

RESPONSE TO THE BACKGROUND PAPER FOR

The California Board for Professional Engineers, Land Surveyors, and Geologists

Submitted to the
Assembly Committee on Business and Professions
and the
Senate Committee on Business, Professions, and Economic
Development

April 2024

For more detailed information regarding the responsibilities, operation and functions of the Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG or Board), please refer to the Board's "2023-24 Sunset Review Report and Attachments." This report is available on its website at http://www.bpelsg.ca.gov/pubs/2023-24_sunset_review_report.pdf.

CURRENT SUNSET REVIEW ISSUES FOR THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

FISCAL ISSUES

ISSUE #1: *Long-Term Fund Condition. Are fee increases needed to sustain the Board? Should licensees be required to pay a credit card surcharge when paying for license applications, renewals, and exam fees on the Board's website?*

Background: The Board is self-funded; its budget is entirely funded by fees paid by applicants and licensees. Since its last sunset review, the Board's total revenue has generally trended downward, while concurrently, the Board's expenditures have increased. The Board experienced a two percent decline in renewal applications in FY 2020-21 compared to FY 2018-19 and a four percent decline in renewal applications in FY 2021-22 compared to FY 2019-20. At the time of this writing, the Board reports that it has just less than one month's expenses in reserve, which the Board attributes to increasing costs, including credit card surcharges incurred when applicants

apply for or renew a license online. Since FY 2019-20, the Board has absorbed the cost of all credit card surcharges. However, doing so is becoming more financially burdensome to the Board as a greater number of licensees apply for or renew their license online. In FY 2022-23, 90% of licensees renewed their licenses online.

Credit Card Fees	
Fiscal Year	Transaction Fees
2019-20	\$63,535
2020-21	\$87,900
2021-22	\$152,160
2022-23	\$165,110
2023-24 (Projected)	\$175,000
2024-25 (Projected)	\$185,000

In addition, the Board has been using its reserves to fund its Business Modernization efforts. Since FY 2019-20, the Board has spent \$3,313,368 to implement its licensing and enforcement system, BPELSG Connect. The Board anticipates that licensee attrition could render the Board’s fund insolvent considering that revenue from license renewals accounts for roughly 80 percent of the Board’s total revenue. However, the Board’s executive staff conservatively estimate that after an expected \$1M-\$1.5M budget reversion combined with reduced IT costs and an anticipated heavy renewal year will increase the Board’s reserve fund up to about 2 months. Nonetheless, it is unclear how the Board, at present, would cover significant unanticipated costs, such as a lawsuit.

The Board reports that it has just begun an internal fee study which is expected to be completed by fall 2024. The Board reports that most of its fees could be raised via rulemaking, but those changes likely would not be implemented until January 2026.

Committee Staff Recommendation: *The Board should keep the Committees apprised of the results of its fee study and plans to modify fees via its rulemaking authority. Additionally, the Board should consider the appropriateness and need for licensees to pay credit card fees associated with license application and renewal online.*

Board Response: As mentioned in the Sunset Report, the Board has recently begun a fee study in collaboration with the DCA Budget Office and expects to provide reports at a future Board meeting, with recommendations to the Board most likely at the August 22-23, 2024, meeting. Since there is sufficient room between the Board’s current fee structure as specified in regulations and the Board’s statutory maximum limits, the Board believes that any recommendations for fee changes resulting from the fee study will only involve rulemaking efforts to revise the fees in Board Rules and will not require statutory changes. If fees are proposed to be changed, the likely date for those to become effective would be January 1, 2026, based on current rulemaking process timeframes.

It is anticipated that during the discussion on fee change recommendations, expected at the August 22-23, 2024, Board meeting, the Board will be updated on the impact that credit card transactions has on expenditures and overall fund condition. However, an evaluation of the current fund condition reveals that the costs of processing a license renewal by credit card has a fee of

approximately 2.5% of the total dollar value of each transaction. At the current \$180 fee for license renewal, the average transaction processing fee is \$4.50, which is approximately 50% less when compared to the costs which are incurred by the Board by manually processing a license renewal payment by all other payment options other than by credit card through the online process. The online participation rate for license renewals in February 2024 was 94%.

Furthermore, from the period Fiscal Year (FY) 2018/19 through FY 2022/23, credit card processing fees accounted for \$589,000, or 1%, of the Board's overall expenses. Based on this information, if the Board chose to begin passing the transaction processing fees on to licensees and applicants on a per transaction basis, this change would not have a significant impact on the fund condition or mitigate the need for a fee increase and, more importantly, would likely negatively impact the otherwise robust online participation rate, which would conversely result with increased costs by forcing the Board to manually process more license renewals.

LICENSING ISSUES

ISSUE #2: Reciprocity Agreements. Should the Legislature establish reciprocity for UK-based chartered engineers?

Background: The Board reports that as a result of the signing of the Atlantic Declaration for Twenty- First Century U.S.-U.K. Economic Partnership, the NCEES and the Engineering Council in the United Kingdom (ECUK) are currently developing a mutual recognition agreement to more easily enable U.S.-based licensed engineers to practice in the UK and vice versa. In February 2024, representatives of the Board traveled to the UK to meet with ECUK and UK governmental officials to learn more about their licensing requirements and the industry more broadly. The Board reports that at this time its goal is to ensure that the licensing requirements established in the mutual recognition agreement sufficiently protect consumers.

Existing law authorizes the Board to establish relationships with comparable licensing entities in other countries “for the purposes of working toward uniformly high professional standards and mutual recognition of registration and licensure,” but the Board acknowledges that should the Board decide to accept the agreement as an alternate pathway to licensure for professional engineers, it is anticipated that legislative authorization and a subsequent rulemaking would be required for the Board to implement the alternate pathways established by the mutual recognition agreement.

Committee Staff Recommendation: *The Board should continue to keep the committees comprised of the status of the mutual recognition agreement and established license requirements therein.*

Board Response: The National Council of Examiners for Engineering and Surveying (NCEES) and the Engineering Council of U.K. (EngC) finalized the Mutual Recognition Agreement (MRA) on March 28, 2024. The Board took action at their March 7, 2024, meeting, agreeing to pursue recognition of the MRA as an alternate pathway to engineering licensure in California for any U.K. Chartered Engineer that has additionally obtained registration under the International Engineering

Alliance (IEA) registry. While the MRA recognizes many similarities between California engineer license requirements and those of the EngC, the MRA has identified that Chartered Engineers from U.K. use a form of assessment which differs from the traditional examination form which is common in U.S. jurisdictions. The Board is currently evaluating any revisions to laws and regulations to prepare for applicants seeking to use this pathway in the future and has identified some minor revisions to statutes which will enable to the Board to fully consider all available options during the rulemaking process to implement this pathway. These minor revisions would amend Business and Professions Code sections 6755 and 6755.1 relating to the term “second division examination.” The proposed amendments would clarify that the Board could enact rules to waive any part of the second division examination and what the parts of the “second division examination” for the civil engineer license are. The proposed language is included with the response to Issue 10, along with other proposed legislative changes.

ISSUE #3: Limited Liability Partnerships. Should the Legislature indefinitely allow the Board to issue a license to a limited liability partnerships?

Background: Existing law authorized engineers and land surveyors to offer their services through various types of business entities, including, until January 1, 2026, a Limited Liability Partnership (LLP). The American Council of Engineering Companies – California (ACEC-CA) is seeking to delete the sunset date from statute, thereby allowing engineers and land surveyors to continue conducting business as a limited liability partnership indefinitely. ACEC-CA sponsored the original bill and subsequent bills that extended the sunset date. In 2018, they sponsored SB 920 (Cannella), Chapter 150, Statutes of 2018, that would have eliminated the sunset date. However, the sunset date was added back in and extended when the bill was heard by the Senate Judiciary Committee.

Committee Staff Recommendation: *The Board should notify the Committees of any complaints received from consumers related to engineers and land surveyors offering their services through an LLP that would justify the imposition of a continued sunset date.*

Board Response: This issue raises the question, “Should the Legislature indefinitely allow the Board to issue a license to a limited liability partnerships?” To clarify, the Board does not issue licenses to engineering or land surveying businesses, nor would this legislative proposal authorize that. The laws allow professional engineers and land surveyors to form certain types of business entities through which those licensed individuals may offer their services, if specific terms as stated in the laws are met (Business and Professions Code sections 6738 and 8729, respectively). Prior to 2010, those business entities were limited to sole proprietorships, partners, corporations, and firms. In 2010, ACEC-CA sponsored legislation to include limited liability partnerships as another type of business entity. At that time, the Legislature included a sunset date for the provision to allow for review in the future regarding what impact that type of business entity might have on consumers. In the intervening years, ACEC-CA has sponsored legislation to eliminate the sunset date; however, the Legislature has only extended the date, rather than eliminating it. The Board has supported ACEC-CA’s efforts to eliminate the sunset date in the past. This year, ACEC-CA is again proposing to eliminate the sunset date through Assembly Bill 1862 (Vince Fong and Chen). At its March 7, 2024, meeting, the Board voted to take a position of “support” on AB 1862. The Board has not received any complaints or inquiries from consumers regarding professional engineers and land surveyors who offer their professional services through a limited liability

partnership. The only inquiries the Board has received are from licensees who are trying to determine if they will need to change their business structure from an LLP to one of the other authorized entities if the sunset date is not extended. The Board has advised them that they should consult with an attorney, but that the Board would most likely take into consideration whether the business had been legally established under the laws in effect at the time. It should also be noted that the Board has no position on the types of business entities authorized. The Board had no position on the original bills that added LLPs to the laws and extended the sunset date. The Board does support the elimination of the sunset date to remove any confusion for its licensees and because the Board is not aware of any issues caused to consumers by allowing professional engineers and land surveyors to form LLPs. A copy of the Board's letter of support is included with this response.

EDUCATION AND EXAMINATION ISSUES

ISSUE #4: *Continuing Education. Should the Legislature require licensees to complete continuing education as a condition of license renewal?*

Background: In its 2022-27 Strategic Plan, the Board included an objective to require licensees to complete continuing education on their respective professional practices. The Board has subsequently established a workgroup of two board members and the Board's executive leadership to assess the feasibility of implementing a continuing education requirement. The Board reports that the workgroup's efforts are in their infancy. Nonetheless, that Board suggests that it may need to seek statutory authorization to impose a continuing education requirement, pending recommendations from its committee.

Committee Staff Recommendation: *The Board should keep the Committees apprised of its committee's findings and recommendations. Additionally, the Board should consider alternative methods to assess competency.*

Board Response: The workgroup has met to discuss initial goals and to identify possible sources of information which would prove beneficial to the workgroup's need to properly assess any impacts resulting from an implementation of continuing education requirements to licensees. An online questionnaire was developed, and a link was distributed publicly to all the Board's stakeholders, which resulted in 1,383 responses between November 2023 and February 2024. Ninety-three percent (93%) of the responses were from engineers, geologists, geophysicists, and land surveyors currently licensed by the Board while seven percent (7%) came from unlicensed individuals, presumably those who are in various stages of seeking a license. The overall results of the questionnaire will be presented to the Board at the May 9-10, 2024, Board meeting. A subsequent updated report will be provided to the Committees following that meeting.

Additionally, the Board has recently executed a contract for assistance in developing the necessary content for the upcoming License Renewal Assessment, which is planned to be available to licensees during the license renewal process. As mentioned under the Board's 2022-23 Strategic Plan and under Section 4 – Enforcement Program portion of the Sunset Report, this Assessment will focus on educating licensees on any changes to the Board's laws and most common areas of non-compliance. While the Board anticipates this Assessment to become available to licensees by

the end of 2024 or early 2025, this anticipated timeline is highly dependent upon the continued availability of necessary resources from DCA's Office of Information Services and the vendor dedicated to completing the Board's contracted development of BPELSG Connect.

ISSUE #5: *Education and Experience Requirements. Should geologist and geophysicist applicants be able to substitute work experience for some of the required education?*

Background: Individuals applying for an Engineer-in-Training, Professional Engineer, Land Surveyor-in-Training, or Professional Land Surveyor license are required to have completed a minimum amount of work experience. Specific education is not required but can count towards some of the required work credit. In contrast, education is required for certification or licensure as a Geologist-in-Training, Professional Geologist, or Professional Geophysicist. The Board is currently considering the appropriateness of allowing geologist and geophysicist applicants to substitute work experience for a portion educational requirements. According to the Board, some of the educational requirements have prevented otherwise qualified individuals from obtaining licensure. For example, applicants are required to complete a specified number of hours in field course work. During the COVID-19 pandemic, many field work courses were cancelled or moved online, which does not meet the Board's requirements for licensure. The Board reports that it has denied applications for this reason. Moreover, the Board reports that applicants who completed education requirements many years before applying for a license may no longer qualify if the education requirements have changed. The Board is just beginning to study this matter and suggests that it may seek statutory authorization to allow applicants to substitute work experience for education on a limited basis in the future.

Committee Staff Recommendation: *The Board should report to committees the number of applicants who have been denied licensure for the aforementioned reasons. Moreover, the Board should consider whether the proposal being considered is necessary as the COVID-19 pandemic subsides.*

Board Response: As noted in the Board's Sunset Review Report, Board staff has just begun reviewing this issue and collecting data to help the Board make an informed decision regarding whether education should still be a mandatory requirement for certification or licensure as a Geologist-in-Training (GIT), a Professional Geologist (PG), or a Professional Geophysicist (PGp) or whether there should be allowances made to provide for work experience in lieu of some of the educational components, which would be more consistent with the requirements for an engineer or land surveyor license.

At this time, Board staff has not compiled the data to determine how many applicants were denied solely because of their educational course work. The legacy computer system the Board used to track applications indicates whether an application was denied, but it does not indicate the reason for that denial, which can include issues with the work experience as well as the course work. It will be necessary for staff to manually review the files to determine the reason for the denial and what the final outcome was. The Board is aware of two applicants within the last two years whose applications were denied solely based on deficiencies with their educational course work. Both

applicants completed additional course work and reapplied to the Board and are now on the path for licensure.

A question was raised about whether this will still be an issue now that the COVID-19 pandemic is subsiding. If there is an issue with the person's course work that was completed during the pandemic, that person would always have that issue whether the pandemic is subsiding. Individuals who complete their course work in the future would likely not face the same issue.

The Board will be discussing this issue at its May 9 & 10, 2024, meeting. A subsequent updated report will be provided to the Committees following that meeting.

ISSUE #6: *Exam Passage Rates. Why are state exam passage rates so low?*

Background: The Board, and its exam vendor, Prometric, are responsible for the development, administration, and scoring of state exams. State exams are required for the following license types: Civil Engineer, Geotechnical Engineer, Traffic Engineer, Land Surveyor, Professional Geologist, Professional Geophysicist, Certified Engineering Geologist, and Certified Hydrogeologist. These exams are required by law as either a supplement to a national exam or in place of a national exam if there is none. Applicants must apply for Board approval to take any of the state exams. Each exam is offered in English only.

With the exception of the Traffic Engineer exam, which the Board completed an OA of in 2017, the Board has completed an OA for every state exam since its last sunset review in 2019. The Board reports that OAs help determine which topics need to be covered, not to validate the requirement of having a state-specific exam; each exam is mandated by law (Business and Professions Code sections 6736.1, 8741.1, 7841(d), 7841.1(d), 7842(b)). Most recently, the Board conducted an OA for each of the Civil Engineer exams and changes to those exams became effective on January 1, 2024. The Board is in the process of conducting OA for the all other state exams with completion expected by 2025.

Pass rates for each state exam are fairly dismal. In FY 2022-23, more than 50 percent of all exam takers failed (with the exception of the Professional Geophysicist exam and both Civil Engineer exams which yielded slightly better passage rates). The Geotechnical Engineer exam has had the highest rate of failure of all the state exams; over the past four fiscal years, more than 60 percent (and up to 80 percent) of candidates have failed the Geotechnical Engineer exam.

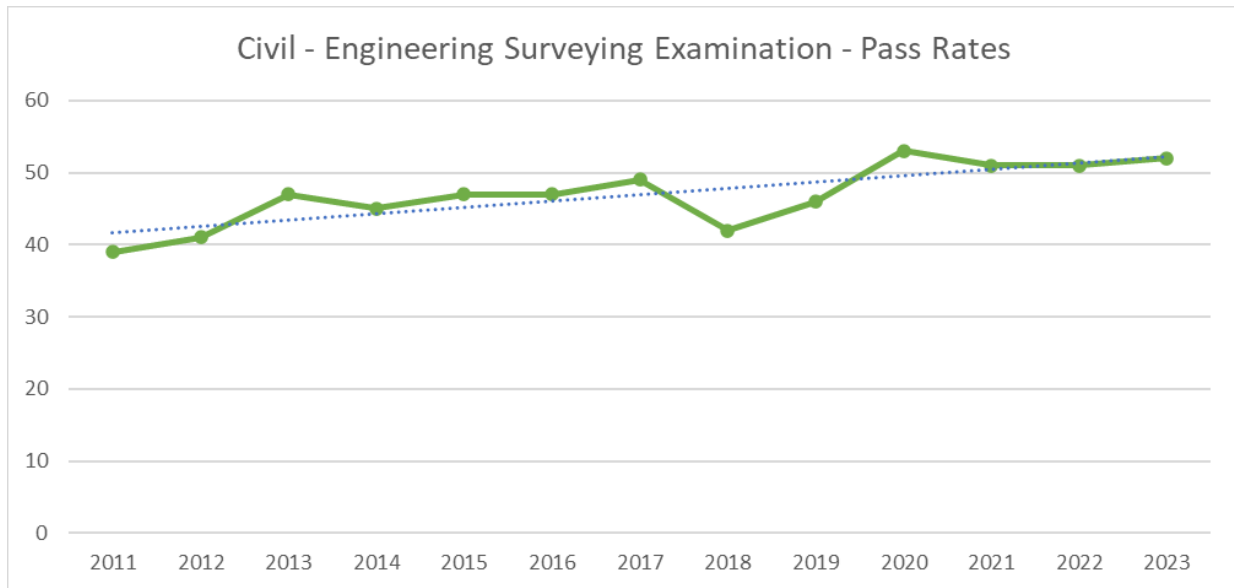
Committee Staff Recommendation: *The Board should determine the reason(s) for such low passage rates and anything it could do differently to support candidates. Moreover, the Board should consider the purpose and need for a state-specific licensing exams and report to the Committees its findings. If legislative changes are needed, the Board should share amendments with the Committees.*

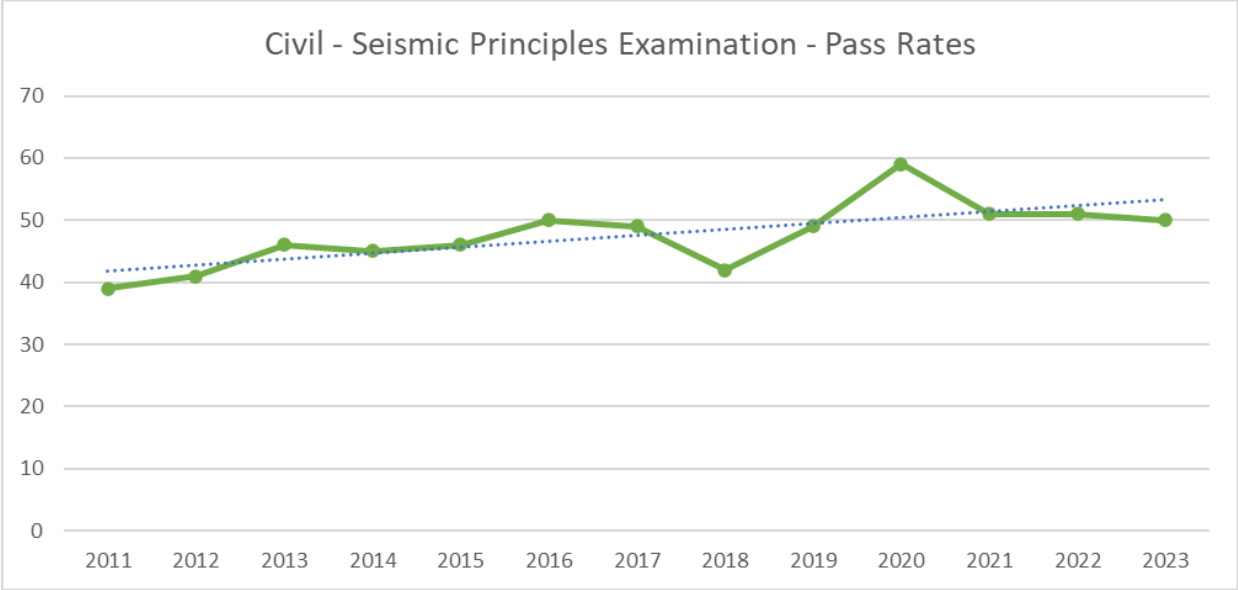
Board Response: The Board has identified multiple variables which could have a perceptive impact on the pass rates, not the least of which is the knowledge and skill level of the examinees themselves. Since FY 2011/12 when the Board transitioned all of its state exams from paper-pencil format to computer-based testing (CBT), two primary variables for significant variation in

examinee performance were apparent; one which does actually impact performance while the other gives the visual perception of poorer performance and possible issues with the examination(s) itself.

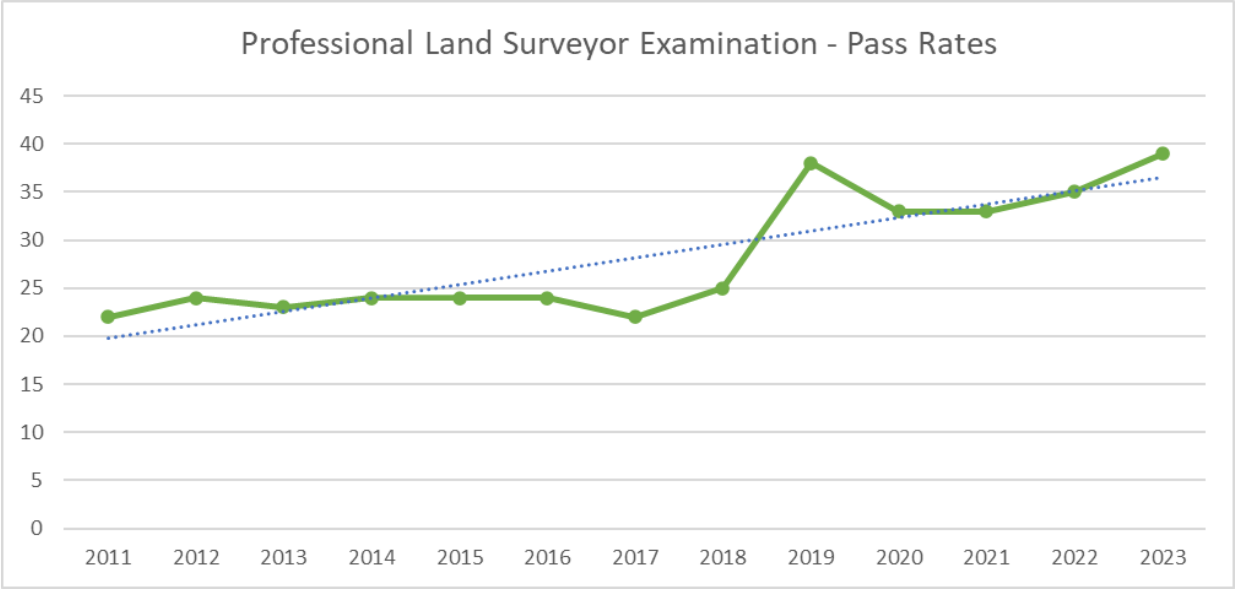
The Board regularly performs outreach to licensees and "pre-licensees" on the importance of understanding the contents of the published test plan specifications and how the applicants, by focusing on those specifications, can be better prepared for what they will actually be tested on. The approved and published test plan specifications are the direct result of the Occupational Analysis (OA) studies. It is the Board's experience that many times exam preparation efforts by industry experts or volunteers attempt to teach the applicant how to practice rather than how to build upon their previously gained education and experience with a clear understanding towards focusing on exam preparation. Ever since the Board has begun guiding the professional groups, licensees, and applicants through outreach efforts on the direct correlation that the test plan specifications has on successfully preparing for the exam(s), the Board has generally seen more consistent pass rates for most of the exams.

For example, the pass rates for both the state Civil – Engineering Surveying and Civil – Seismic Principles have both shown a positive trend in pass rates since the onset of the Board's outreach efforts.





While reflecting a little more fluctuation across administrations, the same can generally be said for the state Professional Land Surveyor examination:



The fluctuation shown in the state Professional Land Surveyor examination pass rates is reflective of the other primary variable that gives the appearance of poorer performance. That is the size of the examinee population for each exam. The larger populations for the two Civil Engineer examinations are not so readily impacted with a variation in the number of people passing a given administration. While the smaller examinee populations such as the state Geotechnical Engineer, Traffic Engineer, or the various Geologist examinations have a much more significant impact on the pass rate for those exams. For example, if 10 additional examinees failed at a certain administration, that would result in a dramatically different passing rate than if 10 additional examinees failed (or passed) one of the civil engineer examinations.

While the state Professional Land Surveyor examination has a larger examinee population relatively speaking, it is still much smaller than the two civil engineering examinations.

The Geotechnical Engineer examination was administered only once per year up to 2013 primarily due to the low population. After evaluation by Board staff and its examination vendor, the Board decided to change the administration of this examination to be open throughout the year (beginning in 2015 – the examination was not offered in 2014) in an effort to accommodate the licensed Civil Engineers who had applied for the Geotechnical Engineer title authority and reverse the trend of declining number of applications. However, this change in administration did not generate increased interest from the civil engineering population as anticipated so the Board changed again to a single, 15-day testing window in the fall of 2018 and is maintaining that current schedule. The Board believes the declining pass rates are generally reflective of this variance in administration format as well as the general decline in Geotechnical Engineer applications received by the Board.

Furthermore, as mentioned on Page 20 of the Background Paper for the California Board for Professional Engineers, Land Surveyors, and Geologists, the Board conducts OAs to determine which topics are to be covered on each exam. After the OA for an exam is complete, the exam is adjusted to reflect the new test specifications resulting from the OA. The new exam is administered to candidates, then after a sufficient number of candidates have taken the new exam, the Board conducts a standard setting study to establish the passing score for the exam. The passing score represents the minimum level of competency a candidate must have to practice safely in the profession.

In concert with the psychometric vendor, the Board uses an industry standard process for standard setting, in which a panel of subject-matter experts (SMEs) are trained to rate each test item as to how many of 100 minimally competent candidates would answer the item correctly. A psychometrician analyzes the panel's ratings and calculates a range of potential passing scores. The panel reviews the potential passing scores along with data regarding the pass rate that would result from each potential passing score, and the panel selects a passing score to recommend to the Board. The Board makes the final decision regarding the passing score for each exam.

Standards for Educational and Psychological Testing (2014: AERA, APA, NCME) standards 5.22 and 11.16, respectively, describe how pass scores are determined for credentialing exams and to quote standard 11.16 “The level of performance required for passing a credentialing test should depend on the knowledge and skills necessary for credential-worthy performance in the occupation or profession and should not be adjusted to control the number or proportion of persons passing the test.”

In conclusion, the Board believes the state examinations are not only psychometrically valid but, more importantly, pertinent towards protecting the public's interests in terms of ensuring that competent individuals are practicing engineering, land surveying, geology, and geophysics in California. Since California is one of approximately 10 states which issues engineering licenses by discipline rather than generically as a Professional Engineer license, the state examinations serve to fill in the gap between the content included on national professional engineer examinations and specific state conditions that are unique to the regulated practices in California. The Board also understands that California is the only state which specifically issues a Traffic Engineer

license; one of only two states which issues a specific Geotechnical Engineer license (Oregon issues a Geotechnical Engineering license and mandates their applicants to pass the California Geotechnical Engineer examination); and the only state which specifically issues a Professional Geophysicist license.

ENFORCEMENT ISSUES

ISSUE #7: Investigation Timelines. What can be done to reduce processing times for the Board's complaint investigations?

Background: The Board refers a small number of cases to the DCA's Division of Investigation (DOI). However, because DOI is responsible for helping nearly all DCA boards and bureaus investigate cases, the Board reports that its own cases are rarely prioritized, causing significant delays. In 2019, the Board reported that DOI took more a year to complete its investigation in 57 percent of cases referred by the Board. Five years later, the Board reports that over the last four fiscal years, DOI has taken more than one year to investigate 52 percent of the cases referred by the Board. According to the Board, "It would be beneficial to all boards and bureaus if DOI were able to increase the number of investigators it employs and to also create specific units within DOI to handle specific types of cases or to work with specific boards."

Committee Staff Recommendation: *The Board should consider whether there are additional changes that would improve the overall processing time of complaints received by the Board.*

Board Response: As outlined in the Sunset Report, the Board has identified a number of factors that affect the overall processing time of complaints received by the Board, including the increased number of complaints received as a result of an easier means for complainants to submit complaints through the Board's BPELSG Connect online complaint portal; continued development and improvements to the external user interface and the back office functionality of the portal; longer processing times for cases that include referral to the Division of Investigation (DOI); and difficulties recruiting independent expert consultants.

The Board also identified several improvements the Board is working on to allay a number of the concerns related to processing times. The Board is confident that continued development of the back office portion of BPELSG Connect and improvements to the external and internal functionality will improve the effectiveness of Board investigations and help improve overall timeframes. The Board is also finding success in recruitment of experts by notifications to licensees through its website and subscriber lists and outreach to professional associations with requests for them to convey the Board's need to their members. Furthermore, Board staff is actively working with DOI to assist in drafting its Case Referral Guidelines for non-health care programs. These guidelines are intended to assist DOI to focus on prioritizing the cases referred to it by all the non-health care programs.

As the Board continues to focus on these efforts to improve processes that will assist in reducing investigation timelines, it remains committed to recognizing additional opportunities to improve, including evaluating and revising current investigative policies and practices, evaluating ways to

assist the public and licensees to reduce violations resulting in complaints, and assisting outside entities the Board relies upon to improve their own processes.

ISSUE #8: *Unlicensed Activity. What can the Board do to combat unlicensed activity?*

Background: In 2019, the Board reported that it had witnessed a spike in unlicensed activity, largely stemming from the advancement and democratization of technologies (i.e., Global Positioning System (GPS) and Ground Penetrating Radar (GPR)) used to render land surveying and geophysical services. At the time, the Board reported that the concern was not so much that these tools were being utilized by laypersons, but that unlicensed individuals were interpreting resulting data and making subsequent recommendations, which constitute the practice of land surveying and geophysics in California. The Board reported that it had conducted outreach at industry events and formed a relationship with the California Facilities Safe Excavation Board. However, the Board continues to receive complaints about unlicensed activity and encounter businesses with no knowledge of the state's licensing requirements.

In its 2023-24 Sunset Review Report, the Board stated the following:

The Board would like to pursue other means to improve the effectiveness of the Enforcement Unit's processing of its complaint investigations, particularly those related to unlicensed practice. While issuing an administrative citation is an effective means of disclosing unlicensed activity to the public and emphasizing the severity and gravity of such violations, it is not always effective in motivating violators to cease and desist. Many choose to pay the fines and continue to offer and practice, while others choose to ignore the administrative citation altogether. The use of the internet to advertise professional engineering, land surveying, and geologic services continues to be on the rise. Business by unlicensed individuals is often conducted solely through internet advertisements, either using broker/referral websites or individual sites for companies. Communication is often through email and mobile telephone service, and payment is made through online payment options. This process can severely hinder ability by the consumer or the Board to pursue remedies if a breach of contract or fraud occurs. Therefore, the Enforcement Unit would like to research additional means of effectively inhibiting solicitation of illegal activities. For instance, current law provides the Board, through the issuance of an administrative citation, authority to order individuals advertising professional services in telephone directories to disconnect telephone services regulated by the Public Utilities Commission (PUC). Legislation enacted in 2015 broadened this to include any advertising, not just a listing in a telephone directory. However, many unlicensed individuals operate through mobile telephone services, which are not regulated by the PUC. In addition, there is currently no authority to require violators to shut down websites illegally advertising professional services or to require the online broker/referral websites to remove the listings. The Board would like to collaborate with the online broker/referral sites to better educate their online customers and the public of possible licensure

requirements, as well as easily identify and investigate those in violation of the Board's laws.

Another serious problem regarding unlicensed activity is unlicensed individuals operating engineering and land surveying businesses without having an appropriately licensed individual as an owner, partner, or officer in responsible charge. Currently, companies offering professional engineering and land surveying services are required to provide an Organization Record (OR) form, filed free of charge, which lists the licensed professional(s) in responsible charge of professional services offered and performed. During the 2022 legislative session, the Board sponsored legislation (Ch. 302, Stats.2022) that repealed a subdivision in B&P Code § 6738 and 8729 that was widely misinterpreted as allowing non-engineering and non-land surveying businesses to offer professional engineering or land surveying services as long as the business then contracted with a licensee to be in responsible charge of the work. Although this was not at all what the subdivision stated, the Board determined that the best course of action was to repeal it to prevent any future misunderstandings or misuse of the law. This change became effective January 1, 2023. Currently, there is not a requirement for geological and geophysical companies to file an OR form, although the Geologist and Geophysicist Act does require a professional geologist or geophysicist, as appropriate, to be an owner, partner, or officer of the business and in responsible charge of the professional services offered and performed. The Board has been exploring a means to integrate certain data elements into the BPELSG Connect system that will better enable the tracking of licensees' association with engineering, land surveying, geology, and geophysics businesses offering services in California.

Additionally, the Board reports that it has met with concerned professional associations to discuss way in which they can collaborate to address unlicensed activity.

Earlier this year, the California Land Surveyors Association (CLSA) submitted a letter enumerating several recommendations to combat illegal land surveying. Those recommendations include the Board hiring more enforcement staff; increasing civil penalties; requiring land surveyors to carry professional errors and omissions liability insurance; holding unlicensed land surveyors and the entities that employ them to be held jointly and severally liable for unlicensed practice; and enhanced education and outreach for consumers. Moreover, the CLSA has indicated that licensed land surveyors would be willing to pay slightly higher fees to improve enforcement.

Committee Staff Recommendation: *The Board should consider the merit of CLSA's recommendations and report to the Committees which, if any, it considers feasible. Moreover, the Board should identify any statutory or budgetary changes needed to enable more effective enforcement against unlicensed activity.*

Board Response: Although the Committee Staff Recommendation references a letter from the California Land Surveyors Association (CLSA), the Board also received a copy of joint letter from the American Council of Engineering Companies – California (ACEC-CA) and the California and Nevada Civil Engineers and Land Surveyors Association (CELSA). Both of these letters were

sent to the Committees, with copies to the Board. Since the two letters make nearly identical recommendations, both will be discussed in the Board's Response. The letters will be referred to as "the ACEC-CA/CELSA letter" and "the CLSA letter" or, collectively, as "the letters."

The Board recognizes efforts by professional organizations, such as ACEC-CA, CELSA, and CLSA, to offer viewpoints on issues threatening the public and suggestions to strengthen the Board's authority to effectively enforce its laws. The Board agrees with some of the issues presented in the letters, and it has expressed some of the same issues in its Sunset Report. Furthermore, the Board is already researching some of the recommendations presented in the letters, such as exploring continuing education and increasing outreach through hosting and participating in events and increasing online presence.

The letters recommend that the Board hire more staff dedicated to the investigation and prosecution of unlicensed land surveying. They both allude to increase license renewal fees, with CLSA indicating it would support "a modest license fee increase to fund this." The letters also recommend the Board increase the maximum amount of administrative fines it may order, which are listed in its regulations (Title 16, California Code of Regulations sections (16 CCR) 472.1 and 473.1), with CLSA specifically recommending the maximum be \$20,000 per occurrence or 5% of the cost of the project and CELSA/ACEC-CA recommending the maximum amount for the "willful, knowing, or reckless unlicensed practice of land surveying to [be] commensurate with the size of the contract." The recommendation to increase the amount of the administrative fine has been suggested in the past. Each time, the Board has explained that the maximum fine amount as specified in its regulations is \$5,000 per incident per violation, which is the maximum amount allowed under the statutes that authorize the Board to enact regulations to issue citations with administrative fines. These sections, Business and Professions Code sections 125.9, 148, and 149, apply to many of the licensing programs within the Department of Consumers. As such, the Board does not have the statutory authority to increase the maximum amount of the fine specified in its regulations. Additionally, the Board questions the appropriateness of specifying a different maximum amount for one specific violation (unlicensed practice of land surveying). Furthermore, as the Board noted in this Sunset Report and this response, unlicensed individuals often do not pay the fines ordered, not matter what the amount may be. With regards to the recommendations to increase license renewal fees to cover the costs of hiring enforcement staff who would be dedicated to handling investigations of cases related to the unlicensed practice of land surveying, the Board is beginning an internal fee study to determine if fees need to be changed to sustain the overall operations of the Board. Again, the Board would also question the appropriateness of charging its licensees a higher renewal fee that could only be used for one specific activity.

The letters also focus on enhancing existing laws associated with business requirements, which they believe will promote better responsible charge by licensees. There are already laws in place related to some of the suggested legislative measures suggested in the letters. For instance, the letters recommend legislation to hold unlicensed individuals and the companies that hire them "jointly and severally" liable for unlicensed activity. The concept of joint and several liability is related to financial damages that may be addressed through the civil courts; it does not pertain to the Board's ability to pursue administrative enforcement action against licensed or unlicensed individuals. The Board's laws already identify unlicensed practice and aiding and abetting by the Board's licensees as actionable offenses that can result in administrative or disciplinary action.

Furthermore, the Board's laws already require professional engineers and land surveyors to file Organization Record forms providing information regarding their businesses. The Board has, and will continue to, pursue enforcement action against licensees who fail to comply with these laws.

The CLSA letter recommends that all professional land surveyors be required to carry professional errors and omissions liability insurance. The CELSA/ACEC-CA letter recommends that all professional land surveyors be required to disclose whether they carry professional errors and omissions liability insurance. The Board has concerns regarding both of these recommendations. If licensees are required to carry professional errors and omissions liability insurance, it is likely that these overhead costs will increase the amount of the fees the licensees, through their businesses, will charge consumers for their services to cover this additional cost of doing business, which does a disservice to consumers. Requiring licensees to disclose to clients whether they carry such insurance will likely result in an increase in complaints to the Board that will be based on "he said/she said" type of evidence and will ultimately result in a determination that there is not sufficient evidence to determine whether a violation occurred. This would impact the Board's ability to timely, efficiently, and effectively investigate and process complaints.

The letters recommend that "the legislature should adopt a requirement that BPELSG develop and deploy a strategy for educating purchasers and consumers of land surveying services about what constitutes the practice of land surveying and the importance of utilizing properly licensed professionals." The Board recognizes that effective outreach to the industry and to the public is essential to ensure that licensees meet industry standards and that consumers are informed of the potential issues they could encounter by hiring unlicensed individuals. As noted in the Sunset Report, the Board actively provides outreach to professional organizations, agencies, and other licensed groups to discuss practice-related issues and to provide information on any changes to the laws. Furthermore, the Board agrees that an informed consumer is essential to public protection. Board staff has participated in consumer outreach events and published an informative consumer guide. However, the Board cannot force consumers to hire only licensed individuals or to pursue any kind of action against consumers who do not follow the Board's recommendations against hiring unlicensed individuals. The Board believes legally mandating an outreach program would not increase the number of consumers who attend events or access the Board's website or social media pages. The letters also recommend that the Board enact a continuing education requirement for professional land surveyors. As noted in the Board's Sunset Report and detailed in the response to Issue 4, the Board has already established a workgroup to study the issue of whether continuing education should be required for all its licensees.

The CELSA/ACEC-CA letter also recommends that the practice of requiring a survey control data release compliant with the Professional Land Surveyors Act for all exchanges of survey control data be codified and provides specific items that should be included. As justification for this recommendation, CELSA/ACEC-CA claims, "It is common practice among professional land surveyors who are providing surveying control or other surveying data to require a release from the third party receiving the data. This release commonly requires the receiving party to acknowledge that they are responsible for checking the accuracy and use of the survey data, that the requirements of the PLS Act will be complied with by the third party, that the survey data will be used only under the responsible charge of a licensed land surveyor in the State of California, and that such land surveyor in responsible charge will be disclosed. Finally, the release protects

the disclosing party from liability for any changes or manipulation of the data disclosed going forward, and no future establishment of surveying data will be done without a licensee being in responsible charge of such additional survey work.” They further claim there is nothing in the Board’s regulations that address this. However, Business and Professions Code section 8761.2 provides that the professional land surveyor in responsible charge of the land surveying work is not responsible for subsequent changes to or use of their work product where those subsequent changes or use are not authorized by the professional land surveyor. Furthermore, the Professional Land Surveyors Act, as its associated regulations, required that all work that falls within the codified definition of land surveying must be done by or under the responsible charge of a professional land surveyor. As such, the issue of protecting the original licensee relating to any changes or manipulation of the data without their knowledge or consent is already addressed in statute. Additionally, the laws already provide that any work that meets the definition of land surveying must be done by or under the responsible charge of a professional land surveyor. It is unclear to the Board why adding a specific requirement relating to disclosure statements is needed since there are already laws in place that would address such issues.

In summary, as detailed in the Board’s Sunset Report and this Response to the Background Paper, the Board takes the issue of unlicensed activity of all of its regulated professions very seriously. The Board’s Enforcement Unit diligently investigates complaints relating to unlicensed activity and takes appropriate steps to educate individuals on the laws and what activities require a license. The Board’s current laws already provide effective means for enforcement relating to many of the issues raised the letters. With regards to other recommendations, the Board has concerns with the appropriateness of them and the effect and impact they would have on consumers and the Board’s ability to effectively and efficiently investigate complaints. As such, the Board does not believe any statutory changes should be made in response to the recommendations.

ISSUE #9: *License Revocation. Should the Board be authorized to automatically revoke a license when the licensee violates the terms of probation?*

Background: When a licensee is placed on probation, their license is revoked, but the revocation is stayed by the Board. The Board imposes terms of probation, which can include requirements to take education and ethics courses, pass an examination on the Board’s laws and regulations, notify clients of their disciplinary action, and pay the Board’s costs for investigation and prosecution of the matter. Additionally, the terms of probation may include a period of suspension from practice. When the period of suspension concludes, the licensee must continue to abide by any other terms of their probation. However, if the licensee violates probation, the Board must file a Petition to Revoke Probation and go through the full formal discipline process.

Committee Staff Recommendation: *The Board should share how often it must go through the full formal disciplinary process to revoke the license of an individual whose license has been placed on probationary status and the licensee violates the terms of probation. Additionally, the Board should consider whether having the authority to automatically revoke a license in this limited instance strikes the right balance between reducing administrative burdens and protecting due process.*

Board Response: Over the last five fiscal years, 23 licensees had licenses revoked or voluntarily surrendered after the filing of a pleading that included a petition to revoke probation. There were 11 matters that resulted in extensions of probation and/or additional probationary terms.

It is noted that the administrative burden associated with matters related to processing probation violation cases is typically less than the financial and workload burden of processing cases related to initial pleadings for violations of the Board's laws. A Deputy Attorney General is not tasked with creating a pleading based on the technical nature of the Board's professions, which often requires consulting with the Board's independent expert consultant and Board staff. In addition, there are fewer witnesses to coordinate for hearing, and less intensive preparation of witnesses due to the lack of causes for discipline based on technical practice issues. Administrative hearings are conducted in less time, often in less than one day.

For those that resulted in additional probationary terms, reasons given by probationers for failing to timely comply with probationary orders ranged from personal, business, and health-related issues; difficulty meeting the financial burden of courses or difficulty finding college courses deemed acceptable by the Board; and other burdens related to the COVID-19 pandemic. In these cases, probationers often demonstrated to the Board, either through administrative hearings or stipulated settlements, sufficient cause to provide them an additional opportunity to complete probation.

Although the majority of these kinds of cases resulted in revocation or voluntary surrender, it is the Board's position that licensees' due process rights outweigh the interest in reducing administrative burdens. Probationary terms are intended to reeducate licensees and permit them opportunity to demonstrate rehabilitation. They should be given the full measure of the administrative process to rehabilitate.

TECHNICAL CLEANUP

ISSUE #10: *Technical Cleanup. Is there a need for technical cleanup?*

Background: According to the Board, legislation enacted since the Board's prior sunset review has made various technical changes, thus limiting the amount of technical clean-up needed at present. Nonetheless, the Board has identified a handful of sections within the Business and Professions Code that should be amended.

Committee Staff Recommendation: *The Board should continue to advise the Committees of necessary code cleanup.*

Board Response: Board staff has provided proposed language to the Committees' staff to accomplish the necessary clean-up amendments. The proposed language is included as an attachment to this response paper for reference.

Business and Professions Code section 130:

Section 130 needs to be amended to remove the Board from the list of boards whose members' term of office expired on June 1. In 2006, Business and Professions Code section

6712 was amended to change the expiration date of the appointment terms for the Board from June 1 to June 30. However, at that time, Section 130 was overlooked and not included in the legislation. Consequently, the statutes are in conflict. The appointing authorities (the Governor, the Senate Rules Committee, and the Speaker of the Assembly) are aware that the term expiration date for the members of this Board is June 30. This would be a non-substantive amendment to eliminate conflicting statutes.

Business and Professions Code sections 6755 and 6755.1:

As discussed in more detail in the response to Issue 2, the Board is currently evaluating any revisions to laws and regulations to prepare for applicants seeking to use the National Council of Examiners for Engineering and Surveying (NCEES) and the Engineering Council of U.K. (EngC) Mutual Recognition Agreement (MRA), which will more easily enable U.S.-based licensed engineers to practice in the United Kingdom and vice versa. The Board has identified some minor revisions to statutes which will enable to the Board to fully consider all available options during the rulemaking process to implement this pathway. These minor revisions would amend Business and Professions Code sections 6755 and 6755.1 relating to the term “second division examination.” The proposed amendments would clarify that the Board could enact rules to waive any part of the second division examination and what the parts of the “second division examination” for the civil engineer license are.

Business and Professions Code sections 6763.5 and 8748.5:

Many years ago, the Board used to charge applicants one fee, at the time of application submittal, to cover both the application review and the examination(s) necessary for licensure. This fee was collectively referred to as the “application fee.” Subsequently, the Board separated the fees to charge one fee for the application review and another fee for the examination(s), the latter which is only paid subsequent to application approval and only for those license types which required a state examination. At the time, the Board made conforming changes to its statutes to reflect this change. However, it has recently come to the Board’s attention that Sections 6763.5 and 8748.5 were overlooked and still refer to the “application fee” when they should refer to the “examination fee.” These sections address what monies are to be refunded to an applicant who is deemed to lack the qualifications for licensure before they take the examinations. They specify that the Board may refund “one-half of the amount of [the] application fee”; the one-half reference reflected the theory that half of the fee was used to cover the costs of the application review, and the other half for the examination(s). Since the fees are now separated, the entire application fee is used to cover the costs of reviewing the application, and the full amount of the examination fee, if required by application type, should be refunded if the applicant is subsequently deemed unqualified. These amendments are non-substantive, clarifying changes to align with the Board’s current business process and to reflect the fees actually paid and which ones will be refunded.

Business and Professions Code sections 6787, 7872, and 8792:

These three sections address what activities constituted unlicensed activity. It has recently come to the Board’s attention that these sections do not address a person falsifying an Engineer-in-Training (EIT), a Geologist-in-Training (GIT), or a Land Surveyor-in-

Training (LSIT) certificate [collectively, “IT certificate”]. These sections do address an unlicensed individual using the EIT, GIT, or LSIT title. However, the Board’s Enforcement Unit has begun seeing more instances where unlicensed individuals have created false IT certificates or used false IT certificate numbers, usually in an effort to obtain employment where the employer seeks someone with an IT certificate or provides a salary increase to individuals have one or to make consumers believe the individual has demonstrated an entry-level of competency to the Board and is on the pathway to licensure. These amendments will clarify that falsifying an IT certificate is a violation of the laws for which action may be taken by the Board or law enforcement entities and will provide additional protection for the consumers, employers, licensees, and other IT certificate holders.

Business and Professions Code section 130 is amended as follows:

- (a) Notwithstanding any other law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.
- (b) Subdivision (a) applies to the following boards or committees:
 - (1) The Medical Board of California.
 - (2) The Podiatric Medical Board of California.
 - (3) The Physical Therapy Board of California.
 - (4) The Board of Registered Nursing, except as provided in subdivision (c) of Section 2703.
 - (5) The Board of Vocational Nursing and Psychiatric Technicians.
 - (6) The California State Board of Optometry.
 - (7) The California State Board of Pharmacy.
 - (8) The Veterinary Medical Board.
 - (9) The California Architects Board.
 - (10) The Landscape Architect Technical Committee.
 - ~~(11) The Board for Professional Engineers and Land Surveyors.~~
 - ~~(12)~~ (11) The Contractors State License Board.
 - ~~(13)~~ (12) The Board of Behavioral Sciences.
 - ~~(14)~~ (13) The Court Reporters Board of California.
 - ~~(15)~~ (14) The State Athletic Commission.
 - ~~(16)~~ (15) The Osteopathic Medical Board of California.
 - ~~(17)~~ (16) The Respiratory Care Board of California.
 - ~~(18)~~ (17) The Acupuncture Board.
 - ~~(19)~~ (18) The Board of Psychology.
 - ~~(20)~~ (19) The Structural Pest Control Board.

Business and Professions Code section 6755 is amended to read:

- (a) Examination duration and composition shall be designed to conform to the following general principle: The first division of the examination shall test the applicant's knowledge of appropriate fundamental engineering subjects, including mathematics and the basic sciences; the second division of the examination shall test the applicant's ability to apply his or her knowledge and experience and to assume responsible charge in the professional practice of the branch of engineering in which the applicant is being examined.
- (b) The board may by rule provide for a waiver of the first division of the examination for applicants whose education and experience qualifications substantially exceed the requirements of subdivision (a) of Section 6751.
- (c) The board may by rule provide for a waiver of any part of the second division of the examination for persons eminently qualified for licensure in this state by virtue of their standing in the engineering community, their years of experience, and those other qualifications as the board deems appropriate.

Business and Professions Code section 6755.1 is amended to read:

- (a) The second division of the examination for registration as a professional engineer shall include questions to test the applicant's knowledge of state laws and the board's rules and regulations regulating the practice of professional engineering. The board shall administer the test on state laws and board rules regulating the practice of engineering in this state as a separate part of the second division of the examination for registration as a professional engineer.

(b) On and after April 1, 1988, the second division of the examination for registration as a civil engineer shall also include questions to test the applicant's knowledge of seismic principles and engineering surveying principles as defined in Section 6731.1. No registration for a civil engineer shall be issued by the board on or after January 1, 1988, to any applicant unless he or she has successfully completed questions to test his or her knowledge of seismic principles and engineering surveying principles.

The board shall administer the questions to test the applicant's knowledge of seismic principles and engineering surveying principles as a separate ~~part~~ parts of the second division of the examination for registration as a civil engineer.

It is the intent of the Legislature that this section confirm the authority of the board to issue registrations prior to April 1, 1988, to applicants based on examinations not testing the applicant's knowledge of seismic principles and engineering surveying principles as defined in Section 6731.1.

Business and Professions Code section 6763.5 is amended as follows:

If an applicant for licensure as a professional engineer, for certification as an engineer-in-training, or for authorization to use the title "structural engineer" or "soil engineer" is found by the board to lack the qualifications required for admission to the examination for such licensure, certification, or authorization, the board may, in accordance with the provisions of Section 158 of this code, refund to ~~him or her one-half of the amount of his or her application~~ them their examination fee.

Business and Professions Code section 8748.5 is amended as follows:

If an applicant for license as a land surveyor or certification as a land surveyor-in-training is found by the board to lack the qualifications required for such license or certification, the board may, in accordance with the provisions of Section 158 of this code, refund to ~~him or her one-half of the amount of his or her application~~ them their examination fee.

Business and Professions Code section 6787 is amended as follows:

A person who does any of the following is guilty of a misdemeanor:

- (a) Unless the person is exempt from licensure under this chapter, practices or offers to practice civil, electrical, or mechanical engineering in this state according to this chapter without legal authorization.
- (b) Presents or attempts to file as the person's own the certificate of an engineer-in-training or the certificate of licensure of a licensed professional engineer unless they are the person named on the certificate of licensure.
- (c) Gives false evidence of any kind to the board, or to any board member, in obtaining a certificate as an engineer-in-training or a certificate of licensure.
- (d) Impersonates or uses the seal, signature, or license number of a licensed professional engineer or who impersonates or uses the certificate number of an engineer-in-training or uses a false certificate or license number.
- (e) Uses an expired, suspended, surrendered, or revoked certificate or license.
- (f) Represents themselves as, or uses the title of, a licensed or registered civil, electrical, or mechanical engineer, or any other title whereby that person could be considered as practicing or offering to practice civil, electrical, or mechanical engineering in any of its branches, unless they are correspondingly qualified by licensure as a civil, electrical, or mechanical engineer under this chapter.

- (g) Unless appropriately licensed, manages, or conducts as manager, proprietor, or agent, any place of business from which civil, electrical, or mechanical engineering work is solicited, performed, or practiced, except as authorized pursuant to Section 8726.1.
- (h) Uses the title, or any combination of that title, of “professional engineer,” “licensed engineer,” “registered engineer,” or the branch titles specified in Section 6732, or the authority titles specified in Sections 6736 and 6736.1, or “engineer-in-training,” or makes use of any abbreviation of such title that might lead to the belief that the person is a licensed engineer, is authorized to use the titles specified in Section 6736 or 6736.1, or holds a certificate as an engineer-in-training, without being licensed, authorized, or certified as required by this chapter.
- (i) Uses the title “consulting engineer” without being licensed as required by this chapter or without being authorized to use that title pursuant to legislation enacted at the 1963, 1965, or 1968 Regular Session.
- (j) Violates any provision of this chapter.

Business and Professions Code section 7872 is amended as follows:

~~Any~~ A person who does any of the following is guilty of a misdemeanor ~~punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed three months, or by both fine and imprisonment:~~

- (a) Unless the person is exempt from licensure under this chapter, practices or offers to practice geology or geophysics for others in this state according to the provisions of this chapter without legal authorization.
- (b) Presents or attempts to file as their own the certificate of a geologist-in-training or the license of a professional geologist, certified specialty geologist, a professional geophysicist, or a certified specialty geophysicist unless they are the another person named on the certificate or the license.
- (c) Gives false evidence of any kind to the board, or to any board member, in obtaining a certificate of registration or a license.
- (d) Impersonates or uses the seal, signature, or license number of any professional geologist, certified specialty geologist, professional geophysicist, or certified specialty geophysicist or who impersonates or uses the certificate number of a geologist-in-training or who uses a false certificate or license number.
- (e) Uses an expired, suspended, surrendered or revoked certificate or license.
- (f) Represents themselves as, or uses the title of, professional geologist, or any other title whereby the person could be considered as practicing or offering to practice geology for others, unless the person is qualified by licensure as a professional geologist under this chapter, or represents themselves as, or uses the title of, professional geophysicist, or any other title whereby the person could be considered as practicing or offering to practice geophysics for others, unless the person is qualified by licensure as a professional geophysicist under this chapter.
- (g) Unless the person is licensed, manages, or conducts as manager, proprietor, or agent, any place of business from which geological or geophysical work is solicited, performed, or practiced for others, except as authorized pursuant to Section 7834.
- (h) Uses the title, or any combination of that title, of “professional geologist,” “registered geophysicist,” or “professional geophysicist,” the title of any licensed certified specialty geologist or any licensed certified specialty geophysicist, or “geologist-in-training,” or who makes use of any abbreviation of a title that might lead to the belief that the person is licensed as a geologist, a geophysicist, a certified specialty geologist, or a certified specialty geophysicist, or holds a

certificate as a geologist-in-training, without being licensed, licensed and certified, or certified, as required by this chapter.

(i) Violates any provision of this chapter.

Business and Professions Code section 8792 is amended as follows:

A person who does any of the following is guilty of a misdemeanor:

(a) Unless the person is exempt from licensure under this chapter, practices, or offers to practice, land surveying in this state without legal authorization.

(b) Presents as their own the certificate of a land surveyor-in-training or the license of a professional land surveyor unless they are the person named on the certificate or the license.

(c) Attempts to file as their own any record of survey under the license of a professional land surveyor.

(d) Gives false evidence of any kind to the board, or to any board member, in obtaining a certificate or a license.

(e) Impersonates or uses the seal, signature, or license number of a professional land surveyor or who impersonates or uses the certificate number of a land surveyor-in-training or who uses a false certificate or license number.

(f) Uses an expired, suspended, surrendered, or revoked certificate or license.

(g) Represents themselves as, or uses the title of, professional land surveyor, or any other title whereby that person could be considered as practicing or offering to practice land surveying, unless the person is correspondingly qualified by licensure as a land surveyor under this chapter.

(h) Uses the title, or any combination of that title, of “professional land surveyor,” “licensed land surveyor,” “land surveyor,” or the titles specified in Sections 8751 and 8775, or “land surveyor-in-training,” or who makes use of any abbreviation of ~~that~~ a title that might lead to the belief that the person is a licensed land surveyor or holds a certificate as a land surveyor-in-training, without being licensed or certified as required by this chapter.

(i) Unless appropriately licensed, manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced, except as authorized pursuant to Section 6731.2.

(j) Violates any provision of this chapter.

**CONTINUED REGULATION OF PROFESSIONAL ENGINEERS, LAND SURVEYORS,
GEOLOGISTS, AND GEOPHYSICISTS**

ISSUE #11: *Continued Regulation. Should the licensing of Professional Engineers, Land Surveyors, Geologists, and Geophysicists be continued and be regulated by the Board?*

Background: The practices of engineering, land surveying, geology, and geophysics have significant health, safety, legal, and financial consequences for Californians. Indeed, the regulation of engineering and geology began after catastrophic events ruinous to human life and property. Uniform enforcement of land surveying laws became paramount following years of local jurisdictions interpreting the laws differently and legal disputes costing both the state and public millions of dollars. The Board's licensing and enforcement responsibilities are no less important today as the state endures regular extreme weather events and continues to invest significant resources in its infrastructure.

Committee Staff Recommendation: *The Board's oversight of the Professional Engineers, Land Surveyors, Geologists, and Geophysicists should be continued, with potential reforms, and reviewed again on a future date (to be determined) to ensure that issues identified in this background paper are adequately addressed.*

Board Response: The Board greatly appreciates the Committees' recognition of its efforts to improve its operations and the continued support for its future endeavors. The Board members and staff look forward to working with the Committees and their staff to accomplish the recommendations outlined in the Background Paper.



BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

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March 21, 2024

The Honorable Marc Berman
Chairman, Assembly Business and Professions Committee
1020 N Street, Room 379
Sacramento, CA 95814

RE: Assembly Bill 1862 – **SUPPORT**

Dear Chairman Berman:

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) has voted to **SUPPORT** Assembly Bill 1862, which is scheduled to be heard on April 23, 2024, in the Assembly Business and Professions Committee.

The mission of the Board is to protect the public health, safety, welfare, and property by promoting standards of competence and integrity through the licensing and regulation of the Board's professions.

Assembly Bill 3176 will continue authorization that was originally granted to engineers and land surveyors in 2010 to operate within their scope of licensure while conducting business as a limited liability partnership (LLP) or a foreign limited liability partnership; comparable to that of California attorneys. In the years since this authorization was first granted, there have been no enforcement actions or complaints before the Board relating to its licensees forming LLPs, nor has the Board received any inquiries from consumers regarding licensees forming LLPs.

If you have any further questions, please contact Nancy A. Eissler, the Board's Assistant Executive Officer, at 916-999-3580 or Nancy.Eissler@dca.ca.gov.

Sincerely,

Original Signed

RICHARD B. MOORE, PLS
Executive Officer

cc The Honorable Vince Fong,
Member, California State Assembly
The Honorable Phillip Chen,
Member, California State Assembly
Voleck Taing, Government Affairs Advocate,
American Council of Engineering Companies California