



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

Board for Professional Engineers,
Land Surveyors, and Geologists

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



Teleconference Public Board Meeting

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May 7, 2020

TELECONFERENCE

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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)

Report will be included in an Addendum.

V. Administration

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

0770 - Professional Engineers, Land Surveyors and Geologists
 Financial Statement

Prepared 4/23/2020

	FY 19-20 REV & EXP 4/12 Activity Log	FY 19-20 FM 1 Projections	FY 19-20 PROJECTIONS TO YEAR END	% CHANGE
Revenue				
Applications/Licensing Fees	1,196,248	1,646,000	1,646,000	0%
1 Renewal fees	6,116,355	6,891,000	6,891,000	0%
2 Delinquent fees	48,633	88,000	88,000	0%
Other & Reimbursements	68,720	140,000	140,000	0%
3 Interest	74,492	163,000	163,000	0%
Total Revenue:	7,504,448	8,928,000	8,928,000	0%
Expense				
Personnel Services:				
4 Salary & Wages (Staff)	1,956,776	2,924,425	2,923,341	0%
Temp Help	88,479	123,785	137,509	11%
Statutory Exempt (EO)	89,056	135,526	133,584	-1%
Board Member Per Diem	6,100	10,000	15,000	50%
Overtime/Flex Elect/Lump Sum	725	0	450	100%
Staff Benefits	1,172,709	1,713,980	1,759,064	3%
Total Personnel Services	3,313,845	4,907,716	4,968,947	1%
Operating Expense and Equipment:				
General Expense	51,411	67,000	80,000	19%
5 Printing	623	8,000	30,000	275%
Communication	15,592	44,000	26,844	-39%
Postage	0	50,000	25,000	-50%
Insurance	103	16,000	17,000	6%
Travel In State	35,346	60,000	50,000	-17%
Travel, Out-of-State	0	800	4,800	500%
Training	20	150	300	100%
Facilities Operations	248,250	416,004	375,000	-10%
6 C & P Services - Interdept.	326,410	457,090	699,628	53%
7 C & P Services - External	907,944	1,243,885	2,146,903	73%
8 DCA Pro Rata	1,184,247	1,579,000	1,615,000	2%
DOI - Investigations	0	0	0	0%
Interagency Services	10,861	27,000	21,000	-22%
Consolidated Data Center	20,760	22,000	31,000	41%
9 Information Technology	14,442	1,143,000	29,192	-97%
Equipment	10,533	0	101,610	100%
10 Other Items of Expense (ARF Deposit)	0	0	200,000	100%
Total OE&E	2,826,542	5,133,929	5,453,277	6%
Total Expense:	6,140,387	10,041,645	10,422,224	4%
Total Revenue:	7,504,448	8,928,000	8,928,000	
Total Expense:	6,140,387	10,041,645	10,422,224	
Difference:	1,364,061	(1,113,645)	(1,494,224)	

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.

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

Prepared 4/23/2020

(Dollars in Thousands)

Governor's Budget 2020-21		Governor's Budget			
		PY	CY	BY	BY + 1
		2018-19	2019-20	2020-21	2021-22
BEGINNING BALANCE		\$ 7,955	\$ 6,651	\$ 5,383	\$ 4,579
Prior Year Adjustment		\$ 616		\$ -	\$ -
Adjusted Beginning Balance		\$ 8,571	\$ 6,651	\$ 5,383	\$ 4,579
REVENUES AND TRANSFERS					
Revenues:					
4121200	Delinquent fees	\$ 75	\$ 88	\$ 128	\$ 129
4127400	Renewal fees	\$ 6,258	\$ 6,891	\$ 10,366	\$ 11,623
4129200	Other regulatory fees	\$ 100	\$ 140	\$ 127	\$ 127
4129400	Other regulatory licenses and permits	\$ 1,842	\$ 1,646	\$ 2,011	\$ 2,017
141200	Sales of documents	\$ -	\$ -	\$ -	\$ -
142500	Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -
4140000	Sales of documents	\$ -	\$ -	\$ -	\$ -
4150500	Interest Income from interfund loans	\$ 24	\$ -	\$ -	\$ -
4163000	Income from surplus money investments	\$ 145	\$ 259	\$ 259	\$ 66
160400	Sale of fixed assets	\$ -	\$ -	\$ -	\$ -
4171400	Escheat of unclaimed checks and warrants	\$ 22	\$ 22	\$ 22	\$ 22
4172500	Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1
Totals, Revenues		\$ 8,467	\$ 9,047	\$ 12,914	\$ 13,985
Transfers from Other Funds					
Revenue Transfer from Geology/General Fund					
FO0001	Proposed GF Loan Repayment per item 1110-011-0770, Budget Act of 2011	\$ 800	\$ -	\$ -	\$ -
Totals, Revenues and Transfers		\$ 9,267	\$ 9,047	\$ 12,914	\$ 13,985
Totals, Resources		\$ 17,838	\$ 15,698	\$ 18,297	\$ 18,564
EXPENDITURES					
Disbursements:					
1111	Department of Consumer Affairs (State Operations)	\$ 10,335	\$ 10,422	\$ 12,874	\$ 13,260
8880	Financial Information System for CA (State Operations)	\$ 1	\$ -1	\$ -	\$ -
9892	Supplemental Pension Payments (State Operations)	\$ 98	\$ 209	\$ 209	\$ 209
9900	Statewide Admin. (State Operations)	\$ 753	\$ 819	\$ 635	\$ 635
Less funding provided by General Fund (State Operations)		\$ -	\$ -1,134	\$ -	\$ -
Total Disbursements		\$ 11,187	\$ 10,315	\$ 13,718	\$ 14,104
FUND BALANCE					
Reserve for economic uncertainties		\$ 6,651	\$ 5,383	\$ 4,579	\$ 4,460
Months in Reserve		7.7	4.7	3.9	3.7

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.

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)

DEADLINES

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

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

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

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

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

- [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)).
- [Feb. 17](#) Presidents' Day.
- [Feb. 21](#) Last day for bills to be **introduced** (J.R. 61(b)(4)), (J.R. 54(a)).
- [Mar. 27](#) Cesar Chavez Day observed
- [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)).
- [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.

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)

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

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

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

- [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

2020

- [Sept. 30](#) Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor’s possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
 - [Nov. 3](#) General Election
 - [Nov. 30](#) Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).
 - [Dec. 7](#) 12 m. convening of 2021-22 Regular Session (Art. IV, Sec. 3(a)).
- 2021**
- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).

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.

AMENDED IN ASSEMBLY JANUARY 6, 2020

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1263

Introduced by Assembly Member Low

February 21, 2019

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

AB 1263, as amended, Low. ~~Peer-to-peer car sharing.~~ *Contracts: consumer services: consumer complaints.*

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.~~

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

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

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

3 1670.8.5. (a) A contract or proposed contract involving the
4 provision of a consumer service by a licensee regulated by a
5 licensing board shall not include a provision limiting the
6 consumer's ability to file a complaint with that board or to
7 participate in the board's investigation into the licensee.

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

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

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

13 (2) "Licensing board" means any entity contained in Section
14 101 of the Business and Professions Code, the State Bar of

1 California, the Department of Real Estate, or any other state
2 agency that issues a license, certificate, or registration authorizing
3 a person to engage in a business or profession.

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

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

10
11 ~~CHAPTER 1.6. PEER-TO-PEER CAR SHARING PROGRAMS~~
12

13 ~~1939.60. This chapter may be cited as the Peer-to-Peer Car~~
14 ~~Sharing Program Act.~~

15 ~~1939.61. As used in this chapter, the following terms have the~~
16 ~~following meanings:~~

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

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

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

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

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

37 ~~(1) The intent to terminate the use of the shared vehicle is~~
38 ~~verifiably communicated by the shared vehicle driver to the shared~~
39 ~~vehicle owner using the peer-to-peer car sharing program.~~

1 ~~(2) The shared vehicle owner or the shared vehicle owner's~~
 2 ~~authorized designee takes possession and control of the shared~~
 3 ~~vehicle.~~

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

6 ~~(f) "Peer-to-peer car sharing" means the authorized use of a~~
 7 ~~vehicle by an individual other than the vehicle's owner through a~~
 8 ~~peer-to-peer car sharing program.~~

9 ~~(g) "Peer-to-peer car sharing program" means a business~~
 10 ~~platform that connects vehicle owners with licensed drivers to~~
 11 ~~enable the sharing of vehicles for financial consideration.~~
 12 ~~"Peer-to-peer car sharing program" does not mean car rental~~
 13 ~~agency.~~

14 ~~(h) "Shared vehicle" means a vehicle that is available for sharing~~
 15 ~~through a peer-to-peer car sharing program.~~

16 ~~(i) "Shared vehicle driver" means a person who is authorized~~
 17 ~~to drive a shared vehicle by the shared vehicle owner under a car~~
 18 ~~sharing program agreement.~~

19 ~~(j) "Shared vehicle owner" means the registered owner of a~~
 20 ~~vehicle made available for sharing to shared vehicle drivers through~~
 21 ~~a peer-to-peer car sharing program.~~

22 ~~1939.62. Each car sharing program agreement made in the state~~
 23 ~~shall disclose to the shared vehicle owner and the shared vehicle~~
 24 ~~driver all of the following:~~

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

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

34 ~~(c) That the peer-to-peer car sharing program's insurance~~
 35 ~~coverage on the shared vehicle owner and the shared vehicle driver,~~
 36 ~~required pursuant to Article 5.1 (commencing with Section~~
 37 ~~11629.6) to Chapter 1 of Part 3 of Division 2 of the Insurance~~
 38 ~~Code, is in effect only during each car sharing period and that, for~~
 39 ~~any use of the shared vehicle by the shared vehicle driver after the~~

1 ~~car sharing termination time, the shared vehicle driver and the~~
2 ~~shared vehicle owner may not be covered.~~

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

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

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

11 ~~1939.63. A peer-to-peer car sharing program shall disclose the~~
12 ~~daily rate, charges, fees, and costs when providing a quote and~~
13 ~~shall not require any other fees or charges to be paid as a condition~~
14 ~~of using the shared vehicle.~~

15 ~~1939.64. (a) A peer-to-peer car sharing program shall only~~
16 ~~enter into a car sharing program agreement with a shared vehicle~~
17 ~~driver who is at least 18 years of age and who provides~~
18 ~~documentation of either of the following documents:~~

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

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

26 ~~1939.65. A peer-to-peer car sharing program shall have sole~~
27 ~~responsibility for any equipment that is installed in or on the~~
28 ~~vehicle to facilitate the car sharing transaction, and shall agree to~~
29 ~~indemnify and hold harmless the shared vehicle owner for any~~
30 ~~damage to or theft of the equipment during the sharing period not~~
31 ~~caused by the vehicle owner. The peer-to-peer car sharing program~~
32 ~~has the right to seek indemnity from the shared vehicle driver for~~
33 ~~any loss or damage to the equipment that occurs during the car~~
34 ~~sharing period.~~

35 ~~1939.66. (a) Notwithstanding any other law, a commercial~~
36 ~~airport authority is authorized to regulate access to an airport and~~
37 ~~set access fees for peer-to-peer car sharing programs. If required,~~
38 ~~a peer-to-peer car sharing program shall obtain a permit or other~~
39 ~~written authorization from the airport operator prior to facilitating~~
40 ~~the sharing of vehicles at that airport.~~

1 ~~(b) This section does not affect the authority of any political~~
 2 ~~subdivision of the state to regulate access to an airport it owns or~~
 3 ~~operates and to set access fees or requirements for a peer-to-peer~~
 4 ~~car sharing program.~~

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

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

9
 10 ~~Article 5.1. Peer-to-Peer Car Sharing Programs~~

11
 12 ~~11629.6. For purposes of this article, the definitions set forth~~
 13 ~~in Section 1939.61 of the Civil Code shall apply.~~

14 ~~11629.61. (a) A peer-to-peer car sharing program shall assume~~
 15 ~~the liability of a shared vehicle owner for any property damage to~~
 16 ~~the shared vehicle or any bodily injury or property damage to third~~
 17 ~~parties or uninsured and underinsured motorist or personal injury~~
 18 ~~protection losses during the car sharing period in an amount stated~~
 19 ~~in the peer-to-peer car sharing program agreement which amount~~
 20 ~~may not be less than those set forth in Section 16056 of the Vehicle~~
 21 ~~Code. In addition, a peer-to-peer car sharing program shall also~~
 22 ~~assume liability for the shared vehicle.~~

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

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

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

- 35 ~~(1) The shared vehicle owner.~~
 36 ~~(2) The shared vehicle driver.~~
 37 ~~(3) The peer-to-peer car sharing program.~~
 38 ~~(4) Any combination of the above.~~

39 ~~(d) The peer-to-peer car sharing program shall assume primary~~
 40 ~~liability for a claim when it is, in whole or in part, providing the~~

1 insurance required under subdivision (b) and both of the following
2 are true:

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

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

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

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

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

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

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

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

35 11629.62. Before a shared vehicle is made available for car
36 sharing on the peer-to-peer car sharing program, the peer-to-peer
37 car sharing program shall notify the shared vehicle owner that, if
38 the shared vehicle has a lien against it, the use of the shared vehicle
39 through a peer-to-peer car sharing program, including use without

1 physical damage coverage, may violate the terms of the contract
2 with the lienholder.

3 ~~11629.63. An authorized insurer that writes motor vehicle
4 liability insurance may exclude any and all coverage and the duty
5 to defend or indemnify for any claim afforded under a shared
6 vehicle owner's personal motor vehicle liability insurance policy.
7 This article does not invalidate or limit an exclusion contained in
8 a motor vehicle liability insurance policy, including any insurance
9 policy in use or approved for use that excludes coverage for motor
10 vehicles made available for rent, sharing, or hire or for any business
11 use.~~

12 ~~11629.64. A motor vehicle insurer may not deny, cancel, void,
13 terminate, rescind, or nonrenew a policy of personal private
14 passenger automobile liability insurance of a shared vehicle owner
15 solely on the basis that vehicle covered under the policy has been
16 made available for sharing through a peer-to-peer car sharing
17 program.~~

18 ~~11629.65. A peer-to-peer car sharing program shall collect and
19 verify records pertaining to the use of a vehicle, including, but not
20 limited to, times used, fees paid by the shared vehicle driver, and
21 revenues received by the shared vehicle owner and provide that
22 information upon request to the shared vehicle owner, the shared
23 vehicle owner's insurer, or the shared vehicle driver's insurer to
24 facilitate a claim coverage investigation. The peer-to-peer car
25 sharing program shall retain the records for not less than five years
26 unless a longer retention period is otherwise required by law.~~

27 ~~11629.66. A motor vehicle insurer that defends or indemnifies
28 a claim involving a shared vehicle that is excluded under the terms
29 of its policy shall have the right to seek contribution against the
30 motor vehicle insurer of the peer-to-peer car sharing program if
31 both of the following are true:~~

32 ~~(a) The claim is made against the shared vehicle owner or the
33 shared vehicle driver for loss or injury that occurs during the car
34 sharing period.~~

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

37 ~~11629.67. A peer-to-peer car sharing program shall, for each
38 vehicle that it facilitates the use of, provide the registered owner
39 of the vehicle with a Department of Motor Vehicles Form REG
40 5085 or other suitable proof of compliance with the insurance~~

1 requirements of this section and the requirements of the California
2 Financial Responsibility Law in Section 1656.2 of the Vehicle
3 Code, a copy of which shall be maintained in the vehicle by the
4 vehicle's registered owner during any time when the vehicle is
5 operated by any person other than the vehicle's owner pursuant to
6 a peer-to-peer car sharing program.

7 SEC. 4. Section 11752 of the Vehicle Code is amended to read:

8 11752. As used in this article, the following definitions apply:

9 (a) The term "dealer" has the same meaning as in Section 285.

10 (b) (1) A "manufacturer's recall" is a recall conducted pursuant
11 to Sections 30118 to 30120, inclusive, of Title 49 of the United
12 States Code.

13 (2) A manufacturer's recall does not include a service campaign
14 or emission recall when the vehicle manufacturer or the National
15 Highway Traffic Safety Administration has not issued a recall
16 notice to owners of affected vehicles, pursuant to Section 30118
17 of Title 49 of the United States Code.

18 (c) A "peer-to-peer car sharing program" has the same meaning
19 as defined in Section 1939.61 of the Civil Code.

20 (d) A "recall database" is a database from which an individual
21 may obtain vehicle identification number (VIN) specific
22 manufacturer's recall information relevant to a specific vehicle.

23 (1) For a vehicle manufacturer that is not subject to the
24 regulations adopted pursuant to Section 31301 of the federal
25 Moving Ahead for Progress in the 21st Century Act (Public Law
26 112-141), a recall database is one of the following:

27 (A) The recall data on a vehicle manufacturer's internet website
28 for a specific vehicle's line-make.

29 (B) The recall data in a vehicle manufacturer's internal system
30 that provides information to its franchisees on vehicles subject to
31 recall.

32 (C) The recall data in subparagraph (A) or (B) that is contained
33 in a commercially available vehicle history system.

34 (2) For a vehicle manufacturer that is subject to the regulations
35 adopted pursuant to Section 31301 of the federal Moving Ahead
36 for Progress in the 21st Century Act (Public Law 112-141), a recall
37 database shall include, at a minimum, the recall information
38 required pursuant to Section 573.15 of Title 49 of the Code of
39 Federal Regulations.

1 (e) A “recall database report” is a report, specific to a vehicle
2 that is identified by its VIN, containing information obtained from
3 a recall database.

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

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

7 11754. (a) No later than 48 hours after receiving a notice of a
8 manufacturer’s recall, or sooner if practicable, a dealer or rental
9 car company with a motor vehicle fleet of 34 or fewer loaner or
10 rental vehicles shall not loan, rent, or offer for loan or rent a vehicle
11 subject to that recall until the recall repair has been made.

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

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

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

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

40 SEC. 6. Section 11760 of the Vehicle Code is amended to read:

1 ~~11760. (a) This article does not create any legal duty upon the~~
2 ~~dealer, rental car company, peer-to-peer car sharing program, or~~
3 ~~department related to the accuracy, errors, or omissions contained~~
4 ~~in a recall database report or any legal duty to provide information~~
5 ~~added to a recall database after the dealer, rental car company,~~
6 ~~peer-to-peer car sharing program, or department obtained the recall~~
7 ~~database report pursuant to Sections 11754 and 11758.~~

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

11 ~~(c) This section does not affect the determination of whether or~~
12 ~~not a company is a rental car company or whether or not a company~~
13 ~~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.

AMENDED IN ASSEMBLY JANUARY 6, 2020

AMENDED IN ASSEMBLY APRIL 1, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1616

Introduced by Assembly Member Low
(Coauthor: Assembly Member Eduardo Garcia)

February 22, 2019

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

AB 1616, as amended, Low. ~~Accelerated death benefits—Department of Consumer Affairs: boards: expunged convictions.~~

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.~~

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

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

1 SECTION 1. Section 493.5 is added to the Business and
2 Professions Code, to read:
3 493.5. (a) A board within the department that has posted on
4 its internet website that a person's license was revoked because
5 the person was convicted of a crime, upon receiving from the
6 person a certified copy of an expungement order granted pursuant
7 to Section 1203.4 of the Penal Code for the underlying offense,
8 shall, within six months of receiving the expungement order, unless
9 it is otherwise prohibited by law, or by other terms or conditions,
10 do either of the following:

1 (1) If the person reapplies for licensure or has been relicensed,
 2 post notification of the expungement order and the date thereof
 3 on its internet website.

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

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

12 (c) For purposes of this section "board" means an entity listed
 13 in Section 101.

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

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

18 ~~10295.6. (a) If a policyholder or certificate holder requests an~~
 19 ~~acceleration of death benefits, the insurer shall send a statement~~
 20 ~~to the policyholder or certificate holder and irrevocable beneficiary~~
 21 ~~showing any effect that the payment of the accelerated death benefit~~
 22 ~~would have on the policy's cash value, accumulation account,~~
 23 ~~death benefit, premium, policy loans, and policy liens. The~~
 24 ~~statement shall disclose that receipt of accelerated death benefit~~
 25 ~~payments may adversely affect the recipient's eligibility for~~
 26 ~~Medicaid or other government benefits or entitlements. In addition,~~
 27 ~~receipt of an accelerated death benefit payment may be taxable~~
 28 ~~and assistance should be sought from a personal tax adviser. If a~~
 29 ~~previous disclosure statement becomes invalid as a result of an~~
 30 ~~acceleration of the death benefit, the insurer shall send a revised~~
 31 ~~disclosure statement to the policyholder or certificate holder and~~
 32 ~~irrevocable beneficiary.~~

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

36 ~~(c) If the insurer charges a separate premium for the accelerated~~
 37 ~~death benefit, then the insurer may also offer a waiver of premium~~
 38 ~~benefit as defined in subdivision (a) of Section 10271.1. At the~~
 39 ~~time the waiver of the accelerated death benefit premium benefit~~

1 is claimed, the insurer shall explain any continuing premium
2 requirement to keep the underlying policy in force.

3 (d) ~~An insurer shall not unfairly discriminate among insureds
4 with different qualifying events covered under the policy or among
5 insureds with similar qualifying events covered under the policy.
6 An insurer shall not apply further conditions on the payment of
7 the accelerated death benefits other than those conditions specified
8 in the accelerated death benefit.~~

9 (e) ~~No later than one month after payment of an accelerated
10 death benefit, the insurer shall provide the policyholder or
11 certificate holder with a report of any accelerated death benefits
12 paid out during the prior month, an explanation of any changes to
13 the policy or certificate, death benefits, and cash values on account
14 of the benefits being paid out, and the amount of the remaining
15 benefits that may be accelerated at the end of the prior month. The
16 insurer may use a calendar month or policy or certificate month.~~

17 (f) ~~The conversion benefit available to group certificate holders
18 on termination of employment pursuant to paragraph (2) of
19 subdivision (a) of Section 10209 shall include a benefit comparable
20 to the accelerated death benefit. This requirement may be satisfied
21 by an individual policy or certificate. This requirement, subject to
22 the approval of the commissioner, may be satisfied by arrangement
23 with another insurer to provide the required coverage.~~

24 (g) ~~If payment of an accelerated death benefit results in a pro
25 rata reduction in cash value, the payment may be applied toward
26 repaying a portion of the loan equal to a pro rata portion of any
27 outstanding policy loans if disclosure of the effect of acceleration
28 upon any remaining death benefit, cash value or accumulation
29 account, policy loan, and premium payments, including a statement
30 of the possibility of termination of any remaining death benefit,
31 is provided to the policyholder or certificate holder. The
32 policyholder or certificate holder shall provide written consent
33 authorizing any other arrangement for the repayment of outstanding
34 policy loans.~~

5

1
2 **REVISIONS:**
3 **Heading—Line 2.**
4

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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.

ASSEMBLY BILL

No. 2028

Introduced by Assembly Member Aguiar-Curry

January 30, 2020

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.

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
 2 (a) The Bagley-Keene Open Meeting Act (Article 9
 3 (commencing with Section 11120) of Chapter 1 of Part 1 of
 4 Division 3 of Title 2 of the Government Code) (hereafter
 5 “Bagley-Keene”) was intended to implement Section 3 of Article
 6 I of the California Constitution, which states in part, “The people
 7 have the right of access to information concerning the conduct of
 8 the people’s business, and, therefore, the meetings of public bodies
 9 and the writings of public officials and agencies shall be open to
 10 public scrutiny.”
 11 (b) Bagley-Keene was written to protect public meetings and
 12 public notice and to ensure the transparency of actions taken by
 13 state agencies, boards, and commissions.
 14 (c) Californians have the right to participate in state body
 15 deliberations. This includes the public’s ability to comment on all
 16 agenda items discussed at a meeting of the state body, regardless
 17 of whether an item has been discussed previously in a committee
 18 of the state body.
 19 (d) The purpose of public notice is so that state bodies give the
 20 public adequate time for review of the substance of a state body
 21 meeting and for comment.
 22 (e) Public notice must also include any writings or materials
 23 provided by a state body’s staff or by a member of the state body
 24 to other members of the state body for a noticed meeting of the
 25 body held at least 10 days prior to the meeting.

1 (f) Bagley-Keene affirms these rights by stating in Section 11120
2 of the Government Code, “The people of this state do not yield
3 their sovereignty to the agencies which serve them. The people,
4 in delegating authority, do not give their public servants the right
5 to decide what is good for the people to know and what is not good
6 for them to know. The people insist on remaining informed so that
7 they may retain control over the instruments they have created.”

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

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

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

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

37 (2) *The writings or materials described in paragraph (1) shall*
38 *be made available on the internet at least 10 days in advance of*
39 *the meeting, and to any person who requests that notice in writing.*

1 (3) *A state body may distribute or discuss writings or materials*
2 *described in paragraph (1) at a meeting of the state body only if*
3 *it has complied with this subdivision.*

4 (4) *This subdivision does not apply to writings or materials*
5 *prepared for a matter to be discussed in a closed session of the*
6 *state body.*

7 ~~(e)~~

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

17 ~~(e)~~

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

24 ~~(e)~~

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

27 ~~(f)~~

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

38 SEC. 3. Section 11125.7 of the Government Code is amended
39 to read:

1 11125.7. (a) Except as otherwise provided in this section, the
 2 state body shall provide an opportunity for members of the public
 3 to directly address the state body on each agenda item before or
 4 during the state body's discussion or consideration of the item.
 5 ~~This section is not applicable if the agenda item has already been~~
 6 ~~considered by a committee composed exclusively of members of~~
 7 ~~the state body at a public meeting where interested members of~~
 8 ~~the public were afforded the opportunity to address the committee~~
 9 ~~on the item, before or during the committee's consideration of the~~
 10 ~~item, unless the item has been substantially changed since the~~
 11 ~~committee heard the item, as determined by the state body.~~ Every
 12 notice for a special meeting at which action is proposed to be taken
 13 on an item shall provide an opportunity for members of the public
 14 to directly address the state body concerning that item prior to
 15 action on the item. In addition, the notice requirement of Section
 16 11125 shall not preclude the acceptance of testimony at meetings,
 17 other than emergency meetings, from members of the public if no
 18 action is taken by the state body at the same meeting on matters
 19 brought before the body by members of the public.

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

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

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

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

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

39 (1) *Closed* sessions held pursuant to Section 11126.

40 (f) ~~This section is not applicable to decisions~~

- 1 (2) *Decisions* regarding proceedings held pursuant to Chapter
- 2 5 (commencing with Section 11500), relating to administrative
- 3 adjudication, or to the conduct of those proceedings.
- 4 ~~(g) This section is not applicable to hearings~~
- 5 (3) *Hearings* conducted by the California Victim Compensation
- 6 Board pursuant to Sections 13963 and 13963.1.
- 7 ~~(h) This section is not applicable to agenda~~
- 8 (4) *Agenda* items that involve decisions of the Public Utilities
- 9 Commission regarding adjudicatory hearings held pursuant to
- 10 Chapter 9 (commencing with Section 1701) of Part 1 of Division
- 11 1 of the Public Utilities Code. For all other agenda items, the
- 12 commission shall provide members of the public, other than those
- 13 who have already participated in the proceedings underlying the
- 14 agenda item, an opportunity to directly address the commission
- 15 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.

ASSEMBLY BILL

No. 2113

**Introduced by Assembly Member Low
(Coauthors: Assembly Members Carrillo, Medina, and
Blanca Rubio)**

February 6, 2020

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.

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

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

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

3 135.4. (a) Notwithstanding any other law, a board within the
4 department shall expedite, and may assist, the initial licensure
5 process for an applicant who supplies satisfactory evidence to the
6 board that they have been admitted to the United States as a refugee
7 under Section 1157 of Title 8 of the United States Code, have been
8 granted political asylum by the Secretary of Homeland Security
9 or the Attorney General of the United States pursuant to Section
10 1158 of Title 8 of the United States Code, or they have a special
11 immigrant visa (SIV) that has been granted a status under Section
12 1244 of Public Law 110-181, under Public Law 109-163, or under
13 Section 602(b) of Title VI of Division F of Public Law 111-8.

14 (b) A board may adopt regulations necessary to administer this
15 section.

O

AB 2185 (Patterson, R-Fresno, and Gallagher, R-Chino)
Professions and vocations: applicants licensed in other states: reciprocity.

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: 2/11/2020

Amended: 3/16/2020

Board Position: Oppose Unless Amended, as introduced 2/11/2020 (as of 3/12/2020)

Board Staff Analysis: 4/23/2020

Bill Summary: 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 filed 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.

AMENDED IN ASSEMBLY MARCH 16, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2185

Introduced by Assembly Members Patterson and Gallagher

February 11, 2020

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~~ *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~~ 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.

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

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

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

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

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

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

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

18 (4) The person has not had any disciplinary actions imposed
19 against their license and has not had a license in the discipline for
20 which the person is applying revoked or suspended in any other
21 state.

1 (5) The person submits verification that they have satisfied all
2 education, work, examination, and other requirements for licensure
3 in the other state in which the person holds a license in good
4 ~~standing~~. *standing and those requirements are similar to the*
5 *standards required for licensure in this state.*

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

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

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

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

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

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

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 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.

AMENDED IN ASSEMBLY MARCH 16, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2454

Introduced by Assembly Member ~~Chen~~ Low

February 19, 2020

~~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

AB 2454, as amended, ~~Chen Low. Department of Consumer Affairs: retired or inactive status license: discipline. Bureau of Automotive Repair: administration: trusted dealer certification.~~

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.~~

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

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

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

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

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

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

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

27 9884.12. *All proceedings to deny, suspend, revoke, or place*
28 *on probation a registration shall be conducted by an administrative*
29 *law judge appointed pursuant to Section 9882.7 in accordance*
30 *with Chapter 5 (commencing with Section 11500) of Part 1 of*
31 *Division 3 of Title 2 of the Government Code.*

32 *SEC. 3. Section 9884.22 of the Business and Professions Code*
33 *is amended to read:*

1 9884.22. (a) Notwithstanding any other provision of law, the
2 director may revoke, suspend, or deny at any time any registration
3 required by this article on any of the grounds for disciplinary action
4 provided in this article. The proceedings under this article shall be
5 conducted *by an administrative law judge appointed pursuant to*
6 *Section 9882.7* in accordance with Chapter 5 (commencing with
7 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
8 Code, and the director shall have all the powers granted therein.

9 (b) The director may deny a registration to an applicant on any
10 of the grounds specified in Section 480.

11 (c) In addition to the requirements provided in Sections 485 and
12 486, upon denial of an application for registration to an applicant,
13 the director shall provide a statement of reasons for the denial that
14 does the following:

15 (1) Evaluates evidence of rehabilitation submitted by the
16 applicant, if any.

17 (2) Provides the director's criteria relating to rehabilitation,
18 formulated pursuant to Section 482, that takes into account the age
19 and severity of the offense, and the evidence relating to
20 participation in treatment or other rehabilitation programs.

21 (3) If the director's decision was based on the applicant's prior
22 criminal conviction, justifies the director's denial of a registration
23 and conveys the reasons why the prior criminal conviction is
24 substantially related to the qualifications, functions, or duties of a
25 registered automotive repair dealer.

26 (d) Commencing July 1, 2009, all of the following shall apply:

27 (1) If the denial of a registration is due at least in part to the
28 applicant's state or federal criminal history record, the director
29 shall, in addition to the information provided pursuant to paragraph
30 (3) of subdivision (c), provide to the applicant a copy of ~~his or her~~
31 *their* criminal history record if the applicant makes a written request
32 to the director for a copy, specifying an address to which it is to
33 be sent.

34 (A) The state or federal criminal history record shall not be
35 modified or altered from its form or content as provided by the
36 Department of Justice.

37 (B) The criminal history record shall be provided in such a
38 manner as to protect the confidentiality and privacy of the
39 applicant's criminal history record and the criminal history record
40 shall not be made available by the director to any employer.

1 (C) The director shall retain a copy of the applicant's written
2 request and a copy of the response sent to the applicant, which
3 shall include the date and the address to which the response was
4 sent.

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

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

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

15

16 *Article 3.5. Trusted Dealer Certification*

17

18 9885. (a) *By July 1, 2022, the bureau shall establish through*
19 *regulation a trusted dealer certification program for automotive*
20 *repair dealers in accordance with this article.*

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

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

27 9885.1. *Commencing July 1, 2022, an automotive repair dealer*
28 *shall not use the term "trusted dealer" or any words or symbols*
29 *indicating or tending to indicate that the dealer is certified under*
30 *this article unless the automotive repair dealer holds a valid trusted*
31 *dealer certification issued by the bureau pursuant to this article.*

32 9885.2. *A trusted dealer certification shall not be a requirement*
33 *for registration or licensure, but may be obtained by an automotive*
34 *repair dealer in addition to their licensure or registration with the*
35 *bureau.*

36 9885.3. *The bureau shall issue a trusted dealer certification*
37 *to an automotive repair dealer who meets all of the following*
38 *requirements:*

1 (a) *The automotive repair dealer pays an annual certification*
 2 *fee in an amount determined by the bureau, but no more than the*
 3 *reasonable cost to the bureau to implement this article.*

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

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

15 9885.4. *A trusted dealer certification shall be valid for one*
 16 *year and may be renewed concurrently with an automotive repair*
 17 *dealer's registration renewal.*

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

20 11041. (a) Section 11042 does not apply to the Regents of the
 21 University of California, the Trustees of the California State
 22 University, Legal Division of the Department of Transportation,
 23 Division of Labor Standards Enforcement of the Department of
 24 Industrial Relations, Workers' Compensation Appeals Board,
 25 Public Utilities Commission, State Compensation Insurance Fund,
 26 Legislative Counsel Bureau, Inheritance Tax Department, Secretary
 27 of State, State Lands Commission, Alcoholic Beverage Control
 28 Appeals Board (except when the board affirms the decision of the
 29 Department of Alcoholic Beverage Control), State Department of
 30 Education, and Treasurer with respect to bonds, ~~nor~~ *Department*
 31 *of Consumer Affairs with respect to the Bureau of Automotive*
 32 *Repair, or any other state agency which, by law enacted after*
 33 *Chapter 213 of the Statutes of 1933, is authorized to employ legal*
 34 *counsel.*

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

37 *SEC. 6. No reimbursement is required by this act pursuant to*
 38 *Section 6 of Article XIII B of the California Constitution because*
 39 *the only costs that may be incurred by a local agency or school*
 40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

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

8 ~~110.7. (a) Notwithstanding any other law, a board within the~~
9 ~~department may discipline, a licensee who has put their license on~~
10 ~~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.

AMENDED IN ASSEMBLY MARCH 12, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2549

Introduced by Assembly Member Salas

February 19, 2020

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.* *Accountancy. 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.*

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

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

- 1 SECTION 1. Section 115.6 of the Business and Professions
- 2 Code is amended to read:
- 3 115.6. (a) A board within the department shall, after
- 4 appropriate investigation, issue the following eligible temporary
- 5 licenses to an applicant ~~if the applicant meets the~~ *within 30 days*
- 6 *of receiving the required documentation pursuant to meeting the*
- 7 requirements set forth in subdivision (c):
- 8 (1) Registered nurse license by the Board of Registered Nursing.
- 9 (2) Vocational nurse license issued by the Board of Vocational
- 10 Nursing and Psychiatric Technicians of the State of California.

- 1 (3) Psychiatric technician license issued by the Board of
 2 Vocational Nursing and Psychiatric Technicians of the State of
 3 California.
- 4 (4) Speech-language pathologist license issued by the
 5 Speech-Language Pathology and Audiology and Hearing Aid
 6 Dispensers Board.
- 7 (5) Audiologist license issued by the Speech-Language
 8 Pathology and Audiology and Hearing Aid Dispensers Board.
- 9 ~~(6) Veterinarian license~~ *All licenses* issued by the Veterinary
 10 Medical Board.
- 11 (7) All licenses issued by the Board for Professional Engineers,
 12 Land Surveyors, and Geologists.
- 13 (8) All licenses issued by the Medical Board of California.
- 14 (9) All licenses issued by the Podiatric Medical Board of
 15 California.
- 16 ~~(10) Registered dental assistant license or registered dental~~
 17 ~~assistant in extended functions license~~ *All licenses* issued by the
 18 Dental Board of California.
- 19 (11) All licenses issued by the Dental Hygiene Board of
 20 California.
- 21 (12) All licenses issued by the California State Board of
 22 Pharmacy.
- 23 *(13) All licenses issued by the State Board of Barbering and*
 24 *Cosmetology.*
- 25 *(14) All licenses issued by the Board of Psychology.*
- 26 *(15) All licenses issued by the California Board of Occupational*
 27 *Therapy.*
- 28 *(16) All licenses issued by the Physical Therapy Board of*
 29 *California.*
- 30 ~~(13)~~
- 31 *(17) All licenses issued by the California Board of Accountancy.*
 32 Revenues from fees for temporary licenses issued under this
 33 paragraph shall be credited to the Accountancy Fund in accordance
 34 with Section 5132.
- 35 (b) The board may conduct an investigation of an applicant for
 36 purposes of denying or revoking a temporary license issued
 37 pursuant to this section. This investigation may include a criminal
 38 background check.
- 39 (c) An applicant seeking a temporary license pursuant to this
 40 section shall meet the following requirements:

1 (1) The applicant shall supply evidence satisfactory to the board
2 that the applicant is married to, or in a domestic partnership or
3 other legal union with, an active duty member of the Armed Forces
4 of the United States who is assigned to a duty station in this state
5 under official active duty military orders.

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

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

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

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

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

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

34 ~~(e)~~

35 (d) A temporary license issued pursuant to this section may be
36 immediately terminated upon a finding that the temporary
37 licenseholder failed to meet any of the requirements described in
38 subdivision (c) or provided substantively inaccurate information
39 that would affect the person's eligibility for temporary licensure.
40 Upon termination of the temporary license, the board shall issue

1 a notice of termination that shall require the temporary
2 licenseholder to immediately cease the practice of the licensed
3 profession upon receipt.

4 ~~(f)~~

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

13 ~~(g)~~

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

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

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

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

31 5132. (a) All moneys received by the board under this chapter
32 from any source and for any purpose and from a temporary license
33 issued under Section 115.6 shall be accounted for and reported
34 monthly by the board to the Controller and at the same time the
35 moneys shall be remitted to the State Treasury to the credit of the
36 Accountancy Fund.

37 (b) The secretary-treasurer of the board shall, from time to time,
38 but not less than once each fiscal year, prepare or have prepared
39 on their behalf, a financial report of the Accountancy Fund that

1 contains information that the board determines is necessary for
2 the purposes for which the board was established.

3 (c) The report of the Accountancy Fund, which shall be
4 published pursuant to Section 5008, shall include the revenues and
5 the related costs from examination, initial licensing, license
6 renewal, citation and fine authority, and cost recovery from
7 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.

ASSEMBLY BILL

No. 2631

Introduced by Assembly Member Cunningham
(Coauthors: Assembly Members Boerner Horvath, Fong, Lackey,
and Mayes)
(Coauthors: Senators Jones and Wilk)

February 20, 2020

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.

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

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

- 1 SECTION 1. Section 115.5 of the Business and Professions
2 Code is amended to read:
3 115.5. (a) A board within the department shall expedite the
4 licensure process for an applicant who meets both of the following
5 requirements:
6 (1) Supplies evidence satisfactory to the board that the applicant
7 is married to, or in a domestic partnership or other legal union
8 with, an active duty member of the Armed Forces of the United
9 States who is assigned to a duty station in this state under official
10 active duty military orders.
11 (2) Holds a current license in another state, district, or territory
12 of the United States in the profession or vocation for which the
13 applicant seeks a license from the board.
14 (b) *A board shall not charge an applicant who meets the*
15 *requirements in subdivision (a) an initial or original license fee.*
16 ~~(b)~~
17 (c) A board may adopt regulations necessary to administer this
18 section.

AB 3334 (Chen, R-Brea)
Professional Land Surveyors' Act

Status: 2/24/2020 – Read first time.

Location: 4/23/2020 – In Assembly.

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.

ASSEMBLY BILL

No. 3334

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.

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

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

- 1 SECTION 1. Section 8726 of the Business and Professions
2 Code is amended to read:
3 8726. A person, including any person employed by the state
4 or by a city, county, or city and county within the state, practices
5 land surveying within the meaning of this chapter who, either in
6 a public or private capacity, does or offers to do any one or more
7 of the following:
8 (a) Locates, relocates, establishes, reestablishes, or retraces the
9 alignment or elevation for any of the fixed works embraced within
10 the practice of civil engineering, as described in Section 6731.

1 (b) Determines the configuration or contour of the earth's
 2 surface, or the position of fixed objects above, on, or below the
 3 surface of the earth by applying the principles of mathematics or
 4 photogrammetry.

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

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

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

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

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

32 (h) Indicates, in any capacity or in any manner, by the use of
 33 the title "land surveyor" or by any other title or by any other
 34 representation that ~~he or she~~ *the person* practices or offers to
 35 practice land surveying in any of its branches.

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

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

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

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

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

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

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

19 The review, approval, or examination by a governmental entity
20 of documents prepared or performed pursuant to this section shall
21 be done by, or under the direct supervision of, a person authorized
22 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 be 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.

Introduced by Senator HillJanuary 17, 2020

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.

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

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

1 SECTION 1. Section 4216 of the Government Code is amended
2 to read:
3 4216. As used in this article, the following definitions apply:
4 (a) "Active subsurface installation" means a subsurface
5 installation currently in use or currently carrying service.
6 (b) "Board" means the California Underground Facilities Safe
7 Excavation ~~Board~~. *Board, also known as the "Dig Safe Board."*
8 (c) "Area of continual excavation" means a location where
9 excavation is part of the normal business activities of agricultural
10 operations and flood control facilities.
11 (d) "Delineate" means to mark in white the location or path of
12 the proposed excavation using the guidelines in Appendix B of
13 the "Guidelines for Excavation Delineation" published in the most
14 recent version of the Best Practices guide of the Common Ground
15 Alliance. If there is a conflict between the marking practices in
16 those guidelines and other provisions of this article, this article
17 shall control. "Delineation" also includes physical identification
18 of the area to be excavated using alternative marking methods,
19 including, but not limited to, flags, stakes, whiskers, or a
20 combination of these methods, if an excavator makes a
21 determination that standard delineation may be misleading to those
22 persons using affected streets and highways, or be misinterpreted
23 as a traffic or pedestrian control, and the excavator has contacted
24 the regional notification center to advise the operators that the
25 excavator will physically identify the area to be excavated using
26 alternative marking methods.
27 (e) "Electronic positive response" means an electronic response
28 from an operator to the regional notification center providing the
29 status of an operator's statutorily required response to a ticket.
30 (f) (1) "Emergency" means a sudden, unexpected occurrence,
31 involving a clear and imminent danger, demanding immediate
32 action to prevent or mitigate loss of, or damage to, life, health,
33 property, or essential public services.
34 (2) "Unexpected occurrence" includes, but is not limited to, a
35 fire, flood, earthquake or other soil or geologic movement, riot,

1 accident, damage to a subsurface installation requiring immediate
2 repair, or sabotage.

3 (g) "Excavation" means any operation in which earth, rock, or
4 other material in the ground is moved, removed, or otherwise
5 displaced by means of tools, equipment, or explosives in any of
6 the following ways: grading, trenching, digging, ditching, drilling,
7 augering, tunneling, scraping, cable or pipe plowing and driving,
8 or any other way.

9 (h) Except as provided in Section 4216.8, "excavator" means
10 any person, firm, contractor or subcontractor, owner, operator,
11 utility, association, corporation, partnership, business trust, public
12 agency, or other entity that, with ~~their, or his or her,~~ *their* own
13 employees or ~~equipment~~ *equipment*, performs any excavation.

14 (i) "Hand tool" means a piece of equipment used for excavating
15 that uses human power and is not powered by any motor, engine,
16 hydraulic, or pneumatic device.

17 (j) "High priority subsurface installation" means high-pressure
18 natural gas pipelines with normal operating pressures greater than
19 415kPA gauge (60psig), petroleum pipelines, pressurized sewage
20 pipelines, high-voltage electric supply lines, conductors, or cables
21 that have a potential to ground of greater than or equal to 60kv, or
22 hazardous materials pipelines that are potentially hazardous to
23 workers or the public if damaged.

24 (k) "Inactive subsurface installation" means either of the
25 following:

26 (1) The portion of an underground subsurface installation that
27 is not active but is still connected to the subsurface installation, or
28 to any other subsurface installation, that is active or still carries
29 service.

30 (2) A new underground subsurface installation that has not been
31 connected to any portion of an existing subsurface installation.

32 (l) "Legal excavation start date and time" means two working
33 days, not including the date of notification, unless the excavator
34 specifies a later date and time, which shall not be more than 14
35 calendar days from the date of notification. For excavation in an
36 area of continual excavation, "legal excavation start date and time"
37 means two working days, not including the date of notification,
38 unless the excavator specifies a later date and time, which shall
39 not be more than six months from the date of notification.

1 (m) “Local agency” means a city, county, city and county,
2 school district, or special district.

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

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

13 (o) “Operator” means any person, corporation, partnership,
14 business trust, public agency, or other entity that owns, operates,
15 or maintains a subsurface installation. For purposes of Section
16 4216.1, an “operator” does not include an owner of real property
17 where subsurface installations are exclusively located if they are
18 used exclusively to furnish services on that property and the
19 subsurface facilities are under the operation and control of that
20 owner.

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

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

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

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

38 (t) “Ticket” means an excavation location request issued a
39 number by the regional notification center.

1 (u) "Tolerance zone" means 24 inches on each side of the field
2 marking placed by the operator in one of the following ways:

3 (1) Twenty-four inches from each side of a single marking,
4 assumed to be the centerline of the subsurface installation.

5 (2) Twenty-four inches plus one-half the specified size on each
6 side of a single marking with the size of installation specified.

7 (3) Twenty-four inches from each outside marking that
8 graphically shows the width of the outside surface of the subsurface
9 installation on a horizontal plane.

10 (v) "Working day" for the purposes of determining excavation
11 start date and time means a weekday Monday through Friday, from
12 7:00 a.m. to 5:00 p.m., except for federal holidays and state
13 holidays, as defined in Section 19853, or as otherwise posted on
14 the ~~Internet Web site~~ *internet website* of the regional notification
15 center.

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

18 4216.1. (a) Every operator of a subsurface installation, except
19 the Department of Transportation, shall become a member of,
20 participate in, and share in the costs of, a regional notification
21 center. Operators of subsurface installations who are members of,
22 participate in, and share in, the costs of a regional notification
23 center, including, but not limited to, the Underground Service
24 Alert—Northern California or the Underground Service
25 Alert—Southern California are in compliance with this section
26 and Section 4216.9. A regional notification center shall not charge
27 a fee to a person for notifying the regional notification center to
28 obtain a ticket or to renew a ticket.

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

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

33 4216.2. (a) ~~Before~~ *Before notifying the appropriate regional*
34 *notification center, an excavator planning to conduct an excavation*
35 *shall complete an online training program provided through the*
36 *regional notification center detailing the "811" process. A regional*
37 *notification center may impose on an excavator a fee for the*
38 *required training, which shall not exceed the reasonable cost of*
39 *providing the training.*

1 (b) Before notifying the appropriate regional notification center,
2 an excavator planning to conduct an excavation shall delineate the
3 area to be excavated. If the area is not delineated, an operator may,
4 at the operator's discretion, choose not to locate and field mark
5 until the area to be excavated has been delineated.

6 ~~(b)~~

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

20 ~~(c)~~

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

34 ~~(d)~~

35 (e) Except in an emergency, every excavator covered by Section
36 4216.8 planning to conduct an excavation on private property that
37 does not require an excavation permit may contact the appropriate
38 regional notification center if the private property is known, or
39 reasonably should be known, to contain a subsurface installation
40 other than the underground facility owned or operated by the

1 excavator. Before notifying the appropriate regional notification
 2 center, an excavator shall delineate the area to be excavated. Any
 3 temporary marking placed at the planned excavation location shall
 4 be clearly seen, functional, and considerate to surface aesthetics
 5 and the local community. An excavator shall check if any local
 6 ordinances apply to the placement of temporary markings.

7 ~~(e)~~

8 (f) The regional notification center shall provide a ticket to the
 9 person who contacts the center pursuant to this section and shall
 10 notify any member, if known, who has a subsurface installation
 11 in the area of the proposed excavation. A ticket shall be valid for
 12 28 days from the date of issuance. If work continues beyond 28
 13 days, the excavator shall renew the ticket either by accessing the
 14 center's ~~Internet Web site~~ *internet website* or by calling "811" by
 15 the end of the 28th day.

16 ~~(f)~~

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

27 ~~(g)~~

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

34 ~~(h)~~

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

38 ~~(i)~~

39 (j) If a ticket obtained by an excavator expires but work is
 40 ongoing, the excavator shall contact the regional notification center

1 and get a new ticket and wait a minimum of two working days,
2 not including the date of the contact, before restarting excavation.
3 All excavation shall cease during the waiting period.

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

6 4216.3. (a) (1) (A) Unless the excavator and operator
7 mutually agree to a later start date and time, or otherwise agree to
8 the sequence and timeframe in which the operator will locate and
9 field mark, an operator shall do one of the following before the
10 legal excavation start date and time:

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

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

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

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

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

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

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

33 (4) An operator shall amend, update, maintain, and preserve all
34 plans and records for its subsurface installations as that information
35 becomes known. If there is a change in ownership of a subsurface
36 installation, the records shall be turned over to the new operator.
37 Commencing January 1, 2017, records on abandoned subsurface
38 installations, to the extent that those records exist, shall be retained.
39 *Commencing January 1, 2021, all new subsurface installations*

1 *shall be tagged with GIS coordinates and maintained as permanent*
2 *records of the operator.*

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

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

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

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

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

1 the Office of Administrative Law to readopt the regulation as an
2 emergency regulation pursuant to Section 11346.1.

3 (2) It is the intent of the Legislature, in authorizing the deviations
4 in this section from the requirements and procedures of Chapter
5 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
6 Title 2, to authorize the board to expedite the exercise of its power
7 to implement regulations as its unique operational circumstances
8 require.

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

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

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

26 4216.4. (a) (1) Except as provided in paragraph (2), if an
27 excavation is within the tolerance zone of a subsurface installation,
28 the excavator shall determine the exact location of the subsurface
29 installations in conflict with the excavation using hand tools before
30 using any power-driven excavation or boring equipment within
31 the tolerance zone of the subsurface installations. In all cases the
32 excavator shall use reasonable care to prevent damaging subsurface
33 installations.

34 (2) (A) An excavator may use a vacuum excavation device to
35 expose subsurface installations within the tolerance zone if the
36 operator has marked the subsurface installation, the excavator has
37 contacted any operator whose subsurface installations may be in
38 conflict with the excavation, and the operator has agreed to the
39 use of a vacuum excavation device. An excavator shall inform the

1 regional notification center of ~~his or her~~ *the excavator's* intent to
2 use a vacuum excavation device when obtaining a ticket.

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

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

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

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

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

37 ~~(2) An excavator shall call 911 emergency services upon~~
38 ~~discovering or causing damage to either of the following:~~

1 ~~(A) A natural gas or hazardous liquid pipeline subsurface~~
2 ~~installation in which the damage results in the escape of any~~
3 ~~flammable, toxic, or corrosive gas or liquid.~~

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

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

8 *(A) The excavator shall immediately call "911" emergency*
9 *services.*

10 *(B) After calling "911" emergency services, the excavator shall*
11 *immediately notify the subsurface installation operator. The*
12 *excavator may contact the regional notification center to obtain*
13 *the contact information of the subsurface installation operator. If*
14 *the operator is unknown and the damage or discovery of damage*
15 *occurs outside the working hours of the regional notification*
16 *center, the excavator may follow the instructions provided by the*
17 *regional notification center through its internet website or the*
18 *telephone line recorded message.*

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

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

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

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

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

39 SEC. 6. Section 4216.6 of the Government Code is amended
40 to read:

1 4216.6. (a) (1) Any operator or excavator who negligently
 2 violates this article is subject to a civil penalty in an amount not
 3 to exceed ten thousand dollars (\$10,000).

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

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

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

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

29 ~~The requirements of this~~ *This* article may also be enforced
 30 ~~following a recommendation of the California Underground~~
 31 ~~Facilities Safe Excavation Board~~ by the following agencies, *either*
 32 *following a recommendation of the Dig Safe Board that the agency*
 33 *shall act to accept, amend, or reject the recommendations of the*
 34 ~~board reject, or through the agency's own investigations,~~ as
 35 follows:

36 (1) The Registrar of Contractors of the Contractors' State
 37 License Board shall enforce ~~the provisions of~~ this article on
 38 contractors, as defined in Article 2 (commencing with Section
 39 7025) of Chapter 9 of Division 3 of the Business and Professions
 40 Code, and telephone corporations, as defined in Section 234 of the

1 Public Utilities Code, when acting as a contractor, as defined in
 2 Article 2 (commencing with Section 7025) of Chapter 9 of Division
 3 3 of the Business and Professions Code. Nothing in this section
 4 affects the ~~California~~ Public Utilities Commission's existing
 5 authority over a public utility.

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

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

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

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

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

28 (g) Statewide information provided by operators and excavators
 29 regarding incident events shall be compiled and made available
 30 in an annual report by regional notification centers and posted on
 31 ~~the Internet Web sites~~ *internet websites* of the regional notification
 32 ~~centers.~~ *centers and shall be made available to the board upon*
 33 *request.*

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

36 (1) "Incident event" means the occurrence of excavator
 37 downtime, damages, near misses, and violations.

38 (2) "Statewide information" means information submitted by
 39 operators and excavators using the California Regional Common
 40 Ground Alliance's Virtual Private Damage Information Reporting

1 Tool. Supplied data shall comply with the Damage Information
 2 Reporting Tool's minimum essential information as listed in the
 3 most recent version of the Best Practices guide of the Common
 4 Ground Alliance.

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

7 4216.12. (a) ~~The California Underground Facilities Safe~~
 8 ~~Excavation Board~~ *Dig Safe Board* is hereby created under, and
 9 shall be assisted by the staff of, the Office of the State Fire Marshal.
 10 ~~Marshal until January 1, 2022. On and after January 1, 2022, the~~
 11 *board shall be within the Office of Energy Infrastructure Safety*
 12 *within the Natural Resources Agency pursuant to Part 7.3*
 13 *(commencing with Section 15470) of Division 3 of Title 2.*

14 (b) The board shall perform the following tasks:

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

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

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

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

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

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

28 4216.17. (a) The board shall annually convene a meeting for
 29 the following purposes:

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

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

38 ~~(3) To determine the areas in which additional education and~~
 39 ~~outreach efforts may be targeted through use, upon appropriation~~

1 by the Legislature, of the moneys in the Safe Energy Infrastructure
2 and Excavation Fund pursuant to subdivision (e).

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

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

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

21 (d) *Upon appropriation by the Legislature, moneys in the Safe*
22 *Energy Infrastructure and Excavation Fund shall be available to*
23 *the board to fund the educational course developed pursuant to*
24 *subdivision (c).*

O

SB 878 (Jones, R-El Cajon)

Department of Consumer Affairs Licensing: applications: wait times.

Status: 3/18/2020 – March 23, 2020, hearing postponed by Senate Committee on Business, Professions and Economic Development.

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.

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.

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

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

- 1 SECTION 1. Section 139.5 is added to the Business and
- 2 Professions Code, to read:
- 3 139.5. Each board, as defined in section 22, within the
- 4 department that issues a license shall do both of the following:
- 5 (a) Prominently display the current timeframe for processing
- 6 initial and renewal license applications on its internet website.

2

- 1 (b) With respect to the information displayed on the website,
- 2 specify the average timeframe for each license category.

O

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.

Introduced by Senator JonesFebruary 18, 2020

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.

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

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

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

1 (e)

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

5 (d)

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

14 (e)

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

19 (f)

20 (6) Geodetic or cadastral surveying. As used in this ~~chapter,~~
21 ~~geodetic~~ *chapter:*

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

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

34 (g)

35 (7) Determines the information shown or to be shown on any
36 map or document prepared or furnished in connection with any
37 one or more of the functions described in ~~subdivisions (a), (b), (c),~~
38 ~~(d), (e), and (f):~~ *paragraphs (1) to (6), inclusive.*

39 (h)

- 1 (8) Indicates, in any capacity or in any manner, by the use of
 2 the title "land surveyor" or by any other title or by any other
 3 representation that ~~he or she practices or offers~~ *they practice or*
 4 *offer* to practice land surveying in any of its branches.
- 5 (i)
- 6 (9) Procures or offers to procure land surveying work for
 7 ~~himself, herself, themselves~~ or others.
- 8 (j)
- 9 (10) Manages, or conducts as manager, proprietor, or agent, any
 10 place of business from which land surveying work is solicited,
 11 performed, or practiced.
- 12 (k)
- 13 (11) Coordinates the work of professional, technical, or special
 14 consultants in connection with the activities authorized by this
 15 chapter.
- 16 (l)
- 17 (12) Determines the information shown or to be shown within
 18 the description of any deed, trust deed, or other title document
 19 prepared for the purpose of describing the limit of real property
 20 in connection with any one or more of the functions described in
 21 ~~subdivisions (a) to (f), paragraphs (1) to (6), inclusive.~~
- 22 (m)
- 23 (13) Creates, prepares, or modifies electronic or computerized
 24 data in the performance of the activities described in ~~subdivisions~~
 25 ~~(a), (b), (c), (d), (e), (f), (k), and (l).~~ *paragraphs (1), (2), (3), (4),*
 26 *(5), (6), (11), and (12).*
- 27 (n)
- 28 (14) Renders a statement regarding the accuracy of maps or
 29 measured survey data.
- 30 ~~Any~~
- 31 (b) *Any* department or agency of the state or any city, county,
 32 or city and county that has an unregistered person in responsible
 33 charge of land surveying work on January 1, 1986, shall be exempt
 34 from the requirement that the person be licensed as a land surveyor
 35 until the person currently in responsible charge is replaced.
- 36 ~~The~~
- 37 (c) *The* review, approval, or examination by a governmental
 38 entity of documents prepared or performed pursuant to this section
 39 shall be done by, or under the direct supervision of, a person
 40 authorized to practice land surveying.

1 SEC. 2. Section 8764 of the Business and Professions Code is
2 amended to read:

3 8764. (a) The record of survey shall show the applicable
4 provisions of the following consistent with the purpose of the
5 survey:

6 ~~(a)~~

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

10 ~~(b)~~

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

13 ~~(c)~~

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

16 ~~(d)~~

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

19 ~~(e)~~

20 (5) Memorandum of oaths.

21 ~~(f)~~

22 (6) Statements required by Section 8764.5.

23 ~~(g)~~

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

29 ~~The~~

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

34 ~~The~~

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

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

39 8780. (a) The board may, upon its own initiative or upon the
40 receipt of a complaint, investigate the actions of any land surveyor

1 licensed under this chapter or any civil engineer licensed under
 2 the provisions of Chapter 7 (commencing with Section 6700) who
 3 is legally authorized to practice land surveying and make findings
 4 thereon.

5 ~~By~~

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

12 ~~(a)~~

13 (1) Any fraud, deceit, or misrepresentation in ~~his or her~~ *their*
 14 practice of land surveying.

15 ~~(b)~~

16 (2) Any negligence or incompetence in ~~his or her~~ *in their*
 17 practice of land surveying.

18 (3) *Any incompetence in their practice of land surveying.*

19 ~~(c)~~

20 (4) Any fraud or deceit in obtaining ~~his or her~~ *their* license.

21 ~~(d)~~

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

24 ~~(e)~~

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

28 ~~(f)~~

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

32 ~~(g)~~

33 (8) A breach or violation of a contract to provide land surveying
 34 services.

35 ~~(h)~~

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

39 SEC. 4. Section 4529 of the Government Code is amended to
 40 read:

1 4529. (a) This chapter shall not apply where the state or local
2 agency head determines that the services needed are more of a
3 technical nature and involve little professional judgment and that
4 requiring bids would be in the public interest.

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

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

11 66452.5. (a) (1) The subdivider, or any tenant of the subject
12 property, in the case of a proposed conversion of residential real
13 property to a condominium project, community apartment project,
14 or stock cooperative project, may appeal from any action of the
15 advisory agency with respect to a tentative map to the appeal board
16 established by local ordinance or, if none, to the legislative body.

17 (2) The appeal shall be filed with the clerk of the appeal board,
18 or if there is none, with the clerk of the legislative body within 10
19 days after the action of the advisory agency from which the appeal
20 is being taken.

21 (3) Upon the filing of an appeal, the appeal board or legislative
22 body shall set the matter for hearing. The hearing shall be held
23 within ~~30~~ 45 days after the date of a request filed by the subdivider
24 or the appellant. If there is no regular meeting of the legislative
25 body within the next ~~30~~ 45 days for which notice can be given
26 pursuant to Section 66451.3, the appeal may be heard at the next
27 regular meeting for which notice can be given, or within 60 days
28 from the date of the receipt of the request, whichever period is
29 shorter. Within 10 days following the conclusion of the hearing,
30 the appeal board or legislative body shall render its decision on
31 the appeal.

32 (b) (1) The subdivider, any tenant of the subject property, in
33 the case of a conversion of residential real property to a
34 condominium project, community apartment project, or stock
35 cooperative project, or the advisory agency may appeal from the
36 action of the appeal board to the legislative body. The appeal shall
37 be filed in writing with the clerk of the legislative body within 10
38 days after the action of the appeal board from which the appeal is
39 being taken.

1 (2) After the filing of an appeal, the legislative body shall set
2 the matter for hearing. The hearing shall be held within ~~30~~ 45 days
3 after the date of the request filed by the subdivider or the appellant.
4 If there is no regular meeting of the legislative body within the
5 next ~~30~~ 45 days for which notice can be given pursuant to Section
6 66451.3, the appeal may be heard at the next regular meeting for
7 which notice can be given, or within 60 days from the date of the
8 receipt of the request, whichever period is shorter. Within 10 days
9 following the conclusion of the hearing, the legislative body shall
10 render its decision on the appeal.

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

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

32 (d) (1) Any interested person adversely affected by a decision
33 of the advisory agency or appeal board may file an appeal with
34 the legislative body concerning any decision of the advisory agency
35 or appeal board. The appeal shall be filed with the clerk of the
36 legislative body within 10 days after the action of the advisory
37 agency or appeal board that is the subject of the appeal. Upon the
38 filing of the appeal, the legislative body shall set the matter for
39 hearing. The hearing shall be held within ~~30~~ 45 days after the date
40 of a request filed by the subdivider or the appellant. If there is no

1 regular meeting of the legislative body within the next ~~30~~ 45 days
2 for which notice can be given pursuant to Section 66451.3, the
3 appeal may be heard at the next regular meeting for which notice
4 can be given, or within 60 days from the date of the receipt of the
5 request, whichever period is shorter. The hearing may be a public
6 hearing for which notice shall be given in the time and manner
7 provided.

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

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

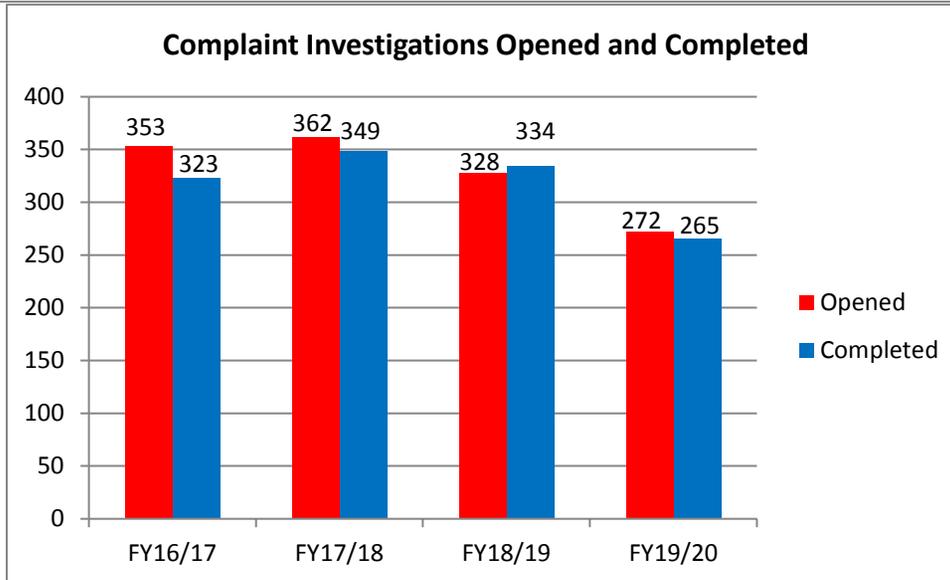
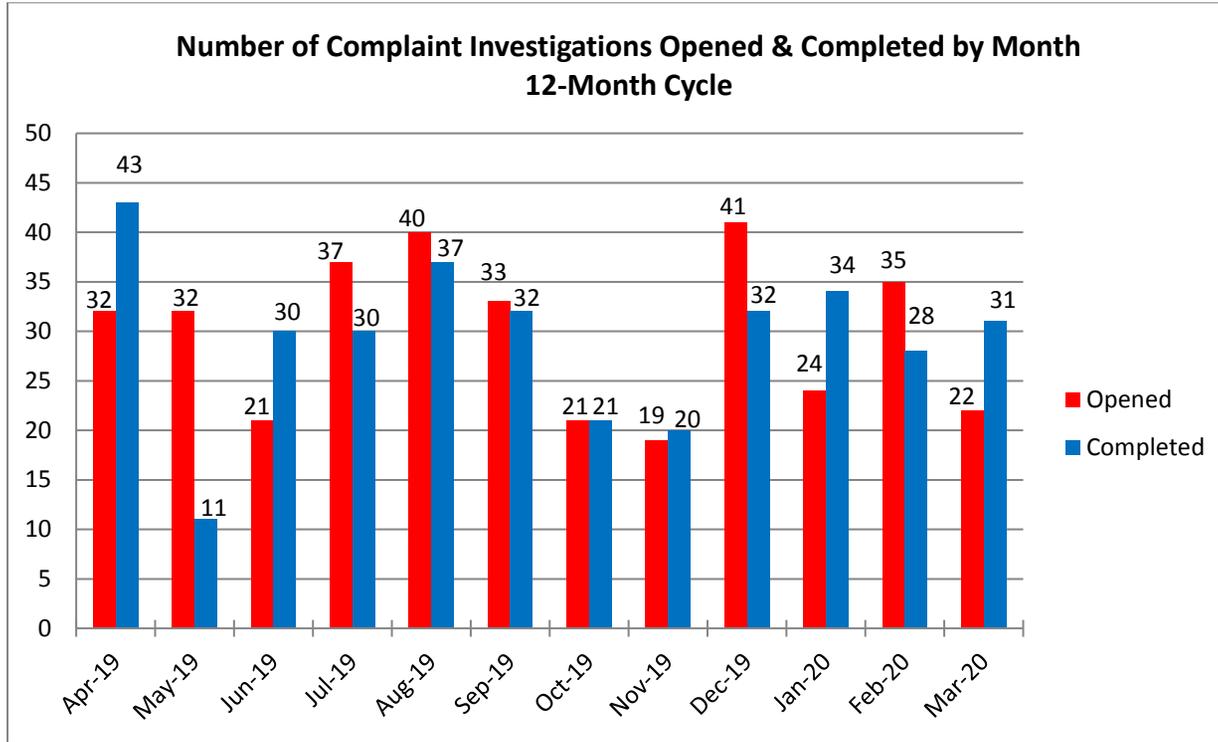
20 (f) Notice of each hearing provided for in this section shall be
21 sent by United States mail to each tenant of the subject property,
22 in the case of a conversion of residential real property to a
23 condominium project, community apartment project, or stock
24 cooperative project, at least three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

VII. Enforcement

A. Enforcement Statistical Reports

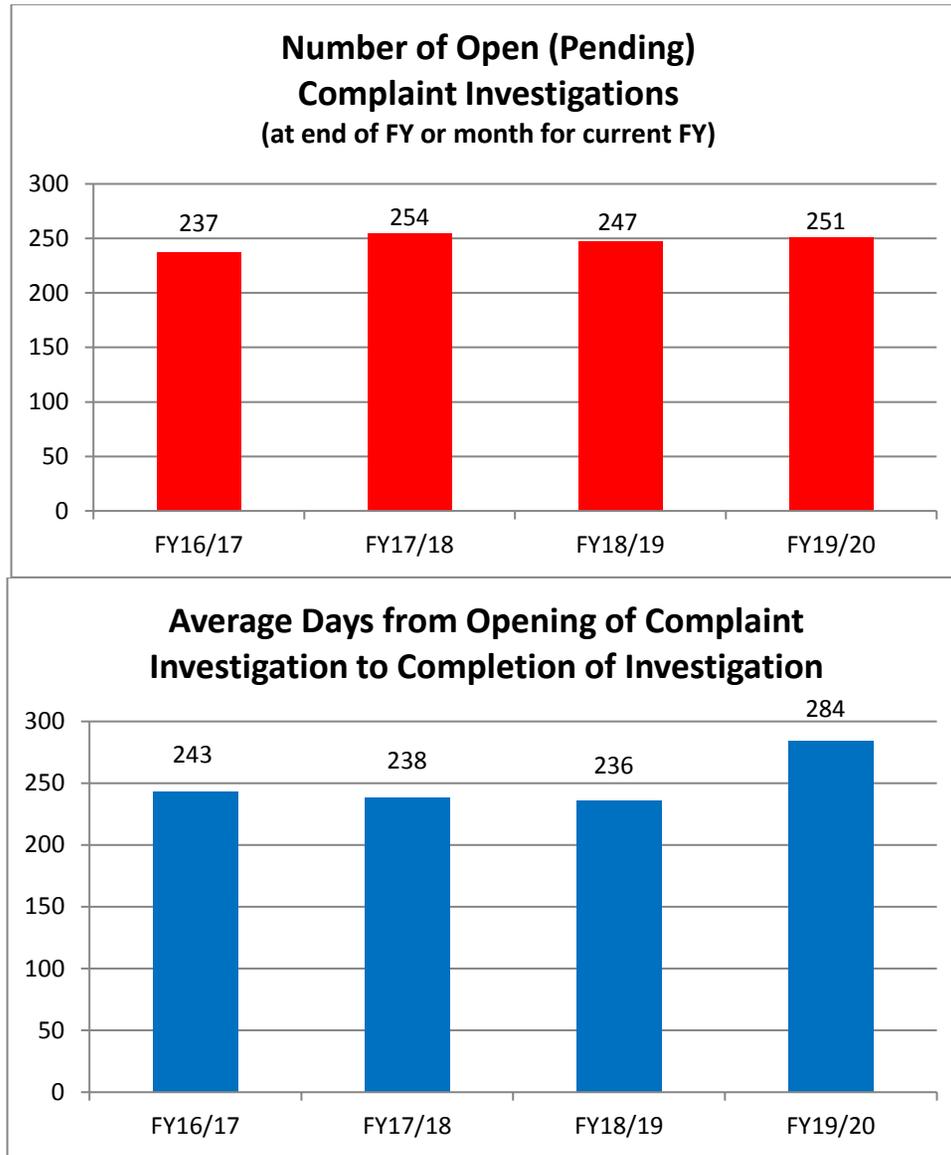
1. Fiscal Year 2019/20 Update

Complaint Investigation Phase



NOTE: FY19/20 statistics are through March 31, 2020

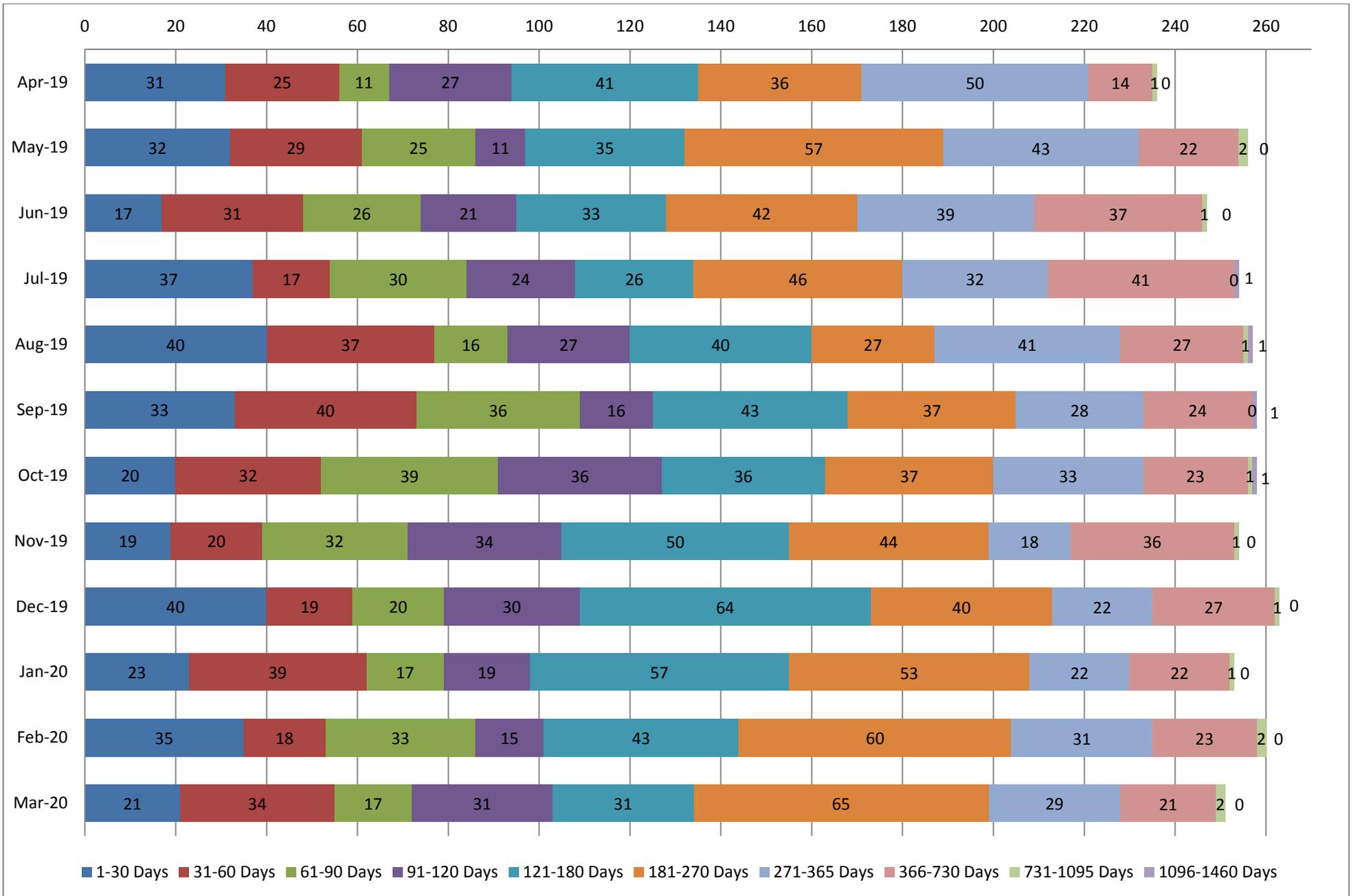
Complaint Investigation Phase



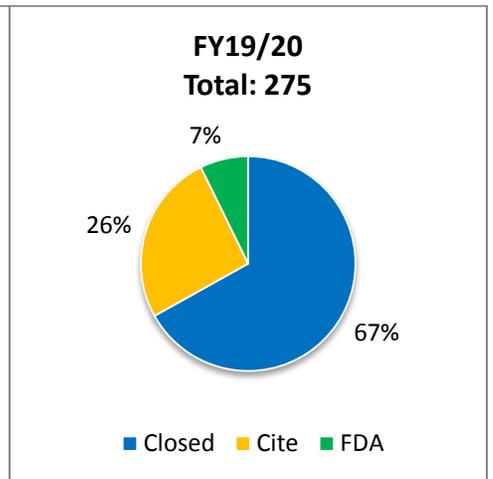
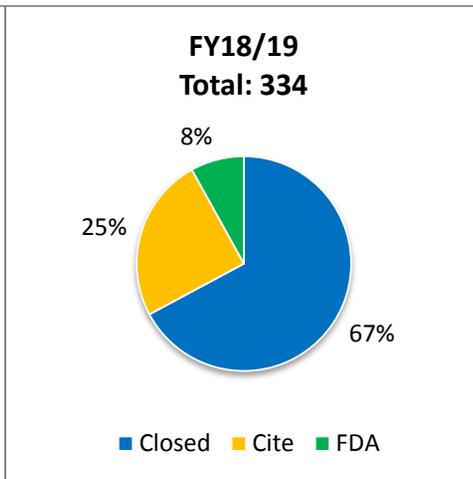
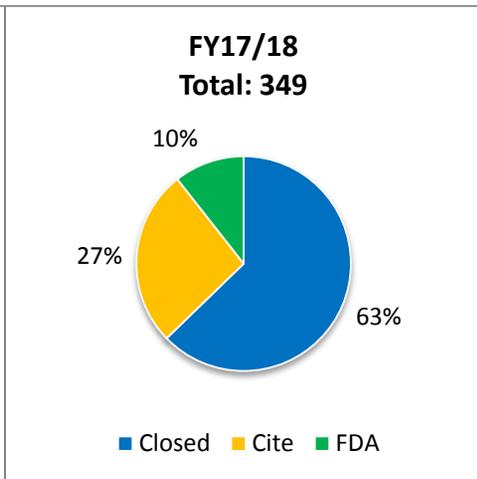
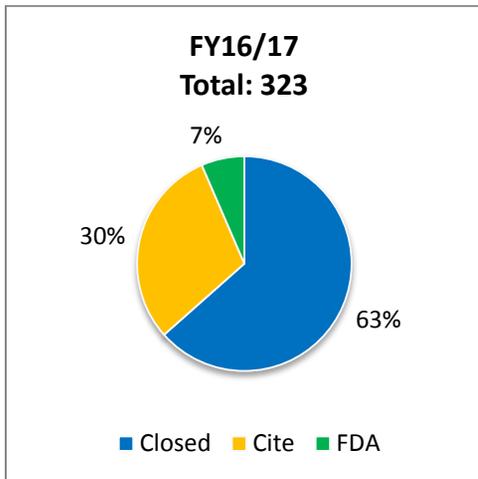
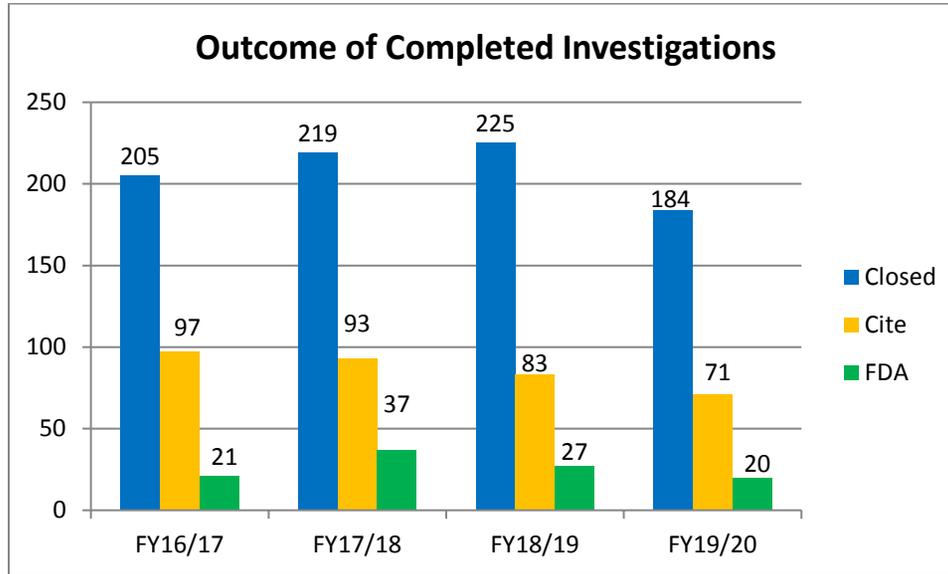
NOTE: FY19/20 statistics are through March 31, 2020

Complaint Investigation Phase

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



Complaint Investigation Phase Outcome of Completed Investigations



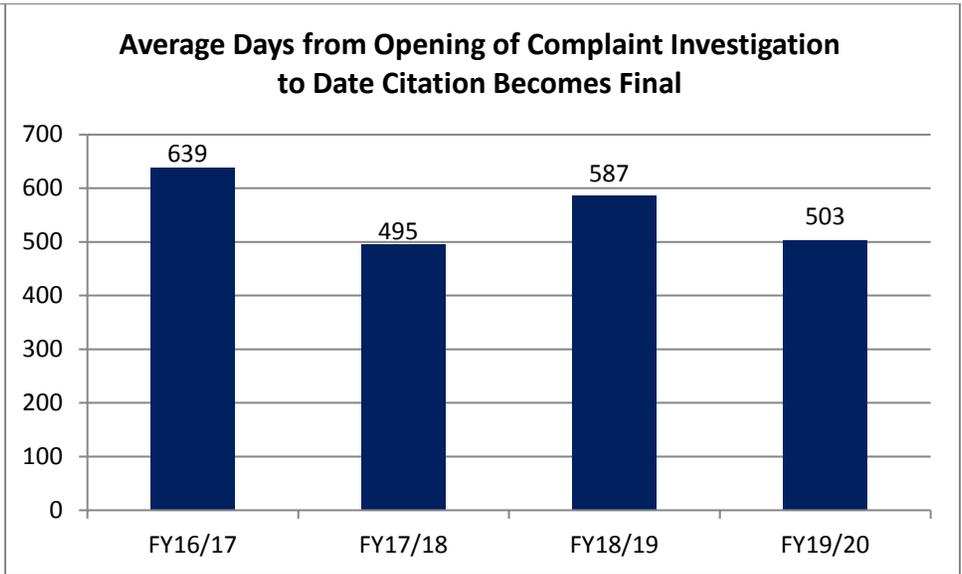
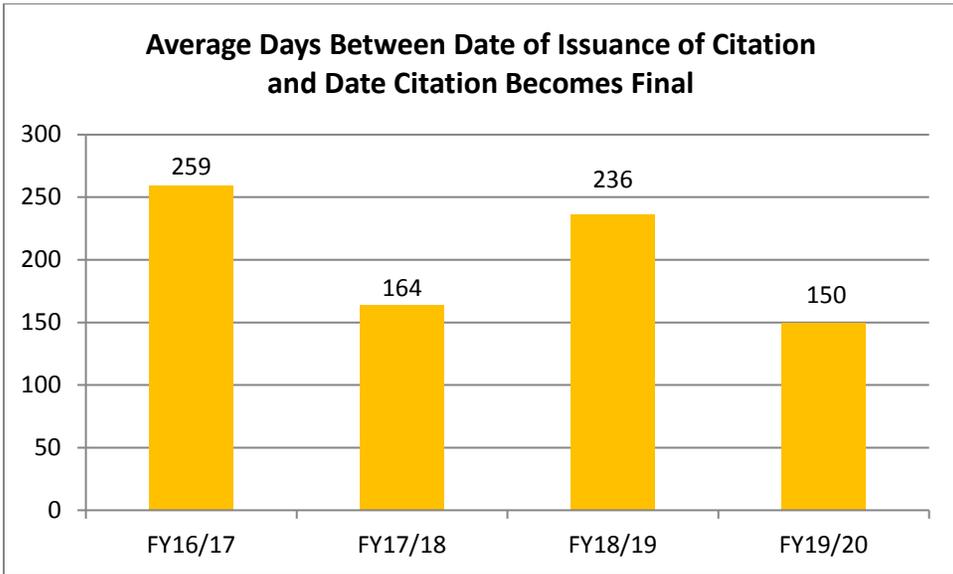
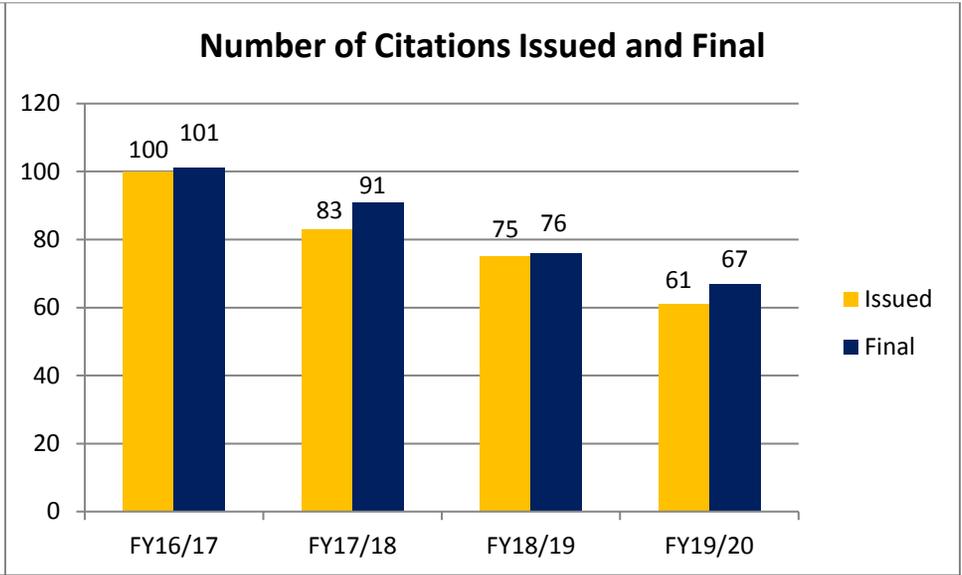
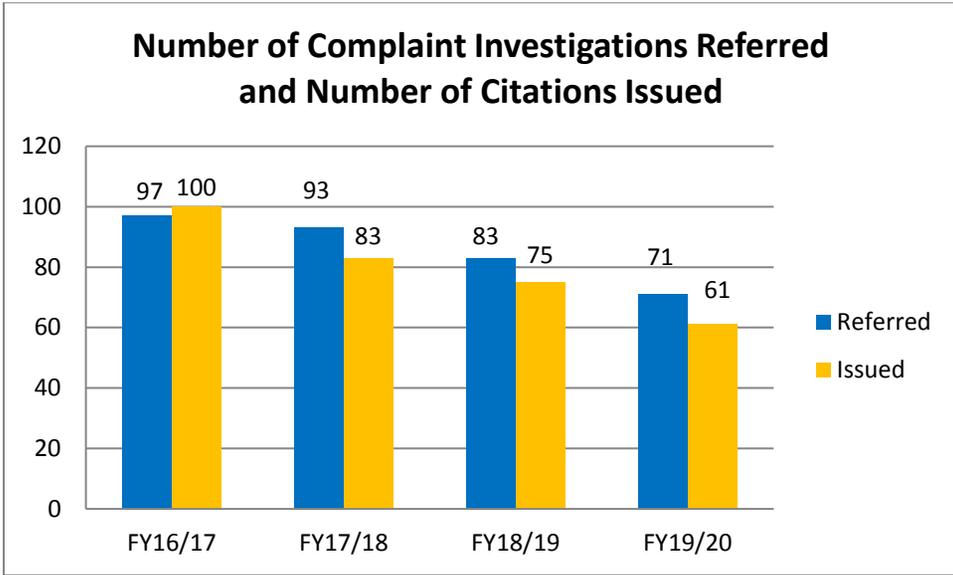
NOTE: FY19/20 statistics are through March 31, 2020

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

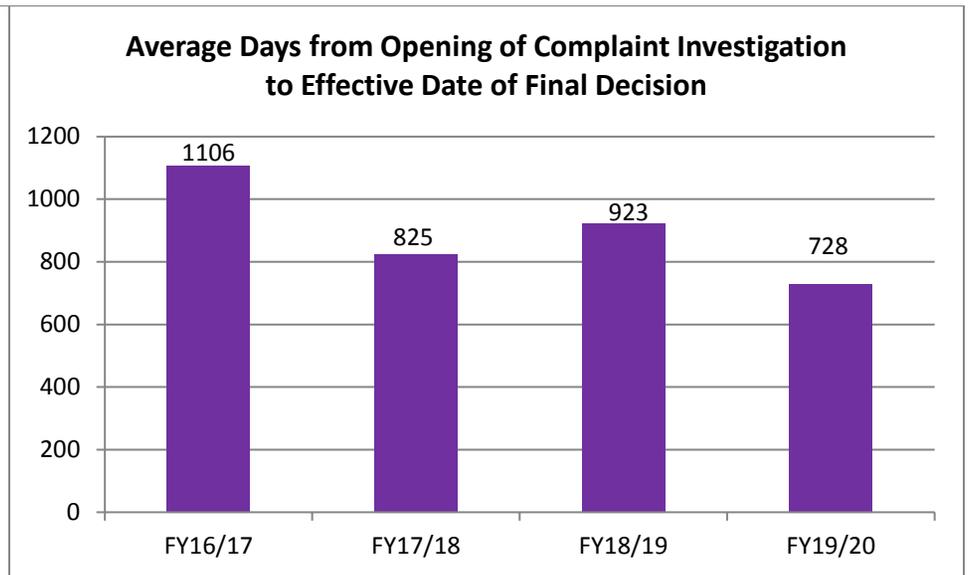
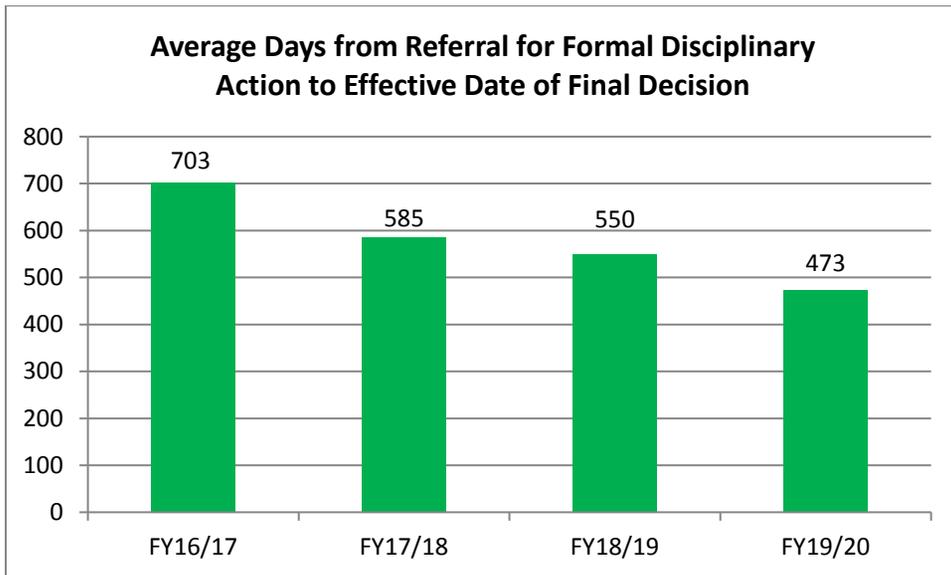
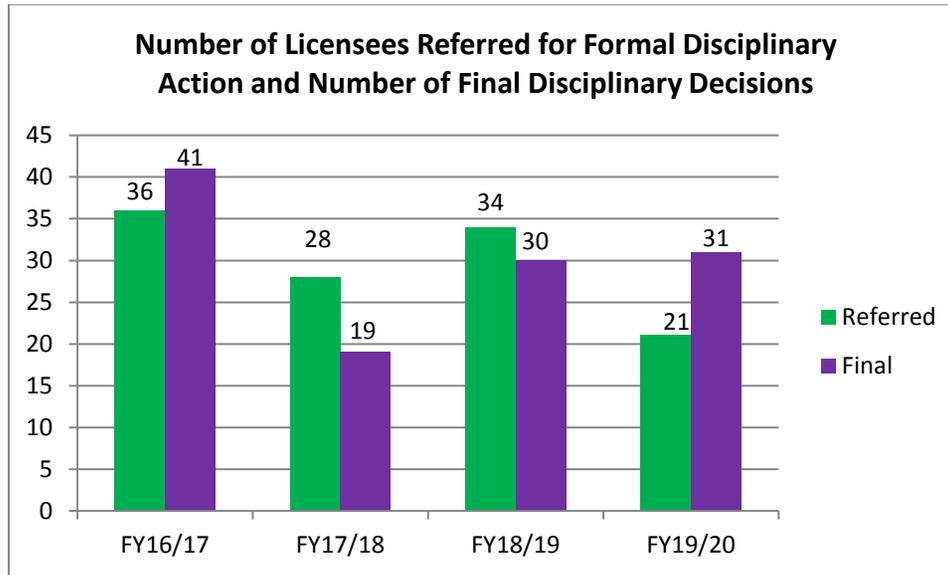
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)



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

Month	Complaint Investigations Opened	Complaint Investigations Completed
April 2019	32	43
May 2019	32	11
June 2019	21	30
July 2019	37	30
August 2019	40	37
September 2019	33	32
October 2019	21	21
November 2019	19	20
December 2019	41	32
January 2020	24	34
February 2020	35	28
March 2020	22	31

Complaint Investigations Opened and Completed Total by Fiscal Year

Fiscal Year	Complaint Investigations Opened	Complaint Investigations Completed
2016/17	353	323
2017/18	362	349
2018/19	328	334
2019/20	272	265

Current Fiscal Year through March 31, 2020

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

Fiscal Year	Number of Open (Pending) Complaint Investigations
2016/17	237
2017/18	254
2018/19	247
2019/20	251

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)

Fiscal Year	Average Days
2016/17	243
2017/18	238
2018/19	236
2019/20	284

Current Fiscal Year through March 31, 2020

Outcome of Completed Investigations

Fiscal Year	# Closed	% Closed	# Cite	% Cite	# FDA	% FDA
2016/17	205	63%	97	30%	21	7%
2017/18	219	63%	93	27%	37	10%
2018/19	225	67%	83	25%	27	8%
2019/20	184	67%	71	26%	20	7%

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

Month	0-30 Days	31-60 Days	61-90 Days	91-12 Days	121-180 Days	181-270 Days	271-365 Days	1-2 Years	2-3 Years	3-4 Years
April 2019	31	25	11	27	41	36	50	14	1	0
May 2019	32	29	25	11	35	57	43	22	2	0
June 2019	17	31	26	21	33	42	39	37	1	0
July 2019	37	17	30	24	26	46	32	41	0	1
August 2019	40	37	16	27	40	27	41	27	1	1
September 2019	33	40	36	16	43	37	28	24	0	1
October 2019	20	32	39	36	36	37	33	23	1	1
November 2019	19	20	32	34	50	44	18	36	1	0
December 2019	40	19	20	30	64	40	22	27	1	0
January 2020	23	39	17	19	57	53	22	22	1	0
February 2020	35	18	33	15	43	60	31	23	2	0
March 2020	21	34	17	31	31	65	29	21	2	0

Citations (Informal Enforcement Actions)

Number of Complaint Investigations Referred and Number of Citations Issued

Fiscal Year	Complaint Investigations Referred for Issuance of Citation	Citations Issued
2016/17	97	100
2017/18	93	83
2018/19	83	75
2019/20	71	61

Current Fiscal Year through March 31, 2020

Number of Citations Issued and Final

Fiscal Year	Issued	Final
2016/17	100	101
2017/18	83	91
2018/19	75	76
2019/20	61	67

Current Fiscal Year through March 31, 2020

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

Fiscal Year	Number of Days
2016/17	259
2017/18	164
2018/19	236
2019/20	150

Current Fiscal Year through March 31, 2020

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

Fiscal Year	Number of Days
2016/17	639
2017/18	495
2018/19	587
2019/20	503

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

Fiscal Year	Number of Licensees Referred for Formal Disciplinary Action	Number of Final Disciplinary Decisions
2016/17	36	41
2017/18	28	19
2018/19	34	30
2019/20	21	31

Current Fiscal Year through March 31, 2020

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

Fiscal Year	Number of Days
2016/17	703
2017/18	585
2018/19	550
2019/20	473

Current Fiscal Year through March 31, 2020

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

Fiscal Year	Number of Days
2016/17	1106
2017/18	825
2018/19	923
2019/20	728

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.
 - 15-Day public comment period ended February 2, 2020.
 - Board approved modified language for 15-day public comment period on January 16, 2020
 - 45-Day public comment period ended on January 14, 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)

- 15-Day public comment period ends on May 13, 2020.
 - 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
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EXECUTIVE SUMMARY

Narrative Summary of Status	Schedule:	GREEN	Budget:	GREEN	Issues:	GREEN
<p>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.</p>						

PROJECT MILESTONE STATUS REVIEW

Project Milestones	Status	Completion Date	Issues Exist (Yes/No)
Project Planning Complete – Project Start	Complete	1/13/2020	No
Onboard Systems Integrator	Complete	1/31/2020	No
Sprint Planning & Development	In Progress	7/6/2020	No
MVP Product Increment 1 - Dates may adjust depending on final project schedule baseline	In Progress	7/15/2020	No



State of Utah

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING BOARD

February 3, 2020

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

BLAINE D. LEONARD, PE

C. SCOTT BISHOP, PLS

JEFFREY J. RICHARDS, PE

JEFFERY T. MILLER, SE

STEPHEN G. CONNOR, PE

BRAD A. KENISON, PE, PLS

JEFF WHITNEY, PM



SCOTT BISHOP

For Western Zone Vice President

CONTACT:

Email: sbishop@horrocks.com

Mobile: 801 369 3221

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,

Education

- B.S. Geomatic Technology, Idaho State University (graduated 2004)

License

- Arizona RPLS No. 53078
- Utah PLS No. 6077910
- Nevada PLS No. 21166
- Colorado PLS No. 38690
- New Mexico PLS No. 25341
- Certified Federal Surveyor No. 1706

Professional Affiliations

- Utah Council of Land Surveyors (UCLS)
- National Council of Examiners for Engineering and Surveying (NCEES)
- National Society of Professional Surveyors (NSPS)

Recognized as 2015 UCLS Land Surveyor of the Year
Serving as Chair of the Utah Board for 3 consecutive years

Professional Experience

- Started surveying in 2000 with a one man surveying firm, spent several years with the federal government as a BLM cadastral surveyor, worked for a medium sized firm and now works at a large regional firm managing the Right of Way department.
- Adjunct faculty at Southern Utah University and Utah Valley University teaching; Beginning and Advanced Surveying, Records Research and Legal Description classes.
- This variety of experience and background provides understanding of issues at all different levels.

NCEES Experience

Served on multiple committees and task forces including:

- Currently serving as Western Zone Assistant Vice Chair
- PS Exam Development Committee
- EPS Committee, currently serving as Chair
- Emerging Leaders Group, served as Chair
- Future of Surveying Task Force
- Currently serving as Future Cities competition Nationals judge



NCEES
advancing licensure for
engineers and surveyors

Thanks,

Scott Bishop P.S., CFedS
ROW Design Manager



QUARTERLY OUTREACH REPORT (Q1)

SOCIAL MEDIA: January–March 2020

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

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

 WEB PAGE VIEWS	VIEWS
License Lookup	299,246
Board Homepage	182,524
Applicant Information	145,590
Professional Engineer Application	111,694
Licensee Information	88,467



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.

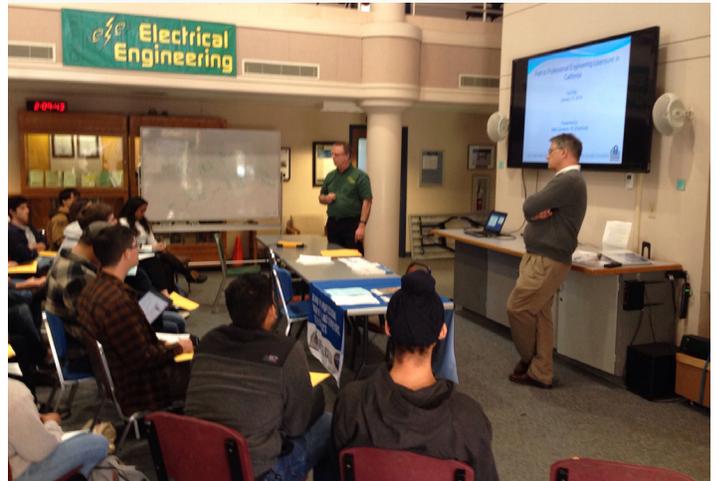
January 7: *Irvine*
 ASCE Orange County YMF presentation by Natalie King.



January 7: *Sacramento, CLSA Land Survey Review*
 Presentation on the steps to licensure and the test plan by Ric Moore and Dallas Sweeney.

January 9: *San Diego, CLSA Land Survey Review*
 Presentation on the steps to licensure and the test plan by Ric Moore and Dallas Sweeney.

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



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 currents 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.



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BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

BULLETIN

Please visit www.bpelsg.ca.gov for any COVID-19 related communications.

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Our Spring 2020 Bulletin Exam Results Issue

Every spring, the Board for Professional Engineers, Land Surveyors, and Geologists publishes the results of its examinations to provide year-to-year comparisons. This issue features statistical results for the past five years for all California-specific examinations.

The Examination Report begins on page 3.

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 outgrown the intended usefulness, not properly addressing today's public

(continued on page 2)

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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)

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

DRAFT

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

Monterey-Salinas Transit
19 Upper Ragsdale Drive, Boardroom
Monterey, CA 93940

Thursday, March 12, 2020

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

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

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

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.

MOTION:	Mr. King and Dr. Qureshi moved to take a position of support on AB 1263, as amended January 6, 2020.
VOTE:	10-0, Motion Carried

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

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

MOTION:	Mr. Stockton and Ms. Mathieson moved to take a position of watch on AB 1616, as amended January 6, 2020.
VOTE:	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				

Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton	X				

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

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

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

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				
Kathy Jones Irish				X	
Eric Johnson	X				

Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton	X				

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

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

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

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

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

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel				X	
Andrew Hamilton	X				
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				
Asha Lang				X	

Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton	X				

AB 3045 Department of Consumer Affairs: boards: veterans: military spouses: licenses.
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

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

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

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

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

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

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

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

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

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

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

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

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 on-line 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

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

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

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

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

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

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)]

