Status: 3/2/2020 – Referred to Assembly Committee on Business and Professions.
Location: 4/23/2020 – Assembly Committee on Business and Professions
Introduced: 2/20/2020
Board Position: Watch; authorized change to Oppose Unless Amended if bill is amended to require waiver of “any and all fees associated with obtaining a license” (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: Existing Section 115.5 of the Business and Professions Code requires that a board within the Department of Consumer Affairs expedite the licensure process for an applicant who is married to or in a domestic partnership or other legal union with an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and who holds a current license in another state, district, or territory in the profession in which the applicant seeks a license. This bill would amend Section 115.5 to specify that a board shall not charge such an applicant an initial or original license fee.

Staff Comment: The Board charges applicants an application fee that covers the costs of processing the application and issuing the license once the applicant meets all of the qualifying requirements for licensure. The applicants also pay separate examination fees, either to the Board or to the examination vendor, that cover the costs of developing, maintaining, and administering the examination. The Board does not charge an initial or original license fee.

In prior legislative sessions, there have been bills introduced that would have required boards to waive initial application fees and initial license fees for active duty military and military spouses. However, due to concerns with the wording in the bills versus the different application/licensure processes and terminology regarding fees employed by the different boards, the bills did not pass. Although this bill currently refers to “an initial or original license fee,” which the Board does not charge, staff believes it would be prudent for the Board to have an official position of Watch on this bill in case it should be amended to include fees the Board does charge.

At its March 12, 2020, meeting, the Board took a position of “Watch” on this bill. However, the Board also authorized a change to “Oppose Unless Amended” if the bill is amended to require the Board to waive “any and all fees associated with obtaining a license” because the Board is concerned with who would be responsible for paying pass-through fees, such as those owed to the Department of Justice to conduct criminal background checks or ASBOG for the national geology examinations.

Staff Recommendation: No action needed at this time.

Laws: An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.
An act to amend Section 115.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 2631, as introduced, Cunningham. License fees: military partners and spouses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Existing law requires a board within the department to expedite the licensure process for an applicant who holds a current license in another jurisdiction in the same profession or vocation and who supplies satisfactory evidence of being married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

This bill would prohibit a board from charging an initial or original license fee to an applicant who meets these expedited licensing requirements.
The people of the State of California do enact as follows:

SECTION 1. Section 115.5 of the Business and Professions Code is amended to read:

115.5. (a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:

1. Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

2. Holds a current license in another state, district, or territory of the United States in the profession or vocation for which the applicant seeks a license from the board.

(b) A board shall not charge an applicant who meets the requirements in subdivision (a) an initial or original license fee.

(c) A board may adopt regulations necessary to administer this section.
AB 3334 (Chen, R-Brea)
Professional Land Surveyors’ Act

Status: 2/24/2020 – Read first time.
Introduced: 2/21/2020
Board Position: Watch (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: This bill would amend Section 8726 of the Business and Professions Code, which is the section that defines land surveying. The amendments in the introduced version of the bill are non-substantive.

Staff Comment: According to the author’s office, this is a spot bill; the intent is to amend the bill to include update the definition due to technological changes in the field. The author’s staff advised that the California and Nevada Civil Engineers and Land Surveyors Association (CELSA) is the sponsor.

In January, Board staff was advised that Senator Richard Pan had decided not to move forward with Senate Bill 556, which was the bill co-sponsored by CELSA that would have added a requirement for land surveying businesses to obtain registration; the Board was opposed to this policy concept and to SB 556. Subsequently, representatives from CELSA reached out to Board staff to advise that they planned to move forward with amending Section 8726, which had been proposed in earlier versions of SB 556. The representatives indicated they plan to develop language that will clarify the definition of land surveying and would like to work with the Board and staff in developing language that would address the concerns the Board had previously expressed when definitional language was included in SB 556. We indicate our willingness to continue working with them based on the previous input and direction from the Board. We also conveyed this willingness to work on the bill to the author’s staff, which was graciously accepted.

At its March 12, 2020, meeting, the Board took a position of “Watch” on AB 3334 and directed staff to work with the author and sponsor on any proposed amendments in order to address the concerns previously expressed by the Board regarding SB 556. Board staff has had preliminary discussions with the sponsor.

Staff Recommendation: No action needed at this time.

Laws: An act to amend Section 8726 to the Business and Professions Code, relating to professions and vocations.
Introduced by Assembly Member Chen

February 21, 2020

An act to amend Section 8726 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

AB 3334, as introduced, Chen. Professional Land Surveyors’ Act. Existing law, the Professional Land Surveyors’ Act, provides for the licensure and regulation of land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists. Existing law defines land surveying for purposes of the act.

This bill would make nonsubstantive changes to that definition.


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

1 SECTION 1. Section 8726 of the Business and Professions Code is amended to read:
2 8726. A person, including any person employed by the state or by a city, county, or city and county within the state, practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:
3 (a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.
(b) Determines the configuration or contour of the earth’s surface, or the position of fixed objects above, on, or below the surface of the earth by applying the principles of mathematics or photogrammetry.

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

(d) Makes any survey for the subdivision or resubdivision of any tract of land. For the purposes of this subdivision, the term “subdivision” or “resubdivision” shall be defined to include, but not be limited to, the definition in the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of this code).

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any monument or reference point.

(f) Geodetic or cadastral surveying. As used in this chapter, geodetic surveying means performing surveys, in which account is taken of the figure and size of the earth to determine or predetermine the horizontal or vertical positions of fixed objects thereon or related thereto, geodetic control points, monuments, or stations for use in the practice of land surveying or for stating the position of fixed objects, geodetic control points, monuments, or stations by California Coordinate System coordinates.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title “land surveyor” or by any other title or by any other representation that he or she the person practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself, herself, themselves or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced.
(k) Coordinates the work of professional, technical, or special consultants in connection with the activities authorized by this chapter.

(l) Determines the information shown or to be shown within the description of any deed, trust deed, or other title document prepared for the purpose of describing the limit of real property in connection with any one or more of the functions described in subdivisions (a) to (f), inclusive.

(m) Creates, prepares, or modifies electronic or computerized data in the performance of the activities described in subdivisions (a), (b), (c), (d), (e), (f), (k), and (l).

(n) Renders a statement regarding the accuracy of maps or measured survey data.

Any department or agency of the state or any city, county, or city and county that has an unregistered person in responsible charge of land surveying work on January 1, 1986, shall be exempt from the requirement that the person be licensed as a land surveyor until the person currently in responsible charge is replaced.

The review, approval, or examination by a governmental entity of documents prepared or performed pursuant to this section shall be done by, or under the direct supervision of, a person authorized to practice land surveying.
SB 865 (Hill, D-San Mateo)
Excavations: subsurface installations.

Status: 1/29/2020 – Referred to Senate Committee on Governmental Organization.
Location: 4/23/2020 – Senate Committee on Governmental Organization
Introduced: 1/17/2020
Board Position: Watch (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: Existing law, the Dig Safe Act of 2016, created the California Underground Facilities Safe Excavation Board within the Office of the State Fire Marshall. This bill would provide that the board is also known as the “Dig Safe Board.” The act requires the Dig Safe Board to perform various duties relating to the protection of subsurface installations and generally requires an operator of a subsurface installation to become a member of, participate in, and share in the costs of, a regional notification center. The act also requires certain records of notifications to a center and certain other records on subsurface installations to be maintained in specified manners for specified periods of time. This bill would require that, commencing January 1, 2021, all new subsurface installations be tagged with GIS coordinates and maintained as permanent records of the operator. [The bill makes other changes that do not impact this Board.]

Staff Comment: This bill was brought to Board staff’s attention because of an inquiry regarding the wording proposed to be added to Section 4216.3 of the Government Code. The new language, which would be added to subparagraph (4) of subdivision (a) [shown on pages 9 and 10 of the bill], reads “Commencing January 1, 2021, all new subsurface installations shall be tagged with GIS coordinates and maintained as permanent records of the operator.” We were asked if performing this task would constitute the practice of land surveying since work with Geographic Information Systems (GIS) may involve acts which fall within the defined area of practice of land surveying. In reviewing the bill, staff became concerned with the proposed wording because the phrase “tagged with GIS coordinates” is not typical terminology used with GIS systems nor is it clear as to exactly what is meant by this term, how the coordinates would be captured in the field, whether statements of accuracy would be expected, or how the captured coordinates will subsequently by relied upon in terms of accuracy. Staff believes this wording could cause confusion about what work is to be done and who must perform that work. Staff has developed a proactive working relationship with staff at the Dig Safe Board since its creation, and we believe we could be of assistance in developing appropriate wording. Therefore, we are requesting that the Board take a position of Watch on this bill and direct staff to work with the author, sponsors, and Dig Safe Board staff to determine the actual intent of this amendment and to assist them with developing language that would more appropriately reflect that used with GIS systems and would address any issues relating to compliance with the Professional Land Surveyors’ Act.

At its March 12, 2020, meeting, the Board took a position of “Watch” on SB 865 and directed staff to work with the author, sponsors, and Dig Safe Board staff to determine the actual intent of this amendment and to assist them with developing language that would more appropriately reflect that used with GIS systems and would address any issues relating to compliance with the Professional Land Surveyors’ Act. Board staff has offered our assistance to the Dig Safe Board staff, and they have advised they will be in contact with us regarding the bill.

Staff Recommendation: No action needed at this time.

Laws: An act to amend Sections 4216, 4216.1, 4216.2, 4216.3, 4216.4, 4216.6, 4216.12, and 4216.17 of the Government Code, relating to excavations.
An act to amend Sections 4216, 4216.1, 4216.2, 4216.3, 4216.4, 4216.6, 4216.12, and 4216.17 of the Government Code, relating to excavations.

LEGISLATIVE COUNSEL’S DIGEST

SB 865, as introduced, Hill. Excavations: subsurface installations. Existing law, the Dig Safe Act of 2016, creates the California Underground Facilities Safe Excavation Board within the Office of the State Fire Marshal. The act subjects the board to review by the appropriate policy committees of the Legislature.

This bill would provide that the board is also known as the “Dig Safe Board” and would make conforming changes to references in the act. The bill would require the board, on and after January 1, 2022, to be within the Office of Energy Infrastructure Safety within the Natural Resources Agency, as established pursuant to the California Energy Infrastructure Safety Act. The bill would require policy committee review at least once every 3 years.

The act requires the board to perform various duties relating to the protection of subsurface installations. The act generally requires an operator of a subsurface installation to become a member of, participate in, and share in the costs of, a regional notification center. The act requires a record of all notifications by an excavator or operator to the regional notification center to be maintained for a period of not less than 3 years and available for inspection as specified. The act requires an operator to maintain certain records on subsurface installations. The act establishes prescribed notification procedures for an excavator who discovers or damages a subsurface installation.
This bill would require a regional notification center to include 2 excavator representatives on its board. The bill would require an excavator planning to conduct an excavation, before notifying the appropriate regional notification center, to complete a specified online training program provided through the regional notification center. The bill would authorize a regional notification center to impose on an excavator a fee for the required training, not to exceed the reasonable cost of providing the training. The bill would require a regional notification center to provide notification records to the board quarterly and provide notifications of damage to the board within 5 business days of receipt at the regional notification center. The bill would require that, commencing January 1, 2021, all new subsurface installations be tagged with GIS coordinates and maintained as permanent records of the operator. The bill would revise the procedures for notification on discovering or causing damage to expand cases subject to a requirement to call “911” emergency services. In all cases, the excavator would be required to notify the regional notification center within 2 hours of discovering or causing damage.

The act subjects any operator or excavator who violates the act to a civil penalty. The act authorizes enforcement by certain entities, including specified agencies following a recommendation of the board against contractors, telephone corporations, gas corporations, electrical corporations, water corporations, operators of hazardous liquid pipeline facilities, and local agencies, as specified. The act authorizes the board to enforce its provisions on prescribed persons not subject to enforcement by the specified agencies, commencing on July 1, 2020.

This bill would also authorize enforcement of the act by the specified agencies through their own investigations. The bill would authorize the board to collect penalties imposed on persons subject to its jurisdiction.

The act requires the board, upon appropriation by the Legislature, to grant the use of the moneys in the Safe Energy Infrastructure and Excavation Fund to fund prescribed public education and outreach programs designed to promote excavation safety around subsurface installations.

This bill would delete those education and outreach program provisions and, instead, require the board, for violations that are neither egregious nor persistent, to offer violators the option of completing an educational course in lieu of paying a fine. The bill would make moneys in the fund available to the board to fund the educational course, subject to appropriation by the Legislature.
The people of the State of California do enact as follows:

SECTION 1. Section 4216 of the Government Code is amended to read:
4216. As used in this article, the following definitions apply:
(a) “Active subsurface installation” means a subsurface installation currently in use or currently carrying service.
(b) “Board” means the California Underground Facilities Safe Excavation Board, also known as the “Dig Safe Board.”
(c) “Area of continual excavation” means a location where excavation is part of the normal business activities of agricultural operations and flood control facilities.
(d) “Delineate” means to mark in white the location or path of the proposed excavation using the guidelines in Appendix B of the “Guidelines for Excavation Delineation” published in the most recent version of the Best Practices guide of the Common Ground Alliance. If there is a conflict between the marking practices in those guidelines and other provisions of this article, this article shall control. “Delineation” also includes physical identification of the area to be excavated using alternative marking methods, including, but not limited to, flags, stakes, whiskers, or a combination of these methods, if an excavator makes a determination that standard delineation may be misleading to those persons using affected streets and highways, or be misinterpreted as a traffic or pedestrian control, and the excavator has contacted the regional notification center to advise the operators that the excavator will physically identify the area to be excavated using alternative marking methods.
(e) “Electronic positive response” means an electronic response from an operator to the regional notification center providing the status of an operator’s statutorily required response to a ticket.
(f) (1) “Emergency” means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.
(2) “Unexpected occurrence” includes, but is not limited to, a fire, flood, earthquake or other soil or geologic movement, riot,
accident, damage to a subsurface installation requiring immediate
repair, or sabotage.
(g) “Excavation” means any operation in which earth, rock, or
other material in the ground is moved, removed, or otherwise
displaced by means of tools, equipment, or explosives in any of
the following ways: grading, trenching, digging, ditching, drilling,
augering, tunneling, scraping, cable or pipe plowing and driving,
or any other way.
(h) Except as provided in Section 4216.8, “excavator” means
any person, firm, contractor or subcontractor, owner, operator,
utility, association, corporation, partnership, business trust, public
agency, or other entity that, with their, or his or her, their own
employees or equipment, performs any excavation.
(i) “Hand tool” means a piece of equipment used for excavating
that uses human power and is not powered by any motor, engine,
hydraulic, or pneumatic device.
(j) “High priority subsurface installation” means high-pressure
natural gas pipelines with normal operating pressures greater than
415kPA gauge (60psig), petroleum pipelines, pressurized sewage
pipelines, high-voltage electric supply lines, conductors, or cables
that have a potential to ground of greater than or equal to 60kv, or
hazardous materials pipelines that are potentially hazardous to
workers or the public if damaged.
(k) “Inactive subsurface installation” means either of the
following:
(1) The portion of an underground subsurface installation that
is not active but is still connected to the subsurface installation, or
to any other subsurface installation, that is active or still carries
service.
(2) A new underground subsurface installation that has not been
connected to any portion of an existing subsurface installation.
(l) “Legal excavation start date and time” means two working
days, not including the date of notification, unless the excavator
specifies a later date and time, which shall not be more than 14
calendar days from the date of notification. For excavation in an
area of continual excavation, “legal excavation start date and time”
means two working days, not including the date of notification,
unless the excavator specifies a later date and time, which shall
not be more than six months from the date of notification.
(m) “Local agency” means a city, county, city and county, school district, or special district.

(n) (1) “Locate and field mark” means to indicate the existence of any owned or maintained subsurface installations by using the guidelines in Appendix B of the “Guidelines for Operator Facility Field Delineation” published in the most recent version of the Best Practices guide of the Common Ground Alliance and in conformance with the uniform color code of the American Public Works Association. If there is a conflict between the marking practices in the guidelines and this article, this article shall control.

(2) “Locate and field mark” does not require an indication of the depth.

(o) “Operator” means any person, corporation, partnership, business trust, public agency, or other entity that owns, operates, or maintains a subsurface installation. For purposes of Section 4216.1, an “operator” does not include an owner of real property where subsurface installations are exclusively located if they are used exclusively to furnish services on that property and the subsurface facilities are under the operation and control of that owner.

(p) “Qualified person” means a person who completes a training program in accordance with the requirements of Section 1509 of Title 8 of the California Code of Regulations Injury and Illness Prevention Program, that meets the minimum locators training guidelines and practices published in the most recent version of the Best Practices guide of the Common Ground Alliance.

(q) “Regional notification center” means a nonprofit association or other organization of operators of subsurface installations that provides advance warning of excavations or other work close to existing subsurface installations, for the purpose of protecting those installations from damage, removal, relocation, or repair.

(r) “State agency” means every state agency, department, division, bureau, board, or commission.

(s) “Subsurface installation” means any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewerlines, nonpressurized storm drains, or other nonpressurized drain lines.

(t) “Ticket” means an excavation location request issued a number by the regional notification center.
(u) “Tolerance zone” means 24 inches on each side of the field marking placed by the operator in one of the following ways:

1. Twenty-four inches from each side of a single marking, assumed to be the centerline of the subsurface installation.
2. Twenty-four inches plus one-half the specified size on each side of a single marking with the size of installation specified.
3. Twenty-four inches from each outside marking that graphically shows the width of the outside surface of the subsurface installation on a horizontal plane.

(v) “Working day” for the purposes of determining excavation start date and time means a weekday Monday through Friday, from 7:00 a.m. to 5:00 p.m., except for federal holidays and state holidays, as defined in Section 19853, or as otherwise posted on the Internet Web site internet website of the regional notification center.

SEC. 2. Section 4216.1 of the Government Code is amended to read:

4216.1. (a) Every operator of a subsurface installation, except the Department of Transportation, shall become a member of, participate in, and share in the costs of, a regional notification center. Operators of subsurface installations who are members of, participate in, and share in, the costs of a regional notification center, including, but not limited to, the Underground Service Alert—Northern California or the Underground Service Alert—Southern California are in compliance with this section and Section 4216.9. A regional notification center shall not charge a fee to a person for notifying the regional notification center to obtain a ticket or to renew a ticket.

(b) A regional notification center shall include on its board two excavator representatives.

SEC. 3. Section 4216.2 of the Government Code is amended to read:

4216.2. (a) Before notifying the appropriate regional notification center, an excavator planning to conduct an excavation shall complete an online training program provided through the regional notification center detailing the “811” process. A regional notification center may impose on an excavator a fee for the required training, which shall not exceed the reasonable cost of providing the training.
Before notifying the appropriate regional notification center, an excavator planning to conduct an excavation shall delineate the area to be excavated. If the area is not delineated, an operator may, at the operator’s discretion, choose not to locate and field mark until the area to be excavated has been delineated.

Except in an emergency, an excavator planning to conduct an excavation shall notify the appropriate regional notification center of the excavator’s intent to excavate at least two working days, and not more than 14 calendar days, before beginning that excavation. The date of the notification shall not count as part of the two-working-day notice. If an excavator gives less notice than the legal excavation start date and time and the excavation is not an emergency, the regional notification center will take the information and provide a ticket, but an operator has until the legal excavation start date and time to respond. However, an excavator and an operator may mutually agree to a different notice and start date. The contact information for operators notified shall be available to the excavator.

When the excavation is proposed within 10 feet of a high priority subsurface installation, the operator of the high priority subsurface installation shall notify the excavator of the existence of the high priority subsurface installation to set up an onsite meeting prior to the legal excavation start date and time or at a mutually agreed upon time to determine actions or activities required to verify the location and prevent damage to the high priority subsurface installation. As part of the meeting, the excavator shall discuss with the operator the method and tools that will be used during the excavation and the information the operator will provide to assist in verifying the location of the subsurface installation. The excavator shall not begin excavating until after the completion of the onsite meeting.

Except in an emergency, every excavator covered by Section 4216.8 planning to conduct an excavation on private property that does not require an excavation permit may contact the appropriate regional notification center if the private property is known, or reasonably should be known, to contain a subsurface installation other than the underground facility owned or operated by the
excavator. Before notifying the appropriate regional notification
center, an excavator shall delineate the area to be excavated. Any
temporary marking placed at the planned excavation location shall
be clearly seen, functional, and considerate to surface aesthetics
and the local community. An excavator shall check if any local
ordinances apply to the placement of temporary markings.

(e) The regional notification center shall provide a ticket to the
person who contacts the center pursuant to this section and shall
notify any member, if known, who has a subsurface installation
in the area of the proposed excavation. A ticket shall be valid for
28 days from the date of issuance. If work continues beyond 28
days, the excavator shall renew the ticket either by accessing the
center’s Internet Web site or by calling “811” by the end of the 28th day.

(f) A record of all notifications by an excavator or operator to
the regional notification center shall be maintained for a period of
not less than three years. The record shall be available for
inspection by the excavator and any member, or their
representative, during normal working hours and according to
guidelines for inspection as may be established by the regional
notification centers. A regional notification center shall provide
notification records to the board quarterly and shall provide
notifications of damage to the board within five business days of
receipt at the regional notification center.

(g) Unless an emergency exists, an excavator shall not begin
excavation until the excavator receives a response from all known
operators of subsurface installations within the delineated
boundaries of the proposed area of excavation pursuant to
subdivision (a) of Section 4216.3 and until the completion of any
onsite meeting, if required by subdivision (e), (d).

(h) If a site requires special access, an excavator shall request
an operator to contact the excavator regarding that special access
or give special instructions on the location request.

(i) If a ticket obtained by an excavator expires but work is
ongoing, the excavator shall contact the regional notification center
and get a new ticket and wait a minimum of two working days, not including the date of the contact, before restarting excavation. All excavation shall cease during the waiting period.

SEC. 4. Section 4216.3 of the Government Code is amended to read:

4216.3. (a) (1) (A) Unless the excavator and operator mutually agree to a later start date and time, or otherwise agree to the sequence and timeframe in which the operator will locate and field mark, an operator shall do one of the following before the legal excavation start date and time:

(i) Locate and field mark within the area delineated for excavation and, where multiple subsurface installations of the same type are known to exist together, mark the number of subsurface installations.

(ii) To the extent and degree of accuracy that the information is available, provide information to an excavator where the operator’s active or inactive subsurface installations are located.

(iii) Advise the excavator it operates no subsurface installations in the area delineated for excavation.

(B) An operator shall mark newly installed subsurface installations in areas with continuing excavation activity.

(C) An operator shall indicate with an “A” inside a circle the presence of any abandoned subsurface installations, if known, within the delineated area. The markings are to make an excavator aware that there are abandoned subsurface installations within that delineated work area.

(2) Only a qualified person shall perform subsurface installation locating activities.

(3) A qualified person performing subsurface installation locating activities on behalf of an operator shall use a minimum of a single-frequency utility locating device and shall have access to alternative sources for verification, if necessary.

(4) An operator shall amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known. If there is a change in ownership of a subsurface installation, the records shall be turned over to the new operator.

Commencing January 1, 2017, records on abandoned subsurface installations, to the extent that those records exist, shall be retained. Commencing January 1, 2021, all new subsurface installations
shall be tagged with GIS coordinates and maintained as permanent records of the operator.

(b) If the field marks are no longer reasonably visible, an excavator shall renotify the regional notification center with a request for remarks that can be for all or a portion of the excavation. Excavation shall cease in the area to be remarked. If the delineation markings are no longer reasonably visible, the excavator shall redefine the area to be remarked. If remarks are requested, the operator shall have two working days, not including the date of request, to remark the subsurface installation. If the area to be remarked is not the full extent of the original excavation, the excavator shall delineate the portion to be remarked and provide a description of the area requested to be remarked on the ticket. The excavator shall provide a description for the area to be remarked that falls within the area of the original location request.

(c) (1) (A) On and after January 1, 2021, every operator shall supply an electronic positive response through the regional notification center before the legal excavation start date and time. Upon a showing of good cause by an operator, the board may extend the time by which the operator is required to comply with this requirement. The board shall not grant an extension beyond December 31, 2021. The board shall determine which facts or circumstances constitute good cause.

(B) The regional notification center shall make the responses required by subparagraph (A) available to the excavator.

(2) The regional notification centers shall annually report to the board regarding their continual technological development in their roles of facilitating communication between excavators and operators in a manner that enhances safety, accountability, and efficiency.

(d) (1) On or before January 1, 2021, the board shall adopt regulations to implement subparagraph (A) of paragraph (1) of subdivision (c). The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6, and the board is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the board shall not request approval from
the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1.

(2) It is the intent of the Legislature, in authorizing the deviations in this section from the requirements and procedures of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, to authorize the board to expedite the exercise of its power to implement regulations as its unique operational circumstances require.

(e) The excavator shall notify the appropriate regional notification center of the failure of an operator to identify subsurface installations pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a), or subdivision (b). The notification shall include the ticket issued by the regional notification center. The regional notification center shall maintain a record of all notifications received pursuant to this subdivision for a period of not less than three years. The record shall be available for inspection pursuant to subdivision (f) of Section 4216.2.

(f) If an operator or local agency knows that it has a subsurface installation embedded or partially embedded in the pavement that is not visible from the surface, the operator or local agency shall contact the excavator before pavement removal to communicate and determine a plan of action to protect that subsurface installation and excavator.

SEC. 5. Section 4216.4 of the Government Code is amended to read:

4216.4. (a) (1) Except as provided in paragraph (2), if an excavation is within the tolerance zone of a subsurface installation, the excavator shall determine the exact location of the subsurface installations in conflict with the excavation using hand tools before using any power-driven excavation or boring equipment within the tolerance zone of the subsurface installations. In all cases the excavator shall use reasonable care to prevent damaging subsurface installations.

(2) (A) An excavator may use a vacuum excavation device to expose subsurface installations within the tolerance zone if the operator has marked the subsurface installation, the excavator has contacted any operator whose subsurface installations may be in conflict with the excavation, and the operator has agreed to the use of a vacuum excavation device. An excavator shall inform the
regional notification center of his or her excavator’s intent to use a vacuum excavation device when obtaining a ticket.

(B) An excavator may use power-operated or boring equipment for the removal of any existing pavement only if there is no known subsurface installation contained in the pavement.

(C) Beginning July 1, 2020, an excavator may use power-operated or boring equipment, as determined by the board, prior to determining the exact location of subsurface installations. The board shall adopt regulations to implement this paragraph on or before July 1, 2020.

(3) An excavator shall presume all subsurface installations to be active, and shall use the same care around subsurface installations that may be inactive as the excavator would use around active subsurface installations.

(b) If the exact location of the subsurface installation cannot be determined by hand excavating in accordance with subdivision (a), the excavator shall request the operator to provide additional information to the excavator, to the extent that information is available to the operator, to enable the excavator to determine the exact location of the installation. If the excavator has questions about the markings that an operator has placed, the excavator may contact the notification center to send a request to have the operator contact the excavator directly. The regional notification center shall provide the excavator with the contact telephone number of the subsurface installation operator.

(c) (1) An excavator discovering or causing damage to a subsurface installation, including all breaks, leaks, nicks, dents, gouges, grooves, or other damage to subsurface installation lines, conduits, coatings, or cathodic protection, shall immediately notify the subsurface installation operator. The excavator may contact the regional notification center to obtain the contact information of the subsurface installation operator. If the operator is unknown and the damage or discovery of damage occurs outside the working hours of the regional notification center, the excavator may follow the instructions provided by the regional notification center through its Internet Web site or the telephone line recorded message.

(2) An excavator shall call 911 emergency services upon discovering or causing damage to either of the following:
(A) A natural gas or hazardous liquid pipeline subsurface installation in which the damage results in the escape of any flammable, toxic, or corrosive gas or liquid.

(B) A high priority subsurface installation of any kind.

(c) (1) An excavator discovering or causing damage to a subsurface installation that results in an emergency shall do the following:

(A) The excavator shall immediately call “911” emergency services.

(B) After calling “911” emergency services, the excavator shall immediately notify the subsurface installation operator. The excavator may contact the regional notification center to obtain the contact information of the subsurface installation operator. If the operator is unknown and the damage or discovery of damage occurs outside the working hours of the regional notification center, the excavator may follow the instructions provided by the regional notification center through its internet website or the telephone line recorded message.

(C) Within two hours of discovering or causing damage, the excavator shall notify the regional notification center.

(2) An excavator discovering or causing any damage to a subsurface installation, including all breaks, leaks, nicks, dents, gouges, grooves, or other damage to subsurface installation lines, conduits, coatings, or cathodic protection, shall do the following:

(A) The excavator shall immediately notify the subsurface installation operator. The excavator may contact the regional notification center to obtain the contact information of the subsurface installation operator. If the operator is unknown and the damage or discovery of damage occurs outside the working hours of the regional notification center, the excavator may follow the instructions provided by the regional notification center through its internet website or the telephone line recorded message.

(B) Within two hours of discovering or causing damage, the excavator shall notify the regional notification center.

(d) Each excavator, operator, or locator shall communicate with each other and respect the appropriate safety requirements and ongoing activities of the other parties, if known, at an excavation site.

SEC. 6. Section 4216.6 of the Government Code is amended to read:
4216.6. (a) (1) Any operator or excavator who negligently violates this article is subject to a civil penalty in an amount not to exceed ten thousand dollars ($10,000).

(2) Any operator or excavator who knowingly and willfully violates any of the provisions of this article is subject to a civil penalty in an amount not to exceed fifty thousand dollars ($50,000).

(3) Except as otherwise specifically provided in this article, this section is not intended to affect any civil remedies otherwise provided by law for personal injury or for property damage, including any damage to subsurface installations, nor is this section intended to create any new civil remedies for those injuries or that damage.

(4) This article shall not be construed to limit any other provision of law granting governmental immunity to state or local agencies or to impose any liability or duty of care not otherwise imposed by law upon any state or local agency.

(b) An action may be brought by the Attorney General, the district attorney, or the local or state agency that issued the permit to excavate, for the enforcement of the civil penalty pursuant to this section in a civil action brought in the name of the people of the State of California. If penalties are collected as a result of a civil suit brought by a state or local agency for collection of those civil penalties, the penalties imposed shall be paid to the general fund of the agency. If more than one agency is involved in enforcement, the penalties imposed shall be apportioned among them by the court in a manner that will fairly offset the relative costs incurred by the state or local agencies, or both, in collecting these fees.

(c) The requirements of this article may also be enforced following a recommendation of the California Underground Facilities Safe Excavation Board by the following agencies, either following a recommendation of the Dig Safe Board that the agency shall act to accept, amend, or reject the recommendations of the board, reject, or through the agency’s own investigations, as follows:

(1) The Registrar of Contractors of the Contractors’ State License Board shall enforce the provisions of this article on contractors, as defined in Article 2 (commencing with Section 7025) of Chapter 9 of Division 3 of the Business and Professions Code, and telephone corporations, as defined in Section 234 of the...
Public Utilities Code, when acting as a contractor, as defined in Article 2 (commencing with Section 7025) of Chapter 9 of Division 3 of the Business and Professions Code. Nothing in this section affects the California Public Utilities Commission’s existing authority over a public utility.

(2) The Public Utilities Commission shall enforce the provisions of this article on gas corporations, as defined in Section 222 of the Public Utilities Code, and electrical corporations, as defined in Section 218 of the Public Utilities Code, and water corporations, as defined in Section 241 of the Public Utilities Code.

(3) The Office of the State Fire Marshal shall enforce the provisions of this article on operators of hazardous liquid pipeline facilities, as defined in Section 60101 of Chapter 601 of Subtitle VIII of Title 49 of the United States Code.

(d) A local governing board may enforce the provisions of this article on local agencies under the governing board’s jurisdiction.

(e) Commencing July 1, 2020, the California Underground Facilities Safe Excavation Dig Safe Board shall enforce the provisions of this article on persons other than those listed in subdivisions (c) and (d). The board shall not initiate an enforcement action pursuant to this subdivision for a violation that occurred prior to July 1, 2020. As the enforcing body for persons other than those listed in subdivisions (c) and (d), the board may collect any monetary penalties imposed upon those persons.

(f) Moneys collected as a result of penalties imposed pursuant to subdivisions (c) and (e) shall be deposited into the Safe Energy Infrastructure and Excavation Fund.

(g) Statewide information provided by operators and excavators regarding incident events shall be compiled and made available in an annual report by regional notification centers and posted on the Internet websites of the regional notification centers and shall be made available to the board upon request.

(h) For purposes of subdivision (g), the following terms have the following meanings:

(1) “Incident event” means the occurrence of excavator downtime, damages, near misses, and violations.

(2) “Statewide information” means information submitted by operators and excavators using the California Regional Common Ground Alliance’s Virtual Private Damage Information Reporting
Tool. Supplied data shall comply with the Damage Information Reporting Tool’s minimum essential information as listed in the most recent version of the Best Practices guide of the Common Ground Alliance.

SEC. 7. Section 4216.12 of the Government Code is amended to read:

4216.12. (a) The California Underground Facilities Safe Excavation Board, Dig Safe Board is hereby created under, and shall be assisted by the staff of, the Office of the State Fire Marshal until January 1, 2022. On and after January 1, 2022, the board shall be within the Office of Energy Infrastructure Safety within the Natural Resources Agency pursuant to Part 7.3 (commencing with Section 15470) of Division 3 of Title 2.

(b) The board shall perform the following tasks:

(1) Coordinate education and outreach activities that encourage safe excavation practices, as described in Section 4216.17.

(2) Develop standards, as described in Section 4216.18.

(3) Investigate possible violations of this article, as described in Section 4216.19.

(4) Enforce this article to the extent authorized by subdivision (e) of Section 4216.6.

(c) Notwithstanding any other law, on and after January 1, 2020, the board shall be subject to review by the appropriate policy committees of the Legislature. Legislature at least once every three years.

SEC. 8. Section 4216.17 of the Government Code is amended to read:

4216.17. (a) The board shall annually convene a meeting for the following purposes:

(1) To understand the existing needs for education and outreach, including to those groups with the highest awareness and education needs, including, but not limited to, homeowners.

(2) To facilitate discussion on how to coordinate existing education and outreach efforts with state and local government agencies, California operators, regional notification centers, and trade associations that fund outreach and education programs that encourage safe excavation practices.

(3) To determine the areas in which additional education and outreach efforts may be targeted through use, upon appropriation
by the Legislature, of the moneys in the Safe Energy Infrastructure and Excavation Fund pursuant to subdivision (c).

(b) In addition to state and local government agencies, California operators, regional notification centers, and trade associations that fund outreach and education programs that encourage safe excavation practices, the meeting pursuant to subdivision (a) shall include representatives of groups that may be the target of those outreach and education efforts.

(c) Upon appropriation by the Legislature, the board shall grant the use of the moneys in the Safe Energy Infrastructure and Excavation Fund to fund public education and outreach programs designed to promote excavation safety around subsurface installations and targeted towards specific excavator groups, giving priority to those with the highest awareness and education needs, including, but not limited to, homeowners.

(d) For violations that are neither egregious nor persistent, the board shall offer violators the option of completing an educational course in lieu of paying a fine. To develop the programming for the educational option, the board may contract with a third party or create the curriculum itself.

(e) Upon appropriation by the Legislature, moneys in the Safe Energy Infrastructure and Excavation Fund shall be available to the board to fund the educational course developed pursuant to subdivision (c).
SB 878 (Jones, R-El Cajon)
Department of Consumer Affairs Licensing: applications: wait times.

Location: 4/23/2020 – Senate Committee on Business, Professions and Economic Development
Introduced: 1/22/2020
Board Position: Watch (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: This bill would add Section 139.5 to the Business and Professions Code. This new section would require boards within the Department of Consumer Affairs to do both of the following:

1. Prominently display the current timeframe for processing initial and renewal license applications on its internet website.
2. With respect to the information displayed on the website, specify the average timeframe for each license category.

Staff Comment: It is not clear what is meant by “current.” Does it mean the data must be updated whenever an application or renewal is processed? Or does it mean on a daily or weekly (or some other time period) basis? It is also not clear how the “average timeframe” referenced in the second provision is different from the “current timeframe” in the first provision. While the goal of providing information to the applicants, licensees, and the public regarding how long it takes to process applications and renewals is laudable, it would be difficult to meet the requirements of this bill without further clarification of the terms used.

Until such time as the Board’s new IT system is fully implemented, tracking and compiling this data would have to be done manually, which would create additional workload for staff.

At its March 12, 2020, meeting, the Board took a position of WATCH on SB 878 to see if further clarification of the terms in the bill is provided when the bill is heard in Committee. A hearing was scheduled to be held on March 23, 2020; however, it was cancelled; no Committee analysis has been issued on this bill at this time.

Staff Recommendation: No action needed at this time.

Laws: An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.
SENATE BILL No. 878

Introduced by Senator Jones

January 22, 2020

An act to add Section 139.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL’S DIGEST

SB 878, as introduced, Jones. Department of Consumer Affairs Licensing: applications: wait times.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

This bill would require each board within the department that issues licenses to prominently display the current timeframe for processing initial and renewal license applications on its internet website, as provided.


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

SECTION 1. Section 139.5 is added to the Business and Professions Code, to read:

139.5. Each board, as defined in section 22, within the department that issues a license shall do both of the following:
(a) Prominently display the current timeframe for processing initial and renewal license applications on its internet website.
(b) With respect to the information displayed on the website, specify the average timeframe for each license category.
SB 1057 (Jones, R-El Cajon)
Land.

Status: 3/18/2020 – March 30, 2020, hearing postponed by the Senate Committee on Business, Professions and Economic Development.

Location: 4/23/2020 – Senate Committees on Business, Professions and Economic Development and Governance and Finance

Introduced: 2/18/2020
Board Position: Oppose Unless Amended to remove Section 8726 (as of 3/12/2020)
Board Staff Analysis: 4/23/2020

Bill Summary: This bill would amend Sections 8726, 8764, and 8780 of the Business and Professions Code; these sections are part of the Professional Land Surveyors’ Act, which is under this Board’s authority to enforce. The bill would also amend Sections 4529 and 66452.5 of the Government Code.

Section 8726 defines land surveying. It currently contains a subdivision that indicates that a person practices land surveying if they do or offer to do “geodetic or cadastral surveying”; that subdivision also provides a definition of “geodetic surveying,” as that phrase is used in the Professional Land Surveyors’ Act. There is no specific definition of “cadastral surveying” provided. This bill would add a definition of “cadastral surveying,” as that phrase is used in the Professional Land Surveyors’ Act. This bill would also reletter and renumber the subdivisions and subparagraphs in Section 8726 and make conforming changes.

Section 8764 specifies what information must be shown on a Record of Survey. It currently includes a subdivision that indicates “any other data necessary for the intelligent interpretation of the various items and locations of the points, lines, and areas shown, or convenient for the identification of the survey or surveyor, as may be determined by the civil engineer or land surveyor preparing the record of survey.” This bill would add the phrase “in graphic or narrative form” after “any other data” so that the provision would read “any other data, in graphic or narrative form, ….” This bill would also reletter and renumber the subdivisions and subparagraphs in Section 8764.

Section 8780 authorizes the Board to investigate complaints against licensees and to take disciplinary action against licensees on certain grounds, as specified. One of the subdivisions states “Any negligence or incompetence in his or her practice of land surveying.” This bill would separate this provision into two separate provisions: one would include negligence, and the other would include incompetence. This bill would also reletter and renumber the subdivisions and subparagraphs in Section 8780 and make grammatical changes.

Government Code section 4529 relates to the qualifications based selection (QBS) process. Government Code section 66452.5 is part of the Subdivision Map Act. The changes proposed to these sections do not impact the Board’s regulation of the practice of land surveying.

Staff Comment:
Section 8726
This bill proposes to add the following as the definition of “cadastral surveying:”
“Cadastral surveying means a survey that creates, marks, defines, retraces, or reestablishes the boundaries and subdivision of the public land of the United States, or any other field survey of a cadaster that is a public record, survey, or map of the extent and ownership of land.”
The Bureau of Land Management (BLM) provides the following information on its website regarding cadastral surveys:

The BLM’s Cadastral Survey Program provides one of the oldest and most fundamental functions of the U.S. Government. Originating with the Land Ordinance of 1785, cadastral surveys create, define, mark, and re-establish the boundaries and subdivisions of the public lands of the United States. (The word “cadastral” is derived from cadastre, meaning a public record, survey, or map of the value, extent, and ownership of land as a basis of taxation.) These surveys provide public land managers and the public with essential information needed to correctly determine ownership rights and privileges and facilitate good land management decisions.

The proposed definition seems to be a combination of the BLM’s definitions of “cadastral surveying” and “cadastre” (or “cadaster”).

There appears to be a grammatical issue between the first and second clauses of the definition. The first clause says “cadastral surveying means a survey …,” while the second clause says “… or [cadastral surveying] means any other field survey ….” The phrase “any other” refers back to the first clause and its reference to “a survey”; however, the second clause contains the word “field” that the first clause does not. If the intent is that the surveys that constitute cadastral surveying be field surveys, then the word “field” would need to be added to the first clause. However, if the intent is to make a distinction between types of surveys (one that is not a field survey and one that is), then the phrase “any other field survey” in the second clause would need to be changed to “a field survey.”

The Board needs to determine if it believes the definition of “cadastral surveying,” as currently written, is appropriate and necessary. For example, is it necessary to include a definition of “cadastral surveying” in the law, or is the term sufficiently understood in the profession without a specified definition? Is the definition as written clear and understandable, or will it cause confusion within the profession? Does the definition expand or contract the existing scope of practice, and if it does either, is that appropriate for the protection of the health, safety, welfare, and property of the public?

Section 8764
Since current law does not specify in what form the “any other data” referenced in Section 8764 must be shown, staff believes the law already allows for the data to be shown in graphic or narrative form.

Section 8780
Staff has heard that there are concerns with the law including both negligence and incompetence in the same subdivision, even with the word “or,” because it gives some people the impression that the subject of an investigation, citation, or formal disciplinary action has committed both negligence and incompetence. Changing Section 8780 so that negligence and incompetence are in separate subdivisions would not change the Board’s ability to investigate complaints or take action against licensees for either or both.

At its March 12, 2020, meeting, the Board took a position of Oppose Unless Amended to remove Section 8726 from the bill. The Board took this position because it is concerned with the definition of “cadastral surveying” as written in the bill and believes that more time should be allowed for the Board, likely through its Land Surveying Technical Advisory Committee (LSTAC) to discuss the definition. Staff relayed this position to the sponsors and discussed the concerns with the confusing nature of the definition as presented in the bill. While the sponsors did not seem inclined to want to remove
Section 8726 from the bill, they did indicate that they were willing to have further discussions regarding the wording of the definition.

**Staff Recommendation:** No action needed at this time.

**Laws:** An act to amend Sections 8726, 8764, and 8780 of the Business and Professions Code, and to amend Sections 4529 and 66452.5 of the Government Code, relating to land.
An act to amend Sections 8726, 8764, and 8780 of the Business and Professions Code, and to amend Sections 4529 and 66452.5 of the Government Code, relating to land.

LEGISLATIVE COUNSEL’S DIGEST

SB 1057, as introduced, Jones. Land.

(1) Existing law, the Professional Land Surveyors’ Act, provides for the licensure and regulation of land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists, and makes it unlawful to practice land surveying without a license, except as specified. Existing law includes within the practice of land surveying cadastral surveying.

This bill would define cadastral surveying for purposes of the act.

Existing law requires a record of survey filed with the county surveyor by a licensed surveyor or licensed civil engineer to include, among other information, any data necessary for the intelligent interpretation of the various items and locations of the points, lines, and areas shown, or convenient for the identification of the survey or surveyor.

This bill would provide that this data may be in graphic or narrative form. The bill would make nonsubstantive changes relating to licensed land surveyors and civil engineers.

(2) Existing law requires a state or local agency head, as defined, to select professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Existing law makes
those provisions inapplicable where the state or local agency head
determines that the services needed are more of a technical nature and
involve little professional judgment and that requiring bids would be
in the public interest.

This bill would require a state or local agency head who makes that
determination to be licensed in the discipline for which they are making
that determination if licensure is required in that discipline.

(3) The Subdivision Map Act authorizes a subdivider, or any tenant
of the subject property in specified circumstances, to appeal from an
action of the advisory agency relating to a tentative map to the appeal
board or legislative body, as specified, and provides for the appeal from
the decision of the appeal board to the legislative body. The act further
authorizes any interested person adversely affected by a decision of the
advisory agency or appeal board to appeal the decision with the
legislative body. Existing law requires a hearing to be held after an
appeal is filed pursuant to those provisions within 30 days after the
request is filed by the appellant.

This bill would instead require a hearing to be held within 45 days
after the request is filed and would make conforming changes.

State-mandated local program: no.

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

SECTION 1. Section 8726 of the Business and Professions
Code is amended to read:

8726. (a) A person, including any person employed by the
state or by a city, county, or city and county within the state,
practices land surveying within the meaning of this chapter who,
either in a public or private capacity, does or offers to do any one
or more of the following:

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

(2) Determines the configuration or contour of the earth’s
surface, or the position of fixed objects above, on, or below the
surface of the earth by applying the principles of mathematics or
photogrammetry.
(e) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

(d) Makes any survey for the subdivision or resubdivision of any tract of land. For the purposes of this subdivision, the term "subdivision" or "resubdivision" shall be defined to include, but not be limited to, the definition in the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of this code).

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any monument or reference point.

(f) Geodetic or cadastral surveying. As used in this chapter:

(A) Geodetic surveying means performing surveys, in which account is taken of the figure and size of the earth to determine or predetermine the horizontal or vertical positions of fixed objects thereon or related thereto, geodetic control points, monuments, or stations for use in the practice of land surveying or for stating the position of fixed objects, geodetic control points, monuments, or stations by California Coordinate System coordinates.

(B) Cadastral surveying means a survey that creates, marks, defines, retraces, or reestablishes the boundaries and subdivisions of the public land of the United States, or any other field survey of a cadaster that is a public record, survey, or map of the extent and ownership of land.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (e), (d), (e), and (f). paragraphs (1) to (6), inclusive.
(8) Indicates, in any capacity or in any manner, by the use of the title “land surveyor” or by any other title or by any other representation that he or she practices or offers to practice land surveying in any of its branches.

(9) Procures or offers to procure land surveying work for himself, herself, themselves or others.

(10) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced.

(11) Coordinates the work of professional, technical, or special consultants in connection with the activities authorized by this chapter.

(12) Determines the information shown or to be shown within the description of any deed, trust deed, or other title document prepared for the purpose of describing the limit of real property in connection with any one or more of the functions described in subdivisions (a) to (f), paragraphs (1) to (6), inclusive.

(13) Creates, prepares, or modifies electronic or computerized data in the performance of the activities described in subdivisions (a), (b), (c), (d), (e), (f), (k), and (l); paragraphs (1), (2), (3), (4), (5), (6), (11), and (12).

(14) Renders a statement regarding the accuracy of maps or measured survey data.

(b) Any department or agency of the state or any city, county, or city and county that has an unregistered person in responsible charge of land surveying work on January 1, 1986, shall be exempt from the requirement that the person be licensed as a land surveyor until the person currently in responsible charge is replaced.

(c) The review, approval, or examination by a governmental entity of documents prepared or performed pursuant to this section shall be done by, or under the direct supervision of, a person authorized to practice land surveying.
SEC. 2. Section 8764 of the Business and Professions Code is amended to read:

8764. (a) The record of survey shall show the applicable provisions of the following consistent with the purpose of the survey:

(1) All monuments found, set, reset, replaced, or removed, describing their kind, size, and location, and giving other data relating thereto.

(2) Bearing or witness monuments, basis of bearings, bearing and length of lines, scale of map, and north arrow.

(3) Name and legal designation of the property in which the survey is located, and the date or time period of the survey.

(4) The relationship to those portions of adjacent tracts, streets, or senior conveyances which have common lines with the survey.

(5) Memorandum of oaths.

(6) Statements required by Section 8764.5.

(7) Any other data, in graphic or narrative form, necessary for the intelligent interpretation of the various items and locations of the points, lines, and areas shown, or convenient for the identification of the survey or surveyor, as may be determined by the civil engineer or land surveyor preparing the record of survey.

(b) The record of survey shall also show, either graphically or by note, the reason or reasons, if any, why the mandatory filing provisions of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 8762 apply.

(c) The record of survey need not consist of a survey of an entire property.

SEC. 3. Section 8780 of the Business and Professions Code is amended to read:

8780. (a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any land surveyor
licensed under this chapter or any civil engineer licensed under
the provisions of Chapter 7 (commencing with Section 6700) who
is legally authorized to practice land surveying and make findings
thereon.

By

(b) By a majority vote, the board may publicly reprove, suspend
for a period not to exceed two years, or revoke the license or
certificate of any land surveyor licensed under this chapter or civil
engineer licensed under the provisions of Chapter 7 (commencing
with Section 6700) who is legally authorized to practice land
surveying on any of the following grounds:

(a) Any fraud, deceit, or misrepresentation in his or her practice of land surveying.

(b) Any negligence or incompetence in his or their practice of land surveying.

(c) Any incompetence in their practice of land surveying.

(d) Any fraud or deceit in obtaining his or her license.

(e) Any violation of any provision of this chapter or of any other
law relating to or involving the practice of land surveying.

(f) Any conviction of a crime substantially related to the
qualifications, functions, and duties of a land surveyor. The record
of the conviction shall be conclusive evidence thereof.

(g) Aiding or abetting any person in the violation of any
provision of this chapter or any regulation adopted by the board
pursuant to this chapter.

(h) A breach or violation of a contract to provide land surveying
services.

(i) A violation in the course of the practice of land surveying
of a rule or regulation of unprofessional conduct adopted by the
board.

SEC. 4. Section 4529 of the Government Code is amended to
read:
This chapter shall not apply where the state or local agency head determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest.

(b) A state or local agency head making a determination pursuant to subdivision (a) shall be licensed in the discipline for which they are making the determination if a license is required to practice in that discipline.

SEC. 5. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) (1) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body. (2) The appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken. (3) Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of a request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) (1) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. The appeal shall be filed in writing with the clerk of the legislative body within 10 days after the action of the appeal board from which the appeal is being taken.
After the filing of an appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 to 45 days after the date of the request filed by the subdivider or the appellant.

If there is no regular meeting of the legislative body within the next 30 to 45 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal.

(c) (1) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b) of this section. If no further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify or state that approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

(2) If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify or state that approval.

(d) (1) Any interested person adversely affected by a decision of the advisory agency or appeal board may file an appeal with the legislative body concerning any decision of the advisory agency or appeal board. The appeal shall be filed with the clerk of the legislative body within 10 days after the action of the advisory agency or appeal board that is the subject of the appeal. Upon the filing of the appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 to 45 days after the date of a request filed by the subdivider or the appellant. If there is no
regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. The hearing may be a public hearing for which notice shall be given in the time and manner provided.

(2) Upon conclusion of the hearing, the legislative body shall, within 10 days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. The legislative body may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make any findings that are not inconsistent with the provisions of this chapter or any local ordinance adopted pursuant to this chapter.

(e) Each decision made pursuant to this section shall be supported by findings that are consistent with the provisions of this division and any local ordinance adopted pursuant to this division.

(f) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to the hearing. The notice requirement of this subdivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider or from persons appealing or filing an appeal for expenses incurred under this section.
VII. Enforcement

A. Enforcement Statistical Reports
   1. Fiscal Year 2019/20 Update
 Complaint Investigation Phase

Number of Complaint Investigations Opened & Completed by Month
12-Month Cycle

NOTE: FY19/20 statistics are through March 31, 2020
NOTE: FY19/20 statistics are through March 31, 2020
### Complaint Investigation Phase

**Aging of Open (Pending) Complaint Investigation Cases – 12-Month Cycle**

<table>
<thead>
<tr>
<th></th>
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<td>29</td>
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</tbody>
</table>
NOTE: FY19/20 statistics are through March 31, 2020
Closed with No Action Taken, includes No Violation/Insufficient Evidence; Compliance Obtained; Warning Letter; Other Reason for Closing Without Action (e.g., subject deceased); Resolved After Initial Notification; Referred to District Attorney with Request to File Criminal Charges; and Mediated.
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

<table>
<thead>
<tr>
<th>Year</th>
<th>Referred</th>
<th>Issued</th>
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</thead>
<tbody>
<tr>
<td>FY16/17</td>
<td>97</td>
<td>100</td>
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<tr>
<td>FY17/18</td>
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<td>83</td>
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<tr>
<td>FY18/19</td>
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<td>75</td>
</tr>
<tr>
<td>FY19/20</td>
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<td>61</td>
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Number of Citations Issued and Final

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<th>Year</th>
<th>Issued</th>
<th>Final</th>
</tr>
</thead>
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<td>FY19/20</td>
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<td>67</td>
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Average Days Between Date of Issuance of Citation and Date Citation Becomes Final

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<th>Year</th>
<th>Days</th>
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Average Days from Opening of Complaint Investigation to Date Citation Becomes Final

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<th>Year</th>
<th>Days</th>
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<td>FY17/18</td>
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</tr>
<tr>
<td>FY18/19</td>
<td>587</td>
</tr>
<tr>
<td>FY19/20</td>
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</table>

NOTE: FY19/20 statistics are through March 31, 2020
Formal Disciplinary Actions Against Licensees

NOTE: FY19/20 statistics are through March 31, 2020
## Complaint Investigation Phase

### Number of Complaint Investigations Opened & Completed by Month

#### 12-Month Cycle

<table>
<thead>
<tr>
<th>Month</th>
<th>Complaint Investigations Opened</th>
<th>Complaint Investigations Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 2019</td>
<td>32</td>
<td>43</td>
</tr>
<tr>
<td>May 2019</td>
<td>32</td>
<td>11</td>
</tr>
<tr>
<td>June 2019</td>
<td>21</td>
<td>30</td>
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<tr>
<td>July 2019</td>
<td>37</td>
<td>30</td>
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<td>August 2019</td>
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<td>February 2020</td>
<td>35</td>
<td>28</td>
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<tr>
<td>March 2020</td>
<td>22</td>
<td>31</td>
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</table>

### Complaint Investigations Opened and Completed Total by Fiscal Year

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Complaint Investigations Opened</th>
<th>Complaint Investigations Completed</th>
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</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>353</td>
<td>323</td>
</tr>
<tr>
<td>2017/18</td>
<td>362</td>
<td>349</td>
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<tr>
<td>2018/19</td>
<td>328</td>
<td>334</td>
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<tr>
<td>2019/20</td>
<td>272</td>
<td>265</td>
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</table>

*Current Fiscal Year through March 31, 2020*

### Number of Open (Pending) Complaint Investigations (at end of FY or month for current FY)

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Open (Pending) Complaint Investigations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>237</td>
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<tr>
<td>2017/18</td>
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<tr>
<td>2018/19</td>
<td>247</td>
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<tr>
<td>2019/20</td>
<td>251</td>
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</table>

*Current Fiscal Year through March 31, 2020*
## Complaint Investigation Phase

### Average Days from Opening of Complaint Investigation to Completion of Investigation (at end of FY or month for current FY)

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Average Days</th>
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<tbody>
<tr>
<td>2016/17</td>
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<td>2017/18</td>
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<tr>
<td>2018/19</td>
<td>236</td>
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<tr>
<td>2019/20</td>
<td>284</td>
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Current Fiscal Year through March 31, 2020

### Outcome of Completed Investigations

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th># Closed</th>
<th>% Closed</th>
<th># Cite</th>
<th>% Cite</th>
<th># FDA</th>
<th>% FDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>205</td>
<td>63%</td>
<td>97</td>
<td>30%</td>
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<td>2017/18</td>
<td>219</td>
<td>63%</td>
<td>93</td>
<td>27%</td>
<td>37</td>
<td>10%</td>
</tr>
<tr>
<td>2018/19</td>
<td>225</td>
<td>67%</td>
<td>83</td>
<td>25%</td>
<td>27</td>
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<tr>
<td>2019/20</td>
<td>184</td>
<td>67%</td>
<td>71</td>
<td>26%</td>
<td>20</td>
<td>7%</td>
</tr>
</tbody>
</table>

Current Fiscal Year through March 31, 2020

Closed = Closed with No Action Taken, includes No Violation/Insufficient Evidence; Compliance Obtained; Warning Letter; Other Reason for Closing Without Action (e.g., subject deceased); Resolved After Initial Notification; Referred to District Attorney with Request to File Criminal Charges; and Mediated.

Cite = Referred for Issuance of Citation

FDA = Referred for Formal Disciplinary Action
Complaint Investigation Phase

Aging of Open (Pending) Complaint Investigation Cases
12-Month Cycle

<table>
<thead>
<tr>
<th>Month</th>
<th>0-30 Days</th>
<th>31-60 Days</th>
<th>61-90 Days</th>
<th>91-120 Days</th>
<th>121-180 Days</th>
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<th>271-365 Days</th>
<th>1-2 Years</th>
<th>2-3 Years</th>
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<td>April 2019</td>
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### Citations (Informal Enforcement Actions)

#### Number of Complaint Investigations Referred and Number of Citations Issued

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<thead>
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<th>Fiscal Year</th>
<th>Complaint Investigations Referred for Issuance of Citation</th>
<th>Citations Issued</th>
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<td>2019/20</td>
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<td>61</td>
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</tbody>
</table>

Current Fiscal Year through March 31, 2020

#### Number of Citations Issued and Final

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Issued</th>
<th>Final</th>
</tr>
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<tr>
<td>2016/17</td>
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<td>91</td>
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<td>2018/19</td>
<td>75</td>
<td>76</td>
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<tr>
<td>2019/20</td>
<td>61</td>
<td>67</td>
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Current Fiscal Year through March 31, 2020

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

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>259</td>
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<td>2017/18</td>
<td>164</td>
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<tr>
<td>2018/19</td>
<td>236</td>
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<tr>
<td>2019/20</td>
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</tbody>
</table>

Current Fiscal Year through March 31, 2020

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

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
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<tr>
<td>2017/18</td>
<td>495</td>
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<tr>
<td>2018/19</td>
<td>587</td>
</tr>
<tr>
<td>2019/20</td>
<td>503</td>
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</tbody>
</table>

Current Fiscal Year through March 31, 2020
Formal Disciplinary Actions Against Licensees

Number of Licensees Referred for Formal Disciplinary Action and Number of Final Disciplinary Decisions

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Licensees Referred for Formal Disciplinary Action</th>
<th>Number of Final Disciplinary Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>36</td>
<td>41</td>
</tr>
<tr>
<td>2017/18</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>2018/19</td>
<td>34</td>
<td>30</td>
</tr>
<tr>
<td>2019/20</td>
<td>21</td>
<td>31</td>
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</tbody>
</table>

Current Fiscal Year through March 31, 2020

Average Days from Referral for Formal Disciplinary Action to Effective Date of Final Decision

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>703</td>
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<tr>
<td>2017/18</td>
<td>585</td>
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<tr>
<td>2018/19</td>
<td>550</td>
</tr>
<tr>
<td>2019/20</td>
<td>473</td>
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Current Fiscal Year through March 31, 2020

Average Days from Opening of Complaint Investigation to Effective Date of Final Decision

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Number of Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/17</td>
<td>1106</td>
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<tr>
<td>2017/18</td>
<td>825</td>
</tr>
<tr>
<td>2018/19</td>
<td>923</td>
</tr>
<tr>
<td>2019/20</td>
<td>728</td>
</tr>
</tbody>
</table>

Current Fiscal Year through March 31, 2020
VIII. Exams/Licensing

A. Update on 2020 California State Examinations
B. Update on 2020 NCEES and ASBOG Examinations
IX. Executive Officer's Report

A. Rulemaking Status Report
B. Update on Board’s Business Modernization Project
C. Personnel
D. ABET
E. Association of State Boards of Geology (ASBOG)
F. National Council of Examiners for Engineering and Surveying (NCEES)
   1. Presentation from Western Zone Vice President Brian Robertson, P.E.
G. Update on Outreach Efforts
Rulemaking Overview

1. Fees and Certificates (404, 410, 3005, and 3010)
   - Submitted for final review by DCA/Agency on February 26, 2020.
     - Board approved modified language for 15-day public comment period on January 16, 2020
     - DCA/Agency approved for filing with OAL for publication on November 14, 2019.
     - Submitted for initial (pre-notice) review by DCA Legal on May 30, 2019.
     - Board directed staff to pursue rulemaking proposal on November 1, 2018.

2. Repeal Professional Engineer and Land Surveyor Appeals (443 and 444)
   - Submitted for initial (pre-notice) review by DCA Legal on September 5, 2019.
     - Board directed staff to pursue rulemaking proposal on March 1, 2013.

3. Substantial Relationship Criteria and Criteria for Rehabilitation (416, 418, 3060, and 3061)
     - 45-Day public comment period ended on April 27, 2020.
     - Board approved modified language for 15-day public comment period on March 12, 2020.
     - DCA/Agency approved for filing with OAL for publication on March 2, 2020.
     - Submitted for initial (pre-notice) review by DCA Legal on June 11, 2019.
     - Board directed staff to pursue rulemaking proposal on February 21, 2019.

4. Definition of Traffic Engineering (404)
   - Board directed staff to pursue rulemaking proposal on March 8, 2019.

5. Definitions of Negligence and Incompetence (3003 and 3003.1)
   - Board directed staff to pursue rulemaking proposal on September 6, 2018.

Note: Documents related to any rulemaking file listed as “noticed” can be obtained from the Board’s website at http://www.bpelsg.ca.gov/about_us/rulemaking.shtml.
PROJECT STATUS REPORT

| Reporting period: | 2/26/2020 – 4/45/2020 | Project title: | Business Modernization Cohort 1 |

EXECUTIVE SUMMARY

<table>
<thead>
<tr>
<th>Narrative Summary of Status</th>
<th>Schedule:</th>
<th>Budget:</th>
<th>Issues:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schedule: GREEN</td>
<td>Budget: GREEN</td>
<td>Issues: GREEN</td>
<td></td>
</tr>
</tbody>
</table>

Minimum Viable Product (MVP) Product increments of work are currently underway. BPELSG’s MVP is Engineer-In-Training and Land Surveyor-In-Training application submission. The entire team has transitioned to remote work due to COVID-19. The project remains on target for budget projections and the initial MVP schedule.

PROJECT MILESTONE STATUS REVIEW

<table>
<thead>
<tr>
<th>Project Milestones</th>
<th>Status</th>
<th>Completion Date</th>
<th>Issues Exist (Yes/No)</th>
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</thead>
<tbody>
<tr>
<td>Project Planning Complete – Project Start</td>
<td>Complete</td>
<td>1/13/2020</td>
<td>No</td>
</tr>
<tr>
<td>Onboard Systems Integrator</td>
<td>Complete</td>
<td>1/31/2020</td>
<td>No</td>
</tr>
<tr>
<td>Sprint Planning &amp; Development</td>
<td>In Progress</td>
<td>7/6/2020</td>
<td>No</td>
</tr>
<tr>
<td>MVP Product Increment 1 - Dates may adjust depending on final project schedule baseline</td>
<td>In Progress</td>
<td>7/15/2020</td>
<td>No</td>
</tr>
</tbody>
</table>
Re: NCEES Western Zone Vice President Recommendation

Dear Members of the NCEES Western Zone:

The Utah Professional Engineers and Professional Land Surveyors Licensing Board would like to recommend Mr. C. Scott Bishop, as a candidate for the office of the NCEES Western Zone Vice President.

On the 15th day of January, 2020, the Utah Professional Engineers and Professional Land Surveyors Licensing Board unanimously passed a motion to support Mr. Bishop in a bid for this position.

The Board believes that any candidate to this important nomination should be willing to submit and defend their views, record and competence. Mr. Bishop's qualifications and his commitment to the engineering and surveying professions make him an ideal candidate to serve the NCEES's Western Zone.

Thank you for considering this recommendation.

Respectfully,

Steve Duncombe, MBA
Over the past several years Scott has been able to serve on several committees and task forces as well as participate in numerous NCEES meetings which have further developed his desire to protect and promote licensure. One of Scott’s greatest strengths is his passion. He does not have an agenda - just a desire to serve and to help the engineering and surveying professions move into the future. He is willing to discuss all topics and look at issues from a big picture perspective. The Utah Board believes that “Mr. Bishop’s ability, passion, understanding and his commitment to the engineering and surveying professions make him an ideal candidate to serve the western zone.” Please join with the Utah Board and vote for Scott Bishop as Western Zone Vice President.

It would be my privilege to serve as your next Western Zone Vice President and I humbly ask for your support.

Thank you,

Scott Bishop
P.S., CFedS
ROW Design Manager
## QUARTERLY OUTREACH REPORT (Q1)
### SOCIAL MEDIA: January–March 2020

<table>
<thead>
<tr>
<th><strong>TOP 5 FACEBOOK POSTS</strong></th>
<th><strong>DATE</strong></th>
<th><strong>VIEWS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>ASBOG geology exams have been canceled</td>
<td>March 13</td>
<td>2,507</td>
</tr>
<tr>
<td>NCEES has announced that the April 2020 paper exam is canceled</td>
<td>March 13</td>
<td>801</td>
</tr>
<tr>
<td>UPDATE to earlier post about “essential” work under Executive Order N-33-20</td>
<td>March 20</td>
<td>459</td>
</tr>
<tr>
<td>The Official Notice and Agenda has been amended to add a new item (item IV)</td>
<td>March 2</td>
<td>426</td>
</tr>
<tr>
<td>The Official Notice and Agenda for the January meeting</td>
<td>January 3</td>
<td>406</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>TOP 5 TWEETS</strong></th>
<th><strong>DATE</strong></th>
<th><strong>VIEWS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposing to amend Title 16 re: fees &amp; duplicate certificates</td>
<td>January 17</td>
<td>921</td>
</tr>
<tr>
<td>U.S. Census Bureau is recruiting</td>
<td>January 22</td>
<td>896</td>
</tr>
<tr>
<td>Addendum to the meeting materials for the January Board Mtg.</td>
<td>January 15</td>
<td>681</td>
</tr>
<tr>
<td>Two additional comments beyond the comment period are included in the addendum</td>
<td>January 15</td>
<td>677</td>
</tr>
<tr>
<td>Meeting materials for the January Board meeting are available</td>
<td>January 9</td>
<td>637</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>WEB PAGE VIEWS</strong></th>
<th><strong>VIEWS</strong></th>
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</thead>
<tbody>
<tr>
<td>License Lookup</td>
<td>299,246</td>
</tr>
<tr>
<td>Board Homepage</td>
<td>182,524</td>
</tr>
<tr>
<td>Applicant Information</td>
<td>145,590</td>
</tr>
<tr>
<td>Professional Engineer Application</td>
<td>111,694</td>
</tr>
<tr>
<td>Licensee Information</td>
<td>88,467</td>
</tr>
</tbody>
</table>
OUTREACH EVENTS: January–March 2020

KEY

ASCE American Society of Civil Engineers
APWA American Public Works Association
CalGeo California Geotechnical Engineering Association
SWE Society of Women Engineers
YMF Young Members Forum

JANUARY

January 7: Sacramento
CDM Smith corporate presentation to civil engineers by Natalie King.

January 7: Irvine
ASCE Orange County YMF presentation by Natalie King.

January 10: Cal Poly, San Luis Obispo
Electrical engineering path to licensure presentation by Mike Donelson.

January 10: Sacramento, CLSA Land Survey Review
Presentation on the steps to licensure and the test plan by Ric Moore and Dallas Sweeney.

January 19: San Diego, CLSA Land Survey Review
Presentation on the steps to licensure and the test plan by Ric Moore and Dallas Sweeney.

January 23: Sacramento
Sacramento County surveyor industry meeting—Q&A session by Ric Moore and Dallas Sweeney.

January 24: Sacramento, Cal Recycle
Monument preservation and licensure requirements presentation by Ric Moore and Dallas Sweeney.

January 24–25: Fresno State University Geomatics Conference
Presentation on the steps to licensure and the test plan by Ric Moore and Dallas Sweeney.

January 31–Feb 1: San Diego, SWE Regional Conference
All disciplines presentation by Natalie King and Mike Donelson.
FEBRUARY

February 4: Chico State University
Senior-level class presentation for civil and mechanical engineers by Natalie King and Mike Donelson.

February 11: Cal Poly, San Luis Obispo
Geology Career Planning: The GIT and Professional Geologist License presentation by Laurie Racca.

February 12: Cal State, East Bay
CLSA presentation on current affairs of the profession by Ric Moore and Dallas Sweeney.

February 14: San Jose State
Electrical/mechanical presentation on path to licensure by Mike Donelson.

February 18: Cal State, East Bay
Geology Career Planning: The GIT and Professional Geologist License presentation by Laurie Racca.

February 21: CSU, Los Angeles
Electrical/mechanical presentation on path to licensure by Mike Donelson.

February 27: CSU, Stanislaus
Geology Career Planning: The GIT and Professional Geologist License presentation by Laurie Racca.

February 28: San Diego State
Electrical/mechanical presentation on path to licensure by Mike Donelson.

MARCH

March 3: Cal Poly, Pomona
Chemicals/materials presentation on path to licensure by Mike Donelson.

March 4: CCSU, Fullerton
Geology Career Planning: The GIT and Professional Geologist License presentation by Laurie Racca.
Message from the Executive Officer
Richard B. Moore, PLS

In the winter 2019 Board Bulletin, there was mention of the Board’s efforts toward modernizing its operational processes by implementing a new integrated licensing and enforcement case management system. The Board is pleased to announce that in collaboration with the Department of Consumer Affairs Office of System Integration Unit and several of our peer board/bureaus, a software platform to accomplish these goals was selected and onboarding of the vendor is already underway. This modernization will have a significant positive impact for how consumers, applicants, and licensed professionals may connect with the Board in a more meaningful and efficient manner. While there are many facets of the development scheduled to take shape over the remainder of 2020, the efforts will initially focus on foundational functionality such as credit card processing, cashiering, communication with other task-specific systems that are necessary to support future development, before quickly transitioning to the offering of online application submittal of Engineer-In-Training and Land Surveyor-In-Training applications, and online submission of complaints. We anticipate providing additional information on this effort in future Bulletins as the development progresses.

In recent years, legislative trends across the country reveal an increase of differing opinions related to the continued need for regulatory licensing, or more specifically, maintaining the historical level of regulatory licensing. Some feel that the regulatory licensing arena has become too much of a hurdle and prohibitive to many seeking careers and recommend reform only to what is necessary. Others argue that traditional licensing models have not grown with the needed and newness, not properly addressing today’s public (continued on page 2)
X. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs (Possible Action)
B. Appointment of TAC Members (Possible Action)
C. TAC Appointment (Possible Action)
D. Reports from the TACs (Possible Action)
XI. President’s Report/Board Member Activities
XII. Nomination and Election of President and Vice President for Fiscal Year 2020/21
XIII. Approval of Meeting Minutes (Possible Action)

B. Approval of the Minutes of the March 12, 2020, Board Meeting
Mr. Moore addressed the Board amid the recent COVID-19 virus concerns. He has been in constant communication with DCA while closely monitoring the situation. He will keep the Board apprised as the circumstances remain fluid.

I. Roll Call to Establish a Quorum
   President Amistad called the meeting to order at 9:00 a.m., and a quorum was established.

II. Pledge of Allegiance
   Mr. Wilson led everyone in the recitation of the Pledge of Allegiance.

III. Public Comment for Items Not on the Agenda
    During Public Comment, Michael Goetz, Monterey County Surveyor and CLSA liaison, welcomed the Board to Monterey.

IV. Consideration of Rulemaking Proposals
    A. Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria) to Conform to Statutory Changes Made by AB 2138 (Chapter 995, Statutes of 2018)

    Ms. Mathieson noted that the word “Licensee” in Section 3061(d)(5) should be changed to “License Holder” for consistency. She recommended that the rest of the language be checked in case the same change needed to be made elsewhere.
Dr. Qureshi suggested to list types of licenses with commas rather than using the word “or” repeatedly in Sections 418 and 3061.

**MOTION:** Mr. King and Mr. Stockton moved to approve the proposed amendments, as shown and with the additional changes noted, to Title 16, California Code of Regulations sections 416, 418, 3080, and 3061 and directed staff to notice the proposed changes for a 15-day public comment period.

**VOTE:** 10-0, Motion Carried

<table>
<thead>
<tr>
<th>Member Name</th>
<th>Yes</th>
<th>No</th>
<th>Abstain</th>
<th>Absent</th>
<th>Recusal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fel Amistad</td>
<td>X</td>
<td></td>
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<td></td>
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<tr>
<td>Steve Wilson</td>
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<tr>
<td>Natalie Alavi</td>
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<tr>
<td>Alireza Asgari</td>
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<tr>
<td>Duane Friel</td>
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<tr>
<td>Andrew Hamilton</td>
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<tr>
<td>Kathy Jones Irish</td>
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<tr>
<td>Eric Johnson</td>
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<td>Coby King</td>
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<tr>
<td>Asha Lang</td>
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<tr>
<td>Betsy Mathieson</td>
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<tr>
<td>Mohammad Qureshi</td>
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<tr>
<td>Frank Ruffino</td>
<td>X</td>
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<tr>
<td>Robert Stockton</td>
<td>X</td>
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</tbody>
</table>

### V. Administration

#### A. Fiscal Year 2017/18 Budget Status

Mr. Moore reported that Fi$Cal reports were received from DCA Budgets on February 19, 2020, and we have officially closed Fiscal Year 2017/18. The result in adjustment reflects a slight increase in revenue of $133,000 and a decrease in expenditures of $209,400.

#### B. Fiscal Year 2018/19 Budget Status

Mr. Moore reported that we have not received Fi$Cal reports for Fiscal Year 2018/19. DCA is anticipating receiving reports in the spring. Overall, the fund is progressing in a positive manner.

#### C. Fiscal Year 2019/20 Budget Report

President Amistad inquired about the increase in training from $150 to $500. Mr. Moore believes it is due to a change in staffing and the need for training. In addition, President Amistad noted a 40% reduction in Information Technology. Mr. Moore explained that when the new system upgrade was proposed, the changes encompassed the entire fiscal year, but because of the timing of when it started in January, there is less in this Fiscal Year as explained by Mr. Alameida at January’s Board meeting.
VI. Legislation

A. 2020 Legislative Calendar
Ms. Eissler presented the legislative calendar.

B. Discussion of Legislation for 2020

**AB 1263** Contracts: consumer services: consumer complaints.

<table>
<thead>
<tr>
<th>MOTION:</th>
<th>Mr. King and Dr. Qureshi moved to take a position of support on AB 1263, as amended January 6, 2020.</th>
</tr>
</thead>
<tbody>
<tr>
<td>VOTE:</td>
<td>10-0, Motion Carried</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Member Name</th>
<th>Yes</th>
<th>No</th>
<th>Abstain</th>
<th>Absent</th>
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<tbody>
<tr>
<td>Fel Amistad</td>
<td>X</td>
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<td>Steve Wilson</td>
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<tr>
<td>Natalie Alavi</td>
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<tr>
<td>Betsy Mathieson</td>
<td>X</td>
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<tr>
<td>Mohammad Qureshi</td>
<td>X</td>
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<tr>
<td>Frank Ruffino</td>
<td>X</td>
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<tr>
<td>Robert Stockton</td>
<td>X</td>
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</tr>
</tbody>
</table>

**AB 1616** Department of Consumer Affairs: boards: expunged convictions.

<table>
<thead>
<tr>
<th>MOTION:</th>
<th>Mr. Stockton and Ms. Mathieson moved to take a position of watch on AB 1616, as amended January 6, 2020.</th>
</tr>
</thead>
<tbody>
<tr>
<td>VOTE:</td>
<td>10-0, Motion Carried</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Member Name</th>
<th>Yes</th>
<th>No</th>
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<tr>
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AB 2028 State agencies: meetings.

**MOTION:** Mr. King and Vice-President Wilson moved to take a position of watch on AB 2028. However, there should be some exceptions for matters that are urgent or have changed within the 10-day period.

**VOTE:** 10-0, Motion Carried

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AB 2113 Refugees, asylees, and immigrants: professional licensing.

**MOTION:** Mr. King and Mr. Hamilton moved to take a position of watch on AB 2113.

**VOTE:** 10-0, Motion Carried

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AB 2185  Professions and vocations: applicants licensed in other states: reciprocity.

MOTION: Mr. King and Mr. Johnson moved to take a position of oppose unless amended on AB 2185 to specifically exempt the Board with the statement that the Board believes that the reciprocity statutes and regulations that are in place in the Board’s laws provide the right balance between the need for reciprocity and the need to protect the public.

VOTE: 10-0, Motion Carried

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AB 2454 Department of Consumer Affairs: retired or inactive status license: discipline.

**MOTION:** Mr. King and Mr. Ruffino moved to take a position of support on AB 2454.

**VOTE:** 10-0, Motion Carried

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AB 2549 Department of Consumer Affairs: temporary licenses.
No action taken.

AB 2631 License fees: military partners and spouses

**MOTION:** Ms. Mathieson and Mr. Stockton moved to take a position of watch on AB 2631 and authorized changing the position to oppose if AB 2631 is amended to require the Board to waive any fees associated with obtaining a license.

**VOTE:** 10-0, Motion Carried

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No action taken.

AB 3334  Professional Land Surveyors’ Act.

**MOTION:** Vice-President Wilson and Mr. Stockton moved to take a position of watch on AB 3334 and direct staff to work with the author and sponsor on any proposed amendments in order to address the concerns previously expressed by the Board regarding SB 556.

**VOTE:** 10-0, Motion Carried

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SB 865  Excavations: subsurface installations.

**MOTION:** Mr. King and Mr. Hamilton moved to take a position of watch on SB 865 and direct staff to work with the author, sponsors, and Dig Safe Board staff to determine the actual intent of this amendment and to assist them with developing language that would more appropriately reflect language used with GIS systems and address any issues relating to compliance with the Professional Land Surveyors’ Act.

**VOTE:** 10-0, Motion Carried
### SB 878  Department of Consumer Affairs Licensing: applications: wait times.

**MOTION:** Dr. Qureshi and Mr. Johnson moved to take a position of watch on SB 878 at this time to see if further clarification of the terms in the bill is provided when the bill is heard in Committee.

**VOTE:** 10-0, Motion Carried

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162
SB 1057  Land.

**MOTION:**
Dr. Qureshi and Mr. Wilson moved to oppose unless amended SB 1057 to remove Section 8726 from the bill until such time as Board can review and consider a proposed definition to “cadastral surveying” and to work with sponsors, if necessary.

**VOTE:** 10-0, Motion Carried

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**VII. Enforcement**

A. Enforcement Statistical Reports
   1. Fiscal Year 2019/20 Update
      Ms. Criswell presented the Enforcement statistics. She provided an update on the criminal case relating to Palos Verdes Engineering. The two defendants Ruben Gutierrez and Wilfredo Rodriguez received a sentence of a year in county jail and 5 years of probation related to forging the professional engineer stamp of the business owner.

**VIII. Exams/Licensing**
Mr. Moore reported that ASBOG and NCEES are moving forward with exam administration at this time, but that is subject to change.

**IX. Executive Officer’s Report**

A. Rulemaking Status Report
   Mr. Moore reported that the Fees and Certificates rulemaking process is progressing.

B. Update on Board’s Business Modernization Project
   Mr. Moore provided a brief report and noted that they met with the vendor, InLumon, to review the first MVP (Minimum Viable Product), which is the
Engineer-In-Training and the Land Surveyor-In-Training application submittal process.

C. Personnel
Mr. Moore reported that an offer was made for the Budget Analyst position.

An additional evaluator position will soon be available, in addition to another vacancy in the Licensing Unit.

The Board’s receptionist, Nina Natha, left the Board to work for another agency.

D. ABET
No report given.

E. Association of State Boards of Geology (ASBOG)
Due to the recent Governor’s Executive Order with regards to travel restrictions and gatherings, the decision to cancel the upcoming ASBOG exams was made.

F. National Council of Examiners for Engineering and Surveying (NCEES)
1. Nomination for Western Zone Vice President
Mr. Moore provided information regarding the Houston meeting in April. He suspects that the meeting may be cancelled or presented as a webinar. In addition, the Board’s request for Out of State (OST) approval was denied as the destination is considered a banned state and not mission critical.

1:55 p.m. Dr. Qureshi left.

MOTION:
Mr. Wilson and Ms. Mathieson moved to support Karen Purcell as NCEES Western Zone Vice-President.

VOTE:
9-0, Motion Carried

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2:02 p.m. Dr. Qureshi returned.

2. Nomination for NCEES Treasurer

**MOTION:** Mr. King and Mr. Johnson moved to nominate Bob Stockton as NCEES Treasurer.

**VOTE:** 9-0, Motion Carried

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3. Examinations for Professional Surveyors (EPS) Committee seeking Board Response Pertaining to Future Exam Divisions

Mr. Wilson is a current member of the EPS Committee, and Mr. Moore is a consultant. The Committee was tasked with implementing the charge to develop and implement a plan to restructure the Professional Surveyor examination.

Mr. Wilson explained that the Committee’s responsibility was to develop a plan for implementing the Council-approved examination divisions for the PS exam. The Committee sent out another questionnaire to all the member boards that regulate land surveying; however, many of those items were already previously studied by the task force during the preceding two years. He believes it is an impediment to what the Committee was tasked to do.

Mr. Moore reviewed the assumptions and questions provided by NCEES and captured comments by the board members. He and Mr. Wilson will provide responses to the committee on behalf of the Board subsequent to this meeting.

4. Combined Zone Interim Meeting – Out-of-State Travel Request

Reviewed under IX. Executive Officer's Report F. 1.
5. Western Zone Mobility Challenge
Mr. Moore reported that Brian Robertson, Western Zone Vice-President, asked that all Western Zone Boards review the laws and regulations of member boards as assigned at the 2019 Annual Meeting, giving consideration to whether the laws reduce barriers to mobility while recognizing that each member board has reviewed their own laws and regulations. Mr. Moore provided findings on California Laws and Regulations as reviewed by the Montana Board.

G. Update on Outreach Efforts
Mr. Moore presented the Board’s Outreach report.

X. Technical Advisory Committees (TACs)
A. Assignment of Items to TACs
No report given.

B. Appointment of TAC Members
No report given.

C. TAC Appointment
1. TAC Appointment Policies
Mr. Moore reviewed the TAC appointment policies. He reported that the TAC meets based on assignments given by the Board. TAC members are also required to submit their Form 700 and are required to complete the online policy training even though they are not attending meetings. Mr. Moore suggested continuing to advertise for applicants to the various active TACs. He also recommended that the Board discuss any anticipated need to assign topics to the TACs for the following fiscal year, establish assignments for the TAC on an annual basis, and direct staff with a general course of action.

The Board agreed with Mr. Moore’s recommendation.

D. Reports from the TACs
No report given.

XI. Discussion for an Increase in the Exempt Salary Level of the Executive Officer
President Amistad discussed the need to request a change to the exempt salary category for the Executive Officer. A request to change the exempt category will need to be submitted along with supporting documentation to the Department’s Office of Human Resources, the Business Consumer Services and Housing Agency, and the California Department of Human Resources for review and approval.

**MOTION:** Mr. King and Mr. Ruffino moved to assign President Amistad as Board representative to work with staff.

**VOTE:** 10-0, Motion Carried
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XII. President’s Report/Board Member Activities
President Amistad reported on his outreach activities. If any Board member is interested in attending any of the outreach events, Mr. Moore will put them in contact with the registrar for that program.

XIII. Approval of Meeting Minutes
A. Approval of the Minutes of the January 16, 2020, Board Meeting

**MOTION:** Mr. King and Mr. Wilson moved to approve the minutes as amended.

**VOTE:** 9-0-1, Motion Carried
X. Technical Advisory Committees (TACs) (Cont.)
   A. Assignment of Items to TACs
      Mr. King suggested assigning the review of the “cadastral surveying” item to
      the LS TAC.

      **MOTION:** Dr. Qureshi and Mr. King moved to assign the review of the
      definition of “cadastral surveying,” as proposed in AB 3334, to
      the LS TAC to provide recommendations to the Board.

      **VOTE:** 10-0, Motion Carried

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XIV. Discussion Regarding Proposed Agenda Items for Next Board Meeting
   Mr. Moore noted that if the LSTAC meets, the results will most likely not be
   available until the June meeting at the earliest, subject to the availability of
   coordinating an LSTAC meeting.

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)]

XVI. Open Session to Announce the Results of Closed Session
   During Closed Session, the Board took action on three stipulations and a default
   decision.

XVII. Adjourn
   The meeting adjourned at 3:23 p.m.
PUBLIC PRESENT
Bob DeWitt, ACEC - CA
Alan Escarda, PECG
Brian Wilson
XIV. Discussion Regarding Proposed Agenda Items for Next Board Meeting
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)]