

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

Department of Consumer Affairs  
 1625 North Market Blvd.  
 Hearing Room #102  
 Sacramento, CA 95834

Tuesday, October 3, 2023, beginning at 9:00 a.m.,

<b>Board Members Present:</b>	President Michael Hartley; Vice-President Christina Wong; Fel Amistad; Alireza Asgari; Cristina Garcia; Coby King; Guillermo Martinez; Betsy Mathieson; Wilfredo Sanchez; and Fermin Villegas
<b>Board Members Absent:</b>	Rossana D’Antonio; Frank Ruffino
<b>Board Staff Present:</b>	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Dawn Hall (Administrative Manager); Celina Calderone (Board Liaison); Christopher Pirrone (Legal Counsel)

**I. Roll Call to Establish a Quorum**

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

**II. Pledge of Allegiance**

Vice-President Wong led everyone in the recitation of the Pledge of Allegiance.

**III. Public Comment for Items Not on the Agenda**

During Public Comment, Carl Josephson, representing SEAOC, introduced himself.

President Hartley welcomed Board member Cristina Garcia to the Board.

An individual identified as Dillon Helms presented a few items to the attention of the Board with the context of improving the licensing process. The first, is there a method to grant access to additional reviewers beyond the registrar specific to civil engineering, allowing applicants to discuss questions with the reviewers aside from the registrar. Secondly, is it possible to have the Board provide examples of what they believe is civil engineering experience in reference to each specific section of the definition of civil engineering. He believes this would be extremely helpful to applicants and alleviate a lot of the resubmittals that occur during the application process. The third item, he believes applicants should have the option to take the state specific exam in concurrence or directly following the NCEES exam. Lastly, the Board should provide verification on what within the NCEES exam qualifies as civil engineering. The NCEES exam has a wide breadth of topics that applicants

are tested on but in the eyes of the Board does not qualify as civil engineering such as scheduling and project management in general. When applicants take this exam and submit their experience, there is a disconnect on what applies within the eyes of California as civil engineering experience. He appreciates the opportunity to bring these to the attention of the Board.

#### **IV. Legislation**

##### **A. 2023 Legislative Calendar**

Ms. Eissler reviewed the legislative calendar. The session ended September 14, and the Governor has until October 14 to act on legislation.

##### **B. Discussion of Legislation for 2023**

1. Assembly Bill (AB) 883 – Business licenses: United States Department of Defense SkillBridge program. This bill is on the Governor’s desk.

This bill adds a provision to existing law related to expediting the licensure process for an applicant who served as an active-duty member of the military or the Armed Forces of the United States and was honorably discharged. This bill would add a provision that if the member was enrolled in the United States Department of Defense SkillBridge program, they could also qualify.

No action taken at this time.

2. Senate Bill (SB) 143 – State Government. (Ch. 196, Stats.2023)

This bill was amended in August to become a budget trailer bill. There are two provisions that affect the Board. The Governor signed the bill on September 13, 2023, and it became effective upon signing. One of the provisions would add Section 115.10 to the Business and Professions Code relating to federal law regarding “Portability of Professional Licenses for Service Members” and their spouses. There are federal laws that became effective January 1, 2023, that enable service members and their spouses to potentially register with a state licensing board to practice within that state without acquiring a license issued by that state. The federal law provided a few requirements that would need to be met to qualify but did not go into detail. The Department of Consumer Affairs worked with the legislature to add this section that details the information that must be provided, clarification of terms, and how to handle these types of requests. The Board has not received any requests under this provision.

The other section that the bill adds Government Code section 11133, which is part of the Bagley-Keene Open Meeting Act. This section has been in effect before. It authorizes state bodies to hold public meetings via teleconference without providing a physical location for the public to attend if certain conditions are met. The law was in effect during the pandemic but

has since expired as of July 1, 2023. This bill adds this section back into the Bagley-Keene Open Meeting Act, with a sunset date of December 31, 2023.

No action taken at this time.

3. SB 372 – Department of Consumer Affairs: licensee and registrant records: name and gender changes.

This bill requires a board to update a licensee’s records to include their legal name or gender if the person provides evidence that they have had a legal name or gender change for gender identity or domestic violence issues. The Board had a “support” position on this bill. The Governor signed this bill, and it will go into effect January 2024.

No action taken at this time.

4. SB 447 – GO-Biz: Building and Reinforcing Inclusive, Diverse, Gender-Supportive Equity Project. (Ch. 199, Stats.2023)

This bill repeals the section of the Government Code that bans travel to certain states. The Governor signed the bill on September 13, 2023. Section 11139.8 of the Government Code has now been repealed, and there are no longer prohibitions against travel to certain states. The Department of Consumer Affairs is working with the Governor’s Office and various other departments on what the boards can do about resubmitting their out-of-state requests to states that were on the banned travel list.

No action taken at this time.

5. SB 544 – Bagley-Keene Open Meeting Act: teleconferencing.  
At its July 27, 2023, meeting, the Board changed its position of “Support” to “Watch” due to concerns with information that had been received regarding possible amendments. The bill was amended a few times after that meeting. The Governor signed this bill, and it will go into effect January 1, 2024.

Under the Bagley-Keene Open Meeting Act, the Board can hold an in-person meeting with no remote call-in option. Under this new provision, that is still allowed. There is also the more traditional teleconferencing process where Board members can be at different locations throughout the state, but each location must be noticed and open to the public and ADA accessible and the public must be able to hear and participate at each of those locations and there is no remote call-in option in that case. The new law adds a provision for a remote meetings but it requires that a majority of the Board be physically present in one location and the remaining members can participate virtually from their remote location that does not have to be listed on the notice and does not have to be open to the public. The one physical location where the majority of the Board members are meeting must be open to the public and the public must have the ability to participate.

In addition, there must be a remote option for the public where they can call in to participate in the meeting as well. Board members who participate remotely would have to be on video for the duration of the meeting unless they have technical difficulties such as broadband issues. Also, if a Board member has a disability that prevents them from traveling to the physical location, their attendance will count towards the majority even though they were not physically present.

Furthermore, if there are technical difficulties with the remote option that cannot be restored then the entire meeting must be cancelled and ended.

For advisory bodies, there would be a provision that would allow the committee members to all participate remotely with their locations not having to be disclosed to the public. There would have to be a physical location and a staff member would have to be present at that physical location and the public would have to be able to attend and participate in the meeting at the physical location as well as also having a remote option.

This bill will go into effect January 1, 2024.

No action taken at this time.

During public comment, an individual by the name of Dillon Helms agreed that it is best to be physically present; however, it is extremely valuable to have options to participate virtually or in-person.

## **V. Administration**

### **A. Fiscal Year 2022/23 Budget Report**

Ms. Hall, Administrative Unit manager, reported on the Fiscal Month 13 results for the prior Fiscal Year. She added that there are higher revenues than projected, and Board staff have been conservative in revenue projections. The increase in volume of initial applications and exam applications has contributed to the overage of the projected revenue.

## **VIII. Discussion regarding the Draft 2023-24 Sunset Review Report of the Board**

### **A. Progress Update and Timeline**

Ms. Eissler reported that managers and staff have been working on the Sunset Report in hopes to have it available for the November Board meeting. In the event there are more changes, it is recommended to schedule an additional Board meeting for December via teleconference. She suggested December 14<sup>th</sup> or 15<sup>th</sup> and asked for Board members to reserve this time on their calendars. Discussions and/or revisions from the November meeting will determine whether the Board will need to meet in December. After a show of hands, it was determined that the Board can meet the afternoon of Thursday, December 14<sup>th</sup> or the morning of the 15<sup>th</sup> as a backup since some members were not available to provide their preference.

B. Section 11 – New Issues

Ms. Eissler explained there is a portion in the Sunset Report where new issues can be presented as possible future topics. The Board may ask the Sunset Committees to include language and legislation in the Sunset bill. Other times, the Board simply wants to convey what they are considering in the event that the Board would like to present it. Ms. Eissler reviewed the following issues.

1. Continuing Education (Strategic Plan Objective 1.3)

One of the new issues is Continuing Education, Strategic Plan 1.3, explaining why the Board is looking at this topic. The Board is not requesting any action by the legislature at this time, but it is something that the Board is working on.

2. Experience In Lieu of Education Pathway to Certification/Licensure for Geologists-in-Training, Professional Geologists, and Professional Geophysicists

The other issue relates to being able to use work experience in lieu of education for certification or licensure for geologists-in-training, professional geologists, or professional geophysicists. The Board has gone through changes in statute and in regulations to try and clarify the educational requirements. She noted this is something that needs to be studied further to see how prevalent it is and determine whether or not the Board would seek legislation in the future.

During Public Comment, Rob McMillan expressed his concern in reference to the changes coming from NCEES for the Professional Land Surveyor examination moving into a modularization format and that there may be some issues related to legislation for clarification. Mr. Moore explained there would not need to be any statutory change.

Mr. Josephson added that one of the items SEAOC has been advocating for is the expansion of the type of structures that would be required to be designed by structural engineers. With the exception of California, the remainder of the west coast and a number of other states now require significant structures be designed by structural engineers. It is particularly true in the high seismic areas. One of the items SEAOC would like the Board to consider is the requirement for a structural engineer to design these types of buildings. He does not expect it to necessarily be in the Sunset report; however, it was discussed at the last Sunset hearing and believes it warrants another look.

Mr. Moore presented a joint letter from ACEC and CELSA to the two legislative chairs associated with the Assembly and the Senate Committees related to Sunset. Board Member King requested that the topics presented in the joint letter be on the next agenda for discussion.

Mr. Moore recommended that staff will continue to focus on what is necessary to get the Sunset Report prepared before the next Board meeting to allow the sub-committee an opportunity to review and provide feedback in time for discussion at the November Board meeting. There may be a few items that can be added to the Sunset Report discussion to see if it should be included in the Sunset Report or addressed separately from Sunset.

During Public Comment, Mr. Josephson reported that the Technical Advisory Committee (TAC) made good progress in terms of the definitions of Significant Structures. There was some opposition from what has been implemented in Oregon and Washington. He would like the Board to take a position on the proposal. However, the Board took the position that since there was no legislation that was introduced, the Board could not take a position.

## **VI. Enforcement**

### **A. Enforcement Statistical Reports**

#### **1. Fiscal Year 2022/23 Update**

Ms. Criswell, Enforcement Manager, reviewed the enforcement statistics. Mr. King noticed that over the last year and even to some extent over the last three years, that the open cases are significantly higher than the closed cases and the aging of cases is climbing. Ms. Criswell addressed these issues and explained that Connect is indeed adding to the number of complaints that are being received and opened. General intake has been remarkably increased and much more labor intensive due to insufficient information and documentation, anonymous complaints, and working through some file types that are not supported in Connect. The Enforcement Unit has a new analyst who is now trained; however, another employee took a promotional opportunity with another board. She does see his concerns and believes some changes need to be made. There is a singular large project case complaint with increased activity in the open complaint phase. With the accessibility in Connect to file a complaint online, it is adding to the increase in numbers, and she does not see a reduction in new cases. It will be a matter if the intake process moves quickly to not add to the increase in aging of cases. While she is pleased with the accessibility, this is a consequence.

During Public Comment, Alan Escarda representing PECG, reported that he has advised his team of the need for Subject Matter Experts.

## **VII. Exams/Licensing**

### **A. 2023 Examination Update – First and Second Quarter Examination Results**

Mr. Moore reported that ASBOG administered their exams for the first time via computer-based testing (CBT). Mr. King added that most of the statistics are in line; however the California Land Surveyors examination results have the highest pass rate in 5 years and the ASBOG Fundamentals of Geology and the

Geologist California Specific exam, the lowest in five years. Mr. Moore explained that there is a higher volume of applications and candidates sitting for the exams. As for the pass rates, Mr. Moore attributed the change in pass rate on the California Land Surveyor exam to the outreach being done by Dallas Sweeney, Staff Land Surveyor Registrar, helping candidates prepare for the examinations. As for ASBOG being at its lowest, he attributes it to being the first CBT for the Fundamentals of Geology and the practice of Geology. As for the California Specific examination, he believes it is due to the change in the test plan.

During Public Comment, Mr. Josephson announced that this month is the last paper and pencil Structural Engineering examination before going to computer-based testing next April 2024. Standard setting took place in South Carolina to set the cut scores for the new CBT breadth portion of the exam. The cut scores for the depth portion will take place in May 2024, after the exam is administered. There are 1,300 candidates set to take the examination, half vertical and half lateral and roughly one third of those candidates are from California.

An individual by the name of Jay relayed his comment via the WebEx moderator and inquired if there is a plan to improve the review time of the Civil PE applications. Mr. Moore responded that there has already been some improvement. Staff is finally starting to see a reduction in the civil engineering application backlog and currently are reviewing more applications than are being received on a monthly basis.

**X. Executive Officer's Report**

**F. National Council of Examiners for Engineering and Surveying (NCEES)**

**2. Nomination for President-Elect**

Former Board Member Mohammad Qureshi, participating virtually, reported that nominations for President Elect will be due around January 2024. He has served as Vice-President for the Western Zone for the last year and is requesting an opportunity to continue on the path to becoming the President-Elect next May in Montana which requires a nomination from the Board.

<b>MOTION:</b>	Vice-President Wong and Mr. Sanchez moved to nominate Dr. Mohammad Qureshi as NCEES President Elect.
<b>VOTE:</b>	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Hartley	X				
Vice-President Wong	X				
Fel Amistad	X				
Alireza Asgari	X				
Rossana D'Antonio				X	
Cristina Garcia	X				

Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Frank Ruffino				X	
Wilfredo Sanchez	X				
Fermin Villegas	X				

During Public Comment, Mr. Escarda stated he received communication from one of their board members regarding item 9 in reference to experience in lieu of education for geologists. His concern is that you need field experience whether it is university or private work experience now to qualify for the PG and is concerned that when he attended school, field experience was not a requirement as part of the curriculum. Mr. Moore explained that what he described is one of the examples why people have difficulty meeting education criteria years after they have a degree.

### VIII. Strategic Plan Discussion

#### A. Objective 1.3 Continuing Education Committee Report

Mr. Moore stated that he had provided more information to the sub-committee that consists of Vice-President Wong and Board Member D'Antonio in reference to information NCEES member boards have reported about continuing education requirements. In an effort to standardize continuing education unit requirements, NCEES has established continuing education competency guidelines. In addition, there is also information in ASBOG's model law for the sub-committee to review in preparation for another discussion. He also assembled a draft questionnaire survey to gauge interest levels from licensing stake holders in the state. Mr. Moore has received feedback from the sub-committee and Ms. Eissler and is making final changes.

#### B. Review of Objective 5.5 Ensure accessibility of information on licensure to the public to improve inclusion of underserved populations.

Mr. Sanchez presented the subcommittee's (Sanchez and Wong) proposed amended language for Objective 5.5. *Disseminate information on licensure and engage in outreach to underrepresented populations so as to increase diversity among our professions.*

#### C. Review of Objective 5.6 Collaborate with the Department of Consumer Affairs to identify a strategy to require a notice of complainants' rights to improve the public's awareness.

Mr. Sanchez presented the subcommittee's (Sanchez and Wong) proposed amended language for Objective 5.6.

*Collaborate with the Department of Consumer Affairs to provide information to the public such that complainants are aware of how to properly file a complaint, understand the complaint process, and obtain awareness of the result of their complaints.*



<b>MOTION:</b>	Mr. King and Ms. Mathieson move to adopt Objectives 5.5 and 5.6 as written with the following amendment to Objective 5.5. Strike “so as” and replace the word “our” with “the”.
<b>VOTE:</b>	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Hartley	X				
Vice-President Wong	X				
Fel Amistad	X				
Alireza Asgari	X				
Rossana D’Antonio				X	
Cristina Garcia	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Frank Ruffino				X	
Wilfredo Sanchez	X				
Fermin Villegas	X				

**X. Executive Officer's Report (Cont.)**

**A. Rulemaking Status Report**

Mr. Moore reviewed the Rulemaking Status Report. No changes.

**B. Update on Board’s Business Modernization Project**

Mr. Moore explained the purpose of the Board’s Business Modernization Project to the new Board members.

The Board is currently in the Fall/Winter release. The fall release relates to accounting and cashing priorities that affect all programs, specifically, improvements to cashing renewals, application fees, and refunds. The Winter release will focus on structural engineer applications as staff is attempting to align it with the change over to the computer-based testing that NCEES is administering. The traffic engineer and geotechnical engineer applications are to come, and he anticipates they will be released at the same time. Mr. Moore is hopeful to have all three applications online by January 2024. The priority at that point will be back-office aspects of Enforcement.

**C. Personnel**

Mr. Moore announced a recent vacancy in the Board’s Enforcement Unit. One of the analysts, Angela Smith, left the board for a promotional opportunity.

**D. ABET**

Mr. Moore explained the mission of ABET. Senior Registrar Civil Engineer Natalie King and Vice-President Wong will be participating in ABET visits and will report back with their findings.

E. Association of State Boards of Geology (ASBOG)

1. 2023 Fall Annual Meeting, October 2023, Spokane, WA – Update

Mr. Moore reviewed the proposed slate of officers and the proposed budget. Ms. Mathieson and Mr. Goodwin, Senior Registrar, Geology, will be attending the Annual Meeting. Mr. Moore plans to attend virtually. Ms. Mathieson added that the reason there is not a lot to vote on is all the member boards had until October 1 to submit proposed agenda and action items. The full set of meeting materials is usually available electronically before the meeting. Ms. Mathieson is familiar with all the candidates, with the exception of the Secretary Candidate. At every Annual Meeting there is a financial report that includes a sub-report prepared by an independent CPA to review ASBOG's finances, and they reported that last year was favorable and anticipates it to be favorable this year as well. She speculates that some of the reduced expenses in the proposed budget are due to CBT rather than paper and pencil. Ms. Mathieson offered to take any concerns that the Board may have to ASBOG.

F. National Council of Examiners for Engineering and Surveying (NCEES)

1. 2023 NCEES Annual Meeting, August 15-18, 2023 – Report

Mr. Moore reported on the Annual Meeting that took place in Boston, MA. One of the discussions that took place was related to the Examinations for Professional Surveyors (EPS) Committee. The EPS motion was related to a topic originated by the Board in 2018 where the Board proposed separate examinations for certain aspects of surveying. The current committee made a motion to move in that direction. It was determined that due to the prior actions by the council in adopting this module, the motion was out of order and did not need to go to council for approval as the council had already approved it as they do not get involved in examination content. The Board of Directors voted to approve the motion from EPS, and it was pulled from the agenda.

The other major issue, NCEES commonly receives requests for funding, grants, etc. One of the organizations requesting financial assistance is Engineers Without Borders. In the past, the Board of Directors with NCEES would make the decision themselves as there were no rules, laws, or policies in place to direct them to present it to the council. The Board of Directors recommended presenting it to the council it because of the dollar amount which proved to be controversial. There was some initial funding disbursed but the request from council was that it needed to be monitored. Through discussions to improve the process, NCEES established the NCEES Foundation which is a separate organization under South Carolina laws specifically for the purpose of handling these types of requests and make decisions on the distribution of funds. The NCEES Foundation would have a Board of Directors appointed by the NCEES Board of Directors. Funding and reporting for the foundation would be managed jointly by the Board of Directors and the finance committee. They were finalizing

paperwork to establish a separate corporation and put forth \$7 million in the proposed budget to establish the foundation. Their justification was they needed to establish enough of a foundation of funding that the interest earned would be the only funds used. Their reserves are in the range of \$40-\$50 million dollars. The budget motion is always the last to be discussed as the actions taken during the meeting can affect the budget. A request for an amendment was made to approve the budget striking out the \$7 million dollars for the NCEES Foundation. However, after several votes, the \$7 million dollars was allocated for the foundation.

President Biden met with the Prime Minister from the UK and established an agreement to work together and share resources across both countries, one of them being engineering resources. NCEES is attempting to work with the UK to develop a memorandum of mutual reciprocity. The UK does not license engineers; they have what is referred to as a Charter. The Board was contacted by the San Francisco representative of the UK diplomatic office prior to the Annual Meeting. They are looking to establish mutual recognition with any of the states and they are receptive of differences in licensing requirements. The Board is waiting to see what NCEES establishes before a recommendation, if any, can be presented to the Board for consideration.

President Hartley reported on a unique presentation that focused on the business side of land surveying. A presenter at the conference suggested that land surveyors do not charge enough and decided to operate his business and figure out the value of his services and charge accordingly. The presenter reported that there are currently, 34,000 surveyors in the United States, 1.1 million attorneys, and 3 million real estate agents. He believes surveyors should be able to charge a premium since there are few.

Vice-President Wong reported that she joined the Law Enforcement program and attended a body language course. She expressed the importance of public members and their role in public protection.

Mr. Moore reported that an item was pulled from the consent calendar as it relates to Bylaws Motion 1 pertaining to who is eligible to be president elect of the NCEES. Historically, it has been an active licensed engineer or surveyor member of a licensing board. The proposal, based on prior discussions would be to add an active public member of a member board to be eligible to be president elect. The motion failed.

#### G. Update on Outreach Efforts

Mr. Moore reviewed the outreach events.

During Public Comment, Mr. Escarda stated his appreciation for Board staff, specifically Ms. King and Senior Registrar Electrical Engineer Mike Donelson, for their outreach efforts.

Rob McMillan, representing CLSA, echoed Mr. Escarda’s comments. In September, Senior Registrar Land Surveyor Dallas Sweeney provided outreach to Cal Poly Pomona. He appreciates everything the Board does.

**XI. President’s Report/Board Member Activities**

Mr. King reported that last year he served on the NCEES Special Committee on Bylaws. This year he was appointed to the Advisory Committee on Council Activities (ACCA) and is the only public member on the committee.

Vice-President Wong attended the NCEES Annual Meeting and will be attending an ABET visit next week.

Ms. Garcia introduced herself and shared that she is a cyber security risk specialist for a local utility company and she has a background in law.

Dr. Asgari requested to have significant structure requirements added to the next agenda.

**XII. Approval of Meeting Minutes**

A. Approval of July 27, 2023, Board Meeting Minutes

<b>MOTION:</b>	Mr. King and Mr. Martinez moved to approve the July meeting minutes.
<b>VOTE:</b>	9-0-1, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Hartley	X				
Vice-President Wong	X				
Fel Amistad	X				
Alireza Asgari	X				
Rossana D’Antonio				X	
Cristina Garcia	X				
Coby King	X				
Guillermo Martinez	X				
Betsy Mathieson	X				
Frank Ruffino				X	
Wilfredo Sanchez			X		
Fermin Villegas	X				

**XIII. Closed Session – The Board met in Closed Session to discuss, as needed:**

A. Deliberate on a Decision(s) to be Reached in a Proceeding(s) Required to be Conducted Pursuant to Chapter 5 (commencing with Section 11500), as Authorized by Government Code Section 11126(c)(3)

- B. Confer with, or Receive Advice from, Its Legal Counsel Regarding Pending Litigation Pursuant to Government Code Section 11126(e)(1) and (2)(A), on the following matters:
1. Matt Aston, Freddy Espinal, Jesse Moorhouse, Ground Penetrating Radar Systems, LLC v. Board for Professional Engineers, Land Surveyors, and Geologists, Sacramento Superior Court Case No. 34-2020-80003553
  2. Ryan Crownholm, et al. vs. Richard B. Moore, et al., United States District Court, Eastern District of California, Case No. 2:22-cv-01720-DAD-CKD
  3. Roy Allen Olsen, et al. v. California Board of Professional Engineers, Land Surveyors and Geologists, et al., Sacramento County Superior Court. Case No. 34-2022-00328379

**XIV. Adjourn**

The meeting was adjourned at 4:00 p.m.

**PUBLIC PRESENT**

Carl Josephson, SEAOC

Alan Escarda, PECG

Rob McMillan, CLSA