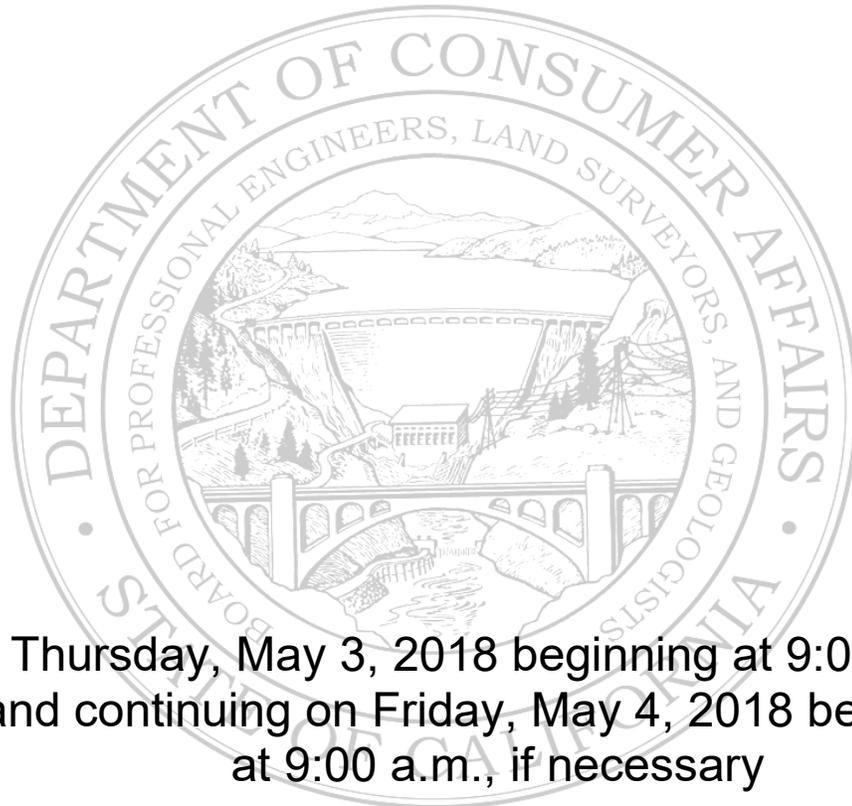




Meeting of the Board for Professional Engineers, Land Surveyors, and Geologists

Board for Professional Engineers,
Land Surveyors, and Geologists



Thursday, May 3, 2018 beginning at 9:00 a.m.
and continuing on Friday, May 4, 2018 beginning
at 9:00 a.m., if necessary

Department of Consumer Affairs
1747 North Market Boulevard, Hearing Room
Sacramento, CA 95834

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MAY 3-4, 2018

Department of Consumer Affairs
1747 North Market Boulevard, Hearing Room
Sacramento, CA 95834

BOARD MEMBERS

Eric Johnson, President; Betsy Mathieson, Vice President; Natalie Alavi; Fel Amistad; Kathy Jones Irish; Coby King; Asha Lang; Mohammad Qureshi; Karen Roberts; Jerry Silva; Robert Stockton; and Steve Wilson

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I. Roll Call to Establish a Quorum

II. Public Comment for Items Not on the Agenda

NOTE: The Board cannot take action on items not on the agenda. The Board will also allow for Public Comment during the discussion of each item on the agenda. Please see the last page of this Official Notice and Agenda for additional information regarding Public Comment.

III. Consideration of Rulemaking Proposals

- A. Requirements for Licensure – Geologists and Geophysicists, Title 16, California Code of Regulations section 3031 et. seq., section 3041 and section 3042. (Possible Action)

Consideration of Rulemaking Proposals

Requirements for Licensure – Geologists and Geophysicists, Title 16, California Code of Regulations section 3031 et. seq., (Possible Action)

In February 2017, the Board approved a staff proposal to begin the formal rulemaking process to amend Title 16, California Code of Regulations section 3031, et. seq. During the review of the rulemaking package, DCA's Deputy Director of Legal Affairs provided comments and suggestions to Board staff. Based on these comments and suggestions, staff has made revisions relating to the following items.

- Revise language in the proposed Section 3031(a)(2) to clarify how the Board expects Professional Geologist applicants to meet the education requirements.
- Delete Section 3031(c) which proposed reference requirements for the geology specialty title authorities of Certified Engineering Geologist (CEG) and Certified Hydrogeologist (CHG). The reference requirements for these specialty title authority licenses are already described in the existing Sections 3041 3042. Therefore, this proposed text is unnecessary.
- Revise language in the proposed Section 3031.1(b)(1) regarding references for the Professional Geophysicist license to be consistent with the language in the statute.
- Revise the text of proposed Section 3031.2 to describe the required information to be provided by a reference for a license application.

The revised draft text for the proposed changes to Section 3031, et. seq., of the regulations relating to the practices of geology and geophysics has been provided in the meeting materials. The new changes are shown in ~~double strikethrough text~~ for deletions and double underlined text for additions.

PROPOSED MOTION:

Approve the revised text as shown and direct staff to continue with the rulemaking process to amend Title 16, California Code of Regulations section 3031, et. seq.

**TITLE 16. BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS**

PROPOSED LANGUAGE

Amend California Code of Regulations, Title 16, Section 3031.

Adopt California Code of Regulations, Title 16, Sections 3031.1, 3031.2 and 3031.3

ARTICLE 3. EXAMINATIONS

§3031. Examination Required. Professional Geologist Educational and Experience Requirements

~~(a) Every applicant for registration as a geologist shall be required to take and pass examinations as provided in Section 7841(d) of the code or every applicant for registration as a geophysicist, or every applicant for certification in any specialty, shall be required to take and pass an examination as prescribed by the board except as provided in Section 7847 of the code.~~

~~(b) (a) To be eligible for the geological examination Professional Geologist license, an applicant shall have completed the educational requirements as set forth in either Section 7841 (b) (1) or Section 7841 (b) (2) of the Code, and completed at least five 5 years of educational and work professional geological experience in professional geological work, as set forth in subdivisions (b) and (c) of Section 7841 (c) of the Code. To be eligible for the Geologist-in-Training certificate, an applicant shall have completed the educational requirements as set forth in either Section 7841.2 (c) (1) or Section 7841.2 (c) (2) of the Code.~~

~~—— (1) Graduate study or research in geological sciences at a school or university whose geological curricula meet criteria established by rules of the board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section 7841 of the Code. A year of graduate study or research is defined as being a 12-calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Shorter periods will be prorated.~~

~~(1) As described in Section 7841 (b) (1) of the Code, and Section 7841.2 (c) (1) of the Code, graduation from a college or university with a major in geological sciences or any other discipline relevant to geology, refers to graduation with a baccalaureate degree or higher in~~

geology or a related geological science, from a program accredited by the Applied and Natural Science Accreditation Commission of ABET Inc., the organization defined in 16 CCR Section 404 (a).

~~— (2) An applicant shall not be eligible to earn credit for professional geological work performed under the supervision of a professional geologist or registered civil or petroleum engineer until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841 of the Code.~~

(2) As described in Section 7841(b) (2) of the Code, and Section 7841.2 (c) (2) of the Code, the requirement for successfully completing 30 semester hours or 45 quarter hours, in courses that, in the opinion of the Board are relevant to geology, of which at least 24 semester hours or 36 quarter hours, are upper division or graduate level, shall ~~be fulfilled~~ include the minimum coursework and concepts as specified in (A) and (B) below. ~~Additional geologic coursework necessary to meet the total 30 semester hours or 45 quarter hours requirement specified in Section 7841(b)(2) and Section 7841.2(c)(2) of the Code may be selected at the applicant’s discretion but must be relevant to the definition of geology specified in Section 7802 of the Code.~~ This requirement must be fulfilled at a college or university which, at the time the applicant was enrolled, was accredited by a recognized national or regional accrediting organization. “Life Experience Course Credit” is not acceptable.

(A) ~~Basic-Core~~ Geologic Concepts: Of the 30 semester hours or 45 quarter hours required by the Code, an applicant must successfully complete a minimum of 15 semester hours or 22.5 quarter hours of core geological science courses in the following subject areas as specified: ~~in each of the following subject areas:~~

- (i) “Earth Materials” must include a minimum of 4 semester hours or 6 quarter hours of instruction in the identification, classification, and chemistry of minerals and rocks; their formation; the interpretation of their origins; as well as their uses and importance.
- (ii) “Structural Geology” must include a minimum of 3 semester hours or 4.5 quarter hours of instruction in the description and analysis of structural features of rocks to reconstruct the motions and processes involved in the build up and deformation of the Earth’s crust from small to large scales. It must also include

the interpretation of brittle and ductile strain, the fundamentals of plate tectonics, and the analysis of local and regional geologic structure.

- (iii) “Stratigraphy and Sedimentation” must include a minimum of 3 semester hours or 4.5 quarter hours of instruction in the identification and interpretation of sedimentary rocks, sedimentary processes and structures, application of stratigraphic and dating methods, identifying the impact of climate and geologic processes on depositional patterns, and facies analysis.
 - (iv) “Upper-Division Field Geology” must include a minimum of 5 semester hours or 7.5 quarter hours of field training designed to demonstrate a progression of field investigation skills culminating in a final project or integrative field experience that is based on the knowledge and skills acquired in earlier geological science courses. This must include instruction in the geological techniques or methods needed to measure, map, evaluate and communicate geologic data; and the ability to plan and conduct geological investigations based upon existing sources of geologic information. This shall include preparing and interpreting geologic maps, cross-sections, stratigraphic columns, and written reports. The field training may be obtained in one or more separate upper division field courses, but must not be introductory in nature or be part of laboratory exercises for other geological science courses. At the discretion of the Board, academic instruction in field methods such as geophysical techniques, logging trenches or borings, designing wells, and other common professional geologic tasks may serve as a component of the Upper-Division Field Geology requirement described in this section so long as it is part of an established field techniques course taught within a college or university geology or related geological sciences program.
- (B) Applied Upper-Division Geology Coursework: Of the ~~30-24~~ semester hours or ~~45-36~~ quarter hours of upper division coursework required by ~~this section~~ the Code, an applicant must successfully complete a minimum of 6 semester hours or 9 quarter hours from a combination of at least 2 of the following subject areas.
- (i) “Geomorphology” must include instruction in the classification, origin, and analysis of landforms and watershed elements as well as the surface and

tectonic processes that relate landforms to the underlying geologic materials. This must include methods of geomorphic analysis and interpretation of different types of mapped data, including topographic, geologic, and remotely sensed data.

- (ii) “Engineering Geology” must include instruction in that branch of geology as defined in Section 3003 (b) of Title 16, California Code of Regulations. This should include instruction in those skills necessary to demonstrate knowledge and abilities as described in Section 3041 (a) (2).
- (iii) “Hydrogeology” must include instruction in that branch of geology as defined in Section 3003 (h) of Title 16, California Code of Regulations. This should include instruction in those skills necessary to demonstrate knowledge and abilities as described in Section 3042 (b) (2).
- (iv) “California Geology” must include the instruction necessary to demonstrate the knowledge required for professional licensure in this state as described in Section 7841 (d) of the Code.
- (v) “Paleontology” must include instruction necessary to recognize common fossils and fossil types, the geologic settings that would indicate the potential for paleontological resources, and the evolutionary history of fossil groups of traditional importance to geologists. Other topics may include basic modes of preservation, skeletal anatomy, systematics and taxonomy, biostratigraphy, paleoecology, and paleobiogeography.
- (vi) “Resources Geology” must include the instruction needed to identify the origin, occurrence, and distribution of non-renewable resources, including metallic, nonmetallic, and energy-producing materials; problems related to resource extraction; estimations and limitations of reserves; and reclaiming sites after extraction of resources.
- (vii) “Environmental Geology” must include an introduction to concepts involved in environmental site assessment and remediation, environmental geochemistry, and the mitigation of potentially negative effects of human activities such as exploration for mineral and energy resources, or solid and hazardous waste

disposal on geologic systems, as well as the protection of water resources, land and watershed restoration.

- (viii) “Geophysics” must include instruction in that branch of geology defined in Section 7802.1 of the Code and Section 3003 (e) of Title 16, California Code of Regulations.
- (ix) “Technology Applications in Geology” encompasses a wide range of technology related instruction that includes an emphasis on applications to geologic investigations. These subjects may include, but are not limited to, instruction in the use of Geographic Information Systems (GIS), computer modeling of groundwater or other processes, signal processing or numerical methods of data analysis. Instruction without a specific and demonstrable geologic application will not qualify. A maximum of 3 semester hours or 4.5 quarter hours would be accepted at the discretion of the Board.
- (x) “Applied geoscience topics taught by a college or university department other than a geology or related geological sciences department” refers to instruction in subject areas with a reasonable and rational application to the professional practice of geology. These courses are limited to the topics of geological engineering, geotechnical engineering, mining engineering, petroleum engineering, soil science, engineering soil mechanics, or hydrology. A maximum of 3 semester hours or 4.5 quarter hours taught in a college or university department other than a geology or related geological sciences department would be accepted at the discretion of the Board.

Independent study, research projects, theses or dissertations may, at the Board’s discretion, be used to satisfy the upper-division coursework requirements defined in (A) or (B) if it can be documented, to the Board’s satisfaction, to meet the requirements of one or more of the courses specified in (A) or (B) above. Courses that combine subjects or skill sets, that can be documented to the Board’s satisfaction to meet the requirements described in (A) or (B) above, may be accepted at the Board’s discretion.

~~——— (3) In no case will credit be given for professional geological work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time~~

professional geological work experience will be prorated and combined on a 12 calendar month basis.

(3) Workshops, professional development seminars, conferences, short courses, student internships, or reading courses may not be used to satisfy the requirements described in Section 3031 (a) (2).

(4) It shall be the applicant's responsibility to demonstrate that his/her academic instruction meets the requirements of the Board. The applicant must provide official sealed transcripts, and any other reasonable and necessary supporting evidence, when requested by the Board, to document successful completion of all educational requirements.

(b) Professional geological experience for licensure as a geologist is that experience satisfactory to the Board that has been gained while performing professional geologic tasks under the responsible charge of a person ~~legally qualified to practice geology~~ who in the opinion of the Board has the training and experience to have responsible charge of geological work.

(1) For the purposes of this section, ~~"legally qualified" means having an appropriate license as;~~ a person will be deemed to have the training and experience to have responsible charge of geological work if they meet any one of the following:

(A) holds licensure as a Professional Geologist;

(B) holds licensure as a Professional Geophysicist;

(C) ~~is~~ licensed as a Civil Engineer or a ~~licensed~~ Petroleum Engineer practicing geology within the exemption described in Section 7838 of the Code and ~~with who presents to the Board~~ documented ~~expertise~~ evidence that the reference has the training and experience in the area of geology in which the applicant's experience is earned sufficient to qualify ~~them~~ the reference as being in to have responsible charge of geologic work; or

(D) ~~or a reference is~~ legally practicing authorized to practice geology in a situation or locale where the reference is not required to be licensed and who ~~in the opinion of~~ presents to the Board, documented evidence that the reference has the training and experience in the area of geology in which the applicant's experience is earned sufficient to qualify the reference to have responsible charge of geological work.

(2) Professional geological experience shall be computed on an actual time worked basis not to exceed 40 hours per week.

(3) An applicant for licensure as a Professional Geologist shall be granted credit for professional geological experience, up to a combined maximum of 3 years, for the following education:

(A) Two (2) years professional geological experience credit for graduation with a baccalaureate degree in geology or a related geological science, from a program accredited by the Applied Science Accreditation Commission of ABET Inc. as described in Section 3031 (a) (1), or for the completion of the 30 semester hours or 45 quarter hours of geological sciences courses as described in Section 3031 (a) (2).

(B) One year of professional geological experience credit for one year of graduate study or research in the geologic sciences. A year of graduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Full-time graduate study is defined as 2 semesters per year of 8 semester hours each (12 quarter hours), or as defined by the college or university whichever is less.

(C) Part-time graduate study or research, and part-time professional geological work experience will be prorated and combined on a 12 calendar month basis. No credit will be given for professional geological work experience performed during the same time period when full-time graduate study or research is being done for which educational credit is being allowed. ~~Part time graduate study or research and part time professional geological work experience will be prorated and combined on a 12 calendar month basis.~~

(4) An applicant shall not be eligible to earn credit for professional geological experience performed under the supervision of a legally qualified professional as defined in this section until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841 of the Code.

~~(e) To be eligible for the geophysical examination, an applicant shall have completed at least seven years of educational and work experience in professional geophysical work, as set forth in subdivisions (b) and (c) of Section 7841.1 of the code.~~

~~(1) Graduate study or research in geophysical related sciences at a school or university whose geophysical curricula meet criteria established by rules of the board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section 7841.1 of the code. A year of graduate study or research is defined as being a 12 calendar month period during~~

which the candidate is enrolled in a full time program of graduate study or research. Shorter periods will be prorated.

~~—————(2) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a professional geophysicist until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the code.~~

~~—————(3) In no case will credit be given for professional geophysical work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis.~~

~~—————(e) Professional geologic experience for certification in a specialty of geology is defined in Sections 3041 and 3042. References for an application for certification in a specialty of geology must either be certified in that specialty, or be “legally qualified” as defined in 3031 (b) (1) above, and have a minimum of 5 years experience in responsible charge of work in that geologic specialty.~~

~~(d) Every applicant for registration as a geologist who obtains a passing score determined by a recognized criterion-referenced method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition. This subsection shall become effective on December 1, 1998, and shall be repealed on December 31, 1999.~~

~~—————(e) Each applicant for registration as a geologist who obtains a passing score on the Fundamentals of Geology and Practice of Geology examinations created by the National Association of State Boards of Geology on or after November 1, 1996 and obtains a passing score as determined by a recognized criterion-referenced method of establishing the pass point in the California specific examination pursuant to Section 7841(d) shall be deemed to have passed the required examinations for licensure as a professional geologist in California. This subsection shall become effective on January 1, 2000.~~

~~—————(1) Candidates shall receive credit for obtaining a passing score on the Fundamentals of Geology examination, the Practice of Geology examination and the California specific examination and shall be required to submit an application to retake and pass only those examinations previously failed.~~

~~— (f) Every applicant for registration as a geophysicist or for certification in any specialty, who obtains a passing score determined by a recognized criterion reference method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition.~~

Note: Authority cited: Section 7818, Business and Professions Code. Reference: Sections 7841 and ~~7841.1~~ 7841.2, Business and Professions Code.

§3031.1 Professional Geophysicist Educational and Experience Requirements

(a) To be eligible for the Professional Geophysicist license, an applicant shall have completed the educational requirements set forth in Section 7841.1 (b) of the Code, and at least 7 years of professional geophysical work, as set forth in Section 7841.1 (c) of the Code.

(1) An applicant for licensure as a Professional Geophysicist will be granted credit towards the educational requirements, as specified in Section 7841.1 (b) of the Code, fulfilled at a college or university which, at the time the applicant was enrolled, was accredited by a recognized national or regional accrediting commission. “Life Experience ~~Degrees Course Credit~~” is ~~are~~ not acceptable to satisfy the requirements of Section 7841.1(b)(2) of the Code.

(b) Professional geophysical work for geophysics licensure is that experience satisfactory to the Board that has been gained while performing professional geophysical work under the responsible charge of a ~~person legally qualified to practice geophysics, a licensed Professional Geophysicist, or in responsible charge of professional geophysical work, as specified in Section 7841.1(c) of the Code.~~

~~— (1) For the purposes of this section, “legally qualified” means having an appropriate license as:~~

~~— (A) a Professional Geologist;~~

~~— (B) a Professional Geophysicist;~~

~~— (C) a licensed Civil Engineer or a licensed Petroleum Engineer practicing geophysics within the exemption described in Section 7838 of the Code and with documented expertise in the area of geophysics in which the applicant’s experience is earned sufficient to qualify them as being in responsible charge of geophysical work;~~

~~(D) or a reference legally practicing geophysicist in a situation or locale where the reference is not required to be licensed who, in the opinion of the Board, has the training and experience to have responsible charge of geophysical work.~~

~~(2)~~ (1) Professional geophysical work shall be computed on an actual time worked basis not to exceed 40 hours per week.

~~(2)~~ (2) An applicant for licensure as a Professional Geophysicist shall be granted credit for professional geophysical work, up to a combined maximum of four years, for the following education:

(A) One-half year of work credit for each year of full time undergraduate study in the geophysical sciences up to a maximum of two years. A year of undergraduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full-time undergraduate program as defined by the college or university.

(B) One year of work credit for one year of graduate study or research in the geophysical sciences. A year of graduate study or research is defined as a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Full-time graduate study is defined as 2 semesters per year of 8 semester hours each (12 quarter hours), or as defined by the college or university whichever is less.

(C) Part-time graduate study or research, and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis. No credit will be given for professional geophysical work experience performed during the same time period when full-time graduate study or research is being done for which educational credit is being allowed. ~~Part time graduate study or research and part time professional geophysical work experience will be prorated and combined on a 12 calendar month basis.~~

~~(3)~~ (3) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a ~~legally qualified professional as defined in this section~~ Professional Geophysicist until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the Code.

Note: Authority cited: Section 7818, Business and Professions Code. Reference: Section 7841.1, Business and Professions Code.

§3031.2 Reference Requirements: Professional Geologist, and Professional Geophysicist, and Specialty Certification

(a) To assist the Board in evaluating an applicant's qualifications, each applicant for licensure as a Professional Geologist, or as a Professional Geophysicist, or any specialty certification, shall submit documentation from a minimum of 3 completed reference forms from legally qualified references, who in the opinion of the Board have the training and experience to have responsible charge of geological work as defined in Section 3031(b)(1) or geophysical work as defined in Section 3031.1(b), respectively. The references must be sufficient to document professional geological experience or professional geophysical work consistent with the length and scope of the professional work or experience being claimed by the applicant.

(1) None of the references can be related to the applicant by birth, blood, or marriage, registration as domestic partners, or adoption.

(2) Reference forms must either be stamped by the licensee giving the reference, or notarized, and must clearly indicate areas of personal knowledge of the applicant's qualifying experience or work.

(2) Documentation submitted to the Board by a reference must be the original copy with an original signature and seal on every page of the documentation submitted. Photocopies, scanned copies, and electronic signatures are not acceptable.

(3) The documentation must include the following information:

(A) The reference must state that they have personal knowledge of the applicant's qualifying experience in a responsible position as defined in section 3003(c), and must clearly indicate the nature of their relationship with the applicant;

(B) The reference must clearly indicate the number of months they can qualify the applicant as having completed professional geological work as defined in Section 3003(d) or professional geophysical work as defined in Section 3003(e);

(C) The reference must document how they computed the number of months of qualifying work experience using the definition of full time work provided in Sections 3031(b)(2) and 3031.1(b)(1);

(D) The reference must provide a detailed, complete and accurate description of the qualifying professional geologic work or professional geophysical work completed by the applicant in accordance with Section 3065(b)(11);

(E) The work experience description must be sufficient to cover the time period being documented as qualifying experience by the reference;

(F) The reference must use the appropriate scientific terms while avoiding colloquialisms, industry jargon, and slang; and,

(G) The reference must include the following statement:

I declare under penalty of perjury under the laws of the State of California that the information in this reference is true and correct, and that I have adhered to and agree to abide by the professional standards of Business and Professions Code §7872 and California Code of Regulations, Title 16, Division 29, §3065 (Board Code of Professional Standards). I further understand that I am subject to disciplinary action if any portion of this reference is found to be inaccurate, false, misleading, or ambiguous.

(3) Nothing contained in this section shall limit the authority of the Board to require that an applicant submit additional references, employment verifications, or any other information pertinent to the applicant's education and/or experience to verify that the applicant meets the minimum qualifications for a Professional Geologist license as defined in Section 7841 of the Code, or the minimum qualifications for a Professional Geophysicist license as defined in Section 7841.1 of the Code, ~~or for a specialty certification in either geology or geophysics as defined in Sections 7842 and 7842.1 of the Code.~~

Note: Authority cited: Section 7818, Business and Professions Code. Reference: 7841, 7841.1, 7842 and 7842.1, Business and Professions Code.

§3031.3 Examination Credit: Professional Geologist, Professional Geophysicist and Specialty Certification

(a) Each applicant for licensure as a geologist who obtains a passing score on the Fundamentals of Geology and Practice of Geology examinations created by the National Association of State Boards of Geology on or after November 1, 1996 and obtains a passing score as determined by a recognized criterion-referenced method of establishing the pass point in the California specific examination pursuant to Section 7841(d) shall be deemed to have passed the required examinations for licensure as a professional geologist in California.

(b) Candidates shall receive credit for obtaining a passing score on the Fundamentals of Geology examination, the Practice of Geology examination, and the California specific examination and shall be required to submit an application to retake and pass only those examinations previously failed.

(c) Every applicant for licensure as a geophysicist or for certification in any specialty, who obtains a passing score determined by a recognized criterion-reference method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition.

Note: Authority cited: Section 7818, Business and Professions Code. Reference: Sections 7841, 7841.1 7841.2, 7842 and 7842.1, Business and Professions Code.

IV. Administration

A. Fiscal Year 2017/18 Budget Review

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

Date Prepared
April 18, 2018

	FY 2016-17 Month 7 (7/16-1/17)	FY 2017-18 Month 7 (7/17-1/18)	% Change	FY 2017-18 FM 1 Projections	FY 2017-18 Updated Projections	% Change
Revenue						
1 Applications/Licensing Fees (125700)	1,608,833	897,266	-44%	2,829,000	1,238,475	-56%
2 Renewal fees (125800)	4,868,936	3,616,717	-26%	6,138,000	6,988,038	14%
Delinquent fees (125900)	56,750	56,111	-1%	81,000	88,279	9%
Interest	29,824	60,756	104%			
Other	101,575	139,788	38%	134,000	126,209	-6%
Total Revenue:	6,665,918	4,770,638	-28%	9,182,000	8,441,000	-8%
Expense						
Personnel Services:						
Civil Service Perm.	1,569,473	1,650,550	5%	2,962,803	2,980,000	1%
Temp Help	74,477	78,467	5%	206,002	208,000	1%
Exam Proctor	2,732			5,082	6,557	29%
Board Members	4,500	3,400	-24%	6,433	7,200	12%
Committee Members	1,300			2,250	2,250	0%
3 Overtime	862	160,074	18470%	1,483	1,483	0%
Total Salaries and Wages	1,653,344	1,892,491	14%	3,184,053	3,205,490	1%
Total Benefits	876,802	830,751	-5%	1,528,585	1,589,166	4%
Total Personnel Services	2,530,146	2,723,242	8%	4,712,638	4,794,656	2%
Operating Expense and Equipment:						
Fingerprints	27,623			61,802	61,802	0%
General Expense	28,745	36,744	28%	62,716	62,716	0%
Printing	15,052	8,582	-43%	50,332	50,332	0%
Communication	13,930	13,088	-6%	27,525	36,297	32%
Postage	28,270	28,856	2%	83,707	83,707	0%
Travel Out-of-State	2,941	1,425	-52%	5,188	5,188	0%
Travel In State	48,767	45,652	-6%	113,054	113,054	0%
Training		290		430	430	0%
Facilities Operations	352,412	210,901	-40%	368,931	370,931	1%
4 C & P Services - Interdept.	400,000	118,205	-70%	179,840	180,000	0%
5 C & P Services - External	465,661	733,923	58%	375,299	375,299	0%
Minor Equipment	17,642	246	-99%	5,533	5,533	0%
Prorata	1,043,181	1,153,390	11%	2,236,987	1,885,987	-16%
Total General Expenses:	2,444,224	2,351,302	-4%	3,571,341	3,231,273	-10%
Examinations:						
Exam Rent - Non State				245	3,000	1124%
5 Administrative External Svcs	857,115	668,349	-22%	713,143	713,143	0%
5 C/P Svcs - Ext Expert Examiners	109,342			177,185	216,907	22%
Other Expense				5,177	5,177	0%
Total Examinations:	966,457	668,349	-31%	895,750	938,227	5%
Enforcement:						
6 Attorney General	178,183	95,842	-46%	438,759	438,759	0%
6 Office Admin. Hearing	33,717	24,145	-28%	92,113	92,113	0%
6 Evidence / Witness Fees	86,145	92,689	8%	241,016	214,516	-11%
6 Court Reporters	2,475	325	-87%	3,531	3,531	0%
6 DOI - Investigation	184,919			235,675	235,675	0%
Total Enforcement:	485,439	213,001	-56%	1,011,094	984,594	-3%
Total OE&E	3,896,120	3,232,652	-17%	5,478,184	5,154,094	-6%
Total Expense:	6,426,266	5,955,894	-7%	10,190,822	9,948,750	-2%
Total Revenue:	6,665,918	4,770,638		9,182,000	8,441,000	
Total Expense:	6,426,266	5,955,894		10,190,822	9,948,750	
Difference:	239,652	-1,185,256		-1,008,822	-1,507,750	

Financial Statement Notes

Notations:

- 1 Applications/Licensing Fees (125700): Data retrieved from the FI\$Cal report indicates only half of the revenue generated versus last year at the same point in time. Revenue collected is for the processing of applications, collection of exam fees for development and administration, issuance of initial licenses, and issuance of retired licenses. There is a drop off in application numbers versus last year due to open filing process and the change in the refile process.
- 2 Renewal fees (125800): Data retrieved from the FI\$Cal report indicates a reduction in renewal revenue from the Prior Year (PY). Internal tracking documents indicate renewal numbers that exceed last year's information at this point in the Fiscal Year (FY).
- 3 Overtime: Data included in this expense line item includes a retirement payout for a Senior Registrar and Flex Elect contributions paid out to staff that do not participate in the State of California's healthcare plans.
- 4 C & P Services - Interdepartmental: Expense line item includes all expert contract services with other California State agencies for exam development. The majority of these contracts have not been encumbered on the FI\$Cal report.
- 5 C & P Services – External: The bulk of the expenses are attributed to expert consultants contracted to develop all state exams. Additional expenses are attributed to the business solutions agreement currently underway to develop appropriate documents and justification for a future licensing system option.
- 6 Enforcement: Data retrieved from the FI\$Cal reports may be delayed and in some instances (DOI Investigations) included in other line items - Pro Rata. Staff is researching FI\$Cal coding to understand the CALSTARS and FI\$Cal crosswalk for coding.

Additional Information

Consultant/Professional Services - Internal	Services provided by other state agencies or Interagency Agreements within the Department of Consumer Affairs.	State Subject Matter Experts- state employees for exam development
Consultant/Professional Services - External	External exam expenses - Engineers and Land Surveyors	Non-State Subject Matter Experts for exams + Credit Card Contracts +Business Advantage Consulting+ Plastic Lic. Card
Administrative – External Services	National exam contracts, consultant services for exam development, and may include contract costs associated with preparation and scoring of examinations.	Exam contracts-Prometric Contracts, NCEES, ASBOG

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

Prepared 4/20/18

Analysis of Fund Condition

(Dollars in Thousands)

	Actuals 2013-14	Actuals 2014-15	Actuals 2015-16	Actuals 2016-17	Budget Act CY 2017-18	Governor's Budget BY 2018-19
BEGINNING BALANCE	\$ 1,925	\$ 5,832	\$ 6,991	\$ 8,263	\$ 10,042	\$ 7,878
Prior Year Adjustment	\$ 163	\$ -45	\$ 28	\$ 8	\$ -	\$ -
Adjusted Beginning Balance	\$ 2,088	\$ 5,787	\$ 7,019	\$ 8,271	\$ 10,042	\$ 7,878
REVENUES AND TRANSFERS						
Revenues:						
125600 Other regulatory fees	\$ 117	\$ 125	\$ 88	\$ 139	\$ 126	\$ 108
125700 Other regulatory licenses and permits	\$ 2,572	\$ 2,552	\$ 2,705	\$ 2,423	\$ 1,239	\$ 2,357
125800 Renewal fees	\$ 5,963	\$ 5,278	\$ 6,084	\$ 6,189	\$ 6,988	\$ 6,310
125800 Delinquent fees	\$ 57	\$ 59	\$ 73	\$ 91	\$ 88	\$ 98
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
141200 Sales of documents	\$ -	\$ -	\$ 1	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 7	\$ 15	\$ 32	\$ 62	\$ 24	\$ 12
150500 Interest Income from interfund loans	\$ 310	\$ 8	\$ -	\$ 70	\$ -	\$ -
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 11	\$ 10	\$ 10	\$ 13	\$ 9	\$ 9
161400 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1	\$ 10	\$ 10
Totals, Revenues	\$ 9,038	\$ 8,048	\$ 8,994	\$ 8,988	\$ 8,484	\$ 8,904
Transfers to Other Funds						
TO0001 GF Loan per item 1110-011-0770 Budget Act of 2011	\$ -	\$ -	\$ -	\$ 3,200	\$ -	\$ 800
Totals, Revenues and Transfers	\$ 11,538	\$ 8,548	\$ 8,994	\$ 12,188	\$ 8,484	\$ 9,704
Totals, Resources	\$ 13,626	\$ 14,335	\$ 16,013	\$ 20,459	\$ 18,526	\$ 17,570
EXPENDITURES						
Disbursements:						
1110 Program Expenditures (State Operations)	\$ 7,751	\$ 7,336	\$ 7,732	\$ -	\$ -	\$ -
1111 Department of Consumer Affairs (State Operations)	\$ -	\$ -	\$ -	\$ 9,853	\$ 9,949	\$ 11,843
8840 SCO (State Operations)	\$ -	\$ 8	\$ -	\$ -	\$ -	\$ -
8880 Financial Information System for CA (State Operations)	\$ 43	\$ 1	\$ 18	\$ 13	\$ 15	\$ 1
9892 Supplemental Pension Payments (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 98
9900 Statewide Admin. (State Operations)	\$ -	\$ -	\$ -	\$ 551	\$ 684	\$ 753
Total Disbursements	\$ 7,794	\$ 7,344	\$ 7,750	\$ 10,417	\$ 10,648	\$ 12,695
FUND BALANCE						
Reserve for economic uncertainties	\$ 5,832	\$ 6,991	\$ 8,263	\$ 10,042	\$ 7,878	\$ 4,875
Months in Reserve	9.5	10.8	9.5	11.3	7.4	4.5

V. Legislation

A. Legislative Calendar

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

AB 767 Master Business License Act.

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

AB 2409 Professions and vocations: occupational regulations.

AB 2264 Professions and vocations: fees

AB 2483 Indemnification of public officers and employees: antitrust awards.

AB 3126 Contractors' State License Law: cash deposit in lieu of a bond.

AB 3134 Professional engineers.

SB 920 Engineering, land surveying, and architecture: limited liability partnerships.

SB 984 State boards and commissions: representation: women.

SB 1098 Geologists and geophysicists: fees.

DEADLINES

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

- Jan. 1** Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 3** **Legislature Reconvenes** (J.R. 51(a)(4)).
- Jan. 10** Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 12** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house in the **odd-numbered year** (J.R. 61(b)(1)).
- Jan. 15** Martin Luther King, Jr. Day.
- Jan. 19** Last day for any committee to hear and report to the **floor** bills introduced in that house in the odd-numbered year (J.R. 61(b)(2)). Last day to **submit bill requests** to the Office of Legislative Counsel.
- Jan. 31** Last day for each house to **pass bills introduced** in that house in the odd-numbered year (J.R. 61(b)(3), (Art. IV, Sec. 10(c)).

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

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

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

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

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

- Apr. 2** **Legislature Reconvenes** from Spring Recess (J.R. 51(b)(1)).
- Apr. 27** Last day for **policy committees** to hear and report to **fiscal committees** fiscal bills introduced in their house (J.R. 61(b)(5)).

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

- May 11** Last day for **policy committees** to hear and report to the floor **nonfiscal** bills introduced in their house (J.R. 61(b)(6)).
- May 18** Last day for **policy committees** to meet prior to June 4 (J.R. 61(b)(7)).
- May 25** Last day for **fiscal committees** to hear and report to the floor bills introduced in their house (J.R. 61(b)(8)). Last day for **fiscal committees** to meet prior to June 4 (J.R. 61(b)(9)).
- May 28** Memorial Day.
- May 29- June 1 Floor Session only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61 (b)(10)).

*Holiday schedule subject to Senate Rules committee approval

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

- June 1** Last day for each **house to pass bills** introduced in that house (J.R. 61(b)(11)).
- June 4** Committee meetings may resume (J.R. 61(b)(12)).
- June 15** Budget Bill must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).
- June 28** Last day for a legislative measure to qualify for the Nov. 6 General Election ballot (Elections code Sec. 9040).
- June 29** Last day for **policy committees** to hear and report **fiscal bills** to fiscal committees (J.R. 61(b)(13)).

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

- July 4** Independence Day.
- July 6** Last day for **policy committees** to meet and report bills (J.R. 61(b)(14)). **Summer Recess** begins upon adjournment provided Budget Bill has been passed (J.R. 51(b)(2)).

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

- Aug. 6** **Legislature Reconvenes** (J.R. 51(b)(2)).
- Aug. 17** Last day for **fiscal committees** to meet and report bills (J.R. 61(b)(15)).
- Aug. 20-31** **Floor Session only.** No committees, other than Conference and Rules Committees, may meet for any purpose (J.R. 61(b)(16)).
- Aug. 24** Last day to **amend** on the floor (J.R. 61(b)(17)).
- Aug. 31** Last day for **each house to pass bills**, except bills that take effect immediately or bills in Extraordinary Session (Art. IV, Sec. 10(c), (J.R. 61(b)(18)). **Final Recess** begins upon adjournment (J.R. 51(b)(3)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2018

- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Nov. 6 General Election
- Nov. 30 Adjournment *Sine Die* at midnight (Art. IV, Sec. 3(a)).
- Dec. 3 12 Noon convening of the 2019-20 Regular Session (Art. IV, Sec. 3(a)).

2019

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Introduced Legislation

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

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

Status: 4/3/2018-Re-referred to Committee on Business & Professions; set for hearing 4/24/18

Location: 2/26/2018-Assembly Business & Professions

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

Last Amend: 4/2/2018

Updated 4/18/18

Staff Analysis: AB 2138

Bill Summary: Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has been convicted of a crime that is substantially related to the qualifications, functions, and duties of the profession. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license, as well as defining what is meant by “substantially related” in regulation.

This bill would authorize a board to deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in existing laws.

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to follow certain procedures when requesting or acting on an applicant’s or licensee’s criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified information regarding actions taken by a board based on an applicant or licensee’s criminal history information.

This bill would prohibit a board from denying a license based solely on an applicant’s failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

This bill would repeal the authorization for a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

This bill would prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

The bill would limit probationary terms or restrictions placed on a license by a board to two years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing

evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board's decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

Staff Comment: This bill could create more work for staff and increase application processing times and would severely hamper the Board's ability to appropriately protect the public. Currently, when an applicant submits their application for licensure they are required to disclose their criminal history and submit the appropriate certified court documentation and a statement of explanation for each criminal conviction. This bill would prohibit the Board from requiring an applicant to self-disclose criminal history information. Moreover, if AB 2138 were signed into law, the Board would no longer be permitted to consider only non-violent felony convictions to deny an applicant licensure or take disciplinary action against a licensee. This bill would also establish a five-year statute of limitations from the date of the conviction on the Board's ability to consider non-violent felony convictions. Given the professions this Board regulates, there are often crimes that are directly related to the professions that are "non-violent," such as embezzlement and fraud. There are times when the Board does not learn of the conviction for several years after it has occurred, and staff must then conduct an investigation and process the denial or disciplinary action throughout the administrative process, all of which could exceed the five-year period. Furthermore, the Board has had cases in the past where the person has been placed on supervised criminal probation or parole for more than five years; Administrative Law Judges have determined that being on supervised probation or parole is not sufficient evidence of rehabilitation to allow the person to obtain or maintain a license with due regard to the protection of the public. Additionally, this bill would specify that the Board could place a licensee on probation for only two years or less. Historically, two years has not been sufficient time for the person to comply with terms and conditions of probation, such as taking educational courses or reimbursing the Board's costs; restricting the period of probation to only two years or less would be setting the person up to fail and violate probation. The bill also provides that the person can petition the Board for reduction, modification, or termination of probation after one year and would require the Board to issue a decision on the petition within 90 days of receipt; if the Board failed to issue a decision within that time period, the petition would be deemed granted. It is unclear how this provision would work considering that other laws, specifically the Administrative Procedure Act (Chapters 4, 4.5, and 5 of Part 1 of Division 3 of Title 2 of the Government Code), govern the conduct of hearings on such petitions. Additionally, this bill requires the boards to collect and publish demographic data regarding applicants who are denied licensure or who have licenses revoked/suspended. In conclusion, staff believes this bill would negatively impact the Board's ability to consider all factors and evidence involved in a case and to determine the appropriate action based on those specific facts with due regard to public protection relating to the professions this Board is charged with regulating.

Staff Recommendation: Staff recommends the Board vote to **oppose** this legislation as amended April 2, 2018.

Laws: An act to amend Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2 of, to add Section 481.5 to, and to repeal Section 490.5 of, the Business and Professions Code, relating to professions and vocations.

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 2138

Introduced by Assembly Members Chiu and Low

February 12, 2018

An act to amend ~~Sections 480 and~~ *Sections 7.5, 480, 481, 482, 488, 490, 492, 493, 1005, and 11345.2* ~~of of,~~ *to add Section 481.5 to, and to repeal Section 490.5 of,* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, as amended, Chiu. Licensing boards: denial of application: *revocation or suspension of licensure: criminal conviction.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and *Affairs*. Existing law authorizes a board to ~~deny~~ *deny, suspend, or revoke a license or take disciplinary action against a licensee* on the grounds that the applicant *or licensee* has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. *Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the*

business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

~~This bill would instead prohibit a person from being denied a license solely on the basis that he or she has been convicted of a nonviolent crime and would make conforming changes.~~ *revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been convicted of a crime only if the applicant or licensee is presently incarcerated or if the conviction, as defined, occurred within the preceding 5 years, except for violent felonies, and would require the crime to be directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would prohibit a board from denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction for a crime, if the conviction has been dismissed or expunged, if the person has made a showing of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction. The bill would provide that these provisions relating to denial, revocation, or suspension of a license would supersede contradictory provisions in specified existing law.*

The bill would require the board to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession. The bill would require a board to find that a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board to suspend a license if a licensee is not in compliance with a child support order or judgment.

This bill would repeal that authorization.

Existing law authorizes specified agencies to take disciplinary action against a licensee or deny a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs.

This bill would instead prohibit a board from taking disciplinary action against a licensee or denying a license for professional misconduct if the licensee has successfully completed certain diversion programs or alcohol and drug problem assessment programs or deferred entry of judgment.

Existing law authorizes a board after a specified hearing requested by an applicant for licensure to take various actions, including imposing probationary conditions on the license.

This bill would additionally authorize a board to grant the license and immediately issue a public reproof. The bill would limit probationary terms or restrictions placed on a license by a board to 2 years or less and would authorize additional conditions to be imposed only if the board determines that there is clear and convincing evidence that additional conditions are necessary to address a risk shown by clear and convincing evidence. The bill would require a board to develop criteria to aid it in considering the imposition of probationary conditions and to determine what conditions may be imposed. The bill would authorize a licensee or registrant whose license or registration has been placed on probation to petition the board for a change to that probation one year from the effective date of the board’s decision, would require the board to issue a decision on the petition within 90 days, and would deem the petition granted if the board does not file a decision denying the petition within 90 days.

This bill would also make necessary conforming changes.

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

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

- 1 SECTION 1. Section 7.5 of the Business and Professions Code
- 2 is amended to read:
- 3 7.5. (a) A conviction within the meaning of this code means
- 4 a judgment following a plea or verdict of guilty or a conviction
- 5 following a plea of nolo contendere, contendere or finding of guilt.
- 6 Any action which a board is permitted to take following the

1 establishment of a conviction may be taken when the time for
 2 appeal has elapsed, or the judgment of conviction has been affirmed
 3 on appeal or when an order granting probation is made suspending
 4 the imposition of sentence, irrespective of a subsequent order under
 5 the provisions of Section 1203.4 of the Penal Code: *sentence*.
 6 However, a board may not deny a license to an applicant who is
 7 otherwise qualified pursuant to subdivision (b) *or* (c) of Section
 8 480.

9 **Nothing**

10 (b) *Nothing* in this section shall apply to the licensure of persons
 11 pursuant to Chapter 4 (commencing with Section 6000) of Division
 12 3.

13 (c) *Except as provided in subdivision (b), this section controls*
 14 *over and supersedes the definition of conviction contained within*
 15 *individual practice acts under this code.*

16 **SECTION 1.**

17 **SEC. 2.** Section 480 of the Business and Professions Code is
 18 amended to read:

19 480. (a) ~~A-(1) Notwithstanding any other provision of this~~
 20 ~~code, a board may deny a license regulated by this code on the~~
 21 ~~grounds that the applicant has one of the following: been convicted~~
 22 ~~of a crime or has been subject to formal discipline only if either~~
 23 ~~of the following conditions are met:~~

24 ~~(1) Been convicted of a crime. A conviction within the meaning~~
 25 ~~of this section means a plea or verdict of guilty or a conviction~~
 26 ~~following a plea of nolo contendere. Any action that a board is~~
 27 ~~permitted to take following the establishment of a conviction may~~
 28 ~~be taken when the time for appeal has elapsed, or the judgment of~~
 29 ~~conviction has been affirmed on appeal, or when an order granting~~
 30 ~~probation is made suspending the imposition of sentence,~~
 31 ~~irrespective of a subsequent order under the provisions of Section~~
 32 ~~1203.4, 1203.4a, or 1203.41 of the Penal Code.~~

33 ~~(2) Done any act involving dishonesty, fraud, or deceit with the~~
 34 ~~intent to substantially benefit himself or herself or another, or~~
 35 ~~substantially injure another.~~

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

39 ~~(B) The board may deny a license pursuant to this subdivision~~
 40 ~~only if the crime or act is substantially related to the qualifications;~~

1 ~~functions, or duties of the business or profession for which~~
 2 ~~application is made.~~

3 *(A) The applicant has been convicted of a crime for which the*
 4 *applicant is presently incarcerated or for which the conviction*
 5 *occurred within the preceding five years. However, the preceding*
 6 *five year limitation shall not apply to a conviction for a violent*
 7 *felony, as defined in Section 667.5 of the Penal Code.*

8 *The board may deny a license pursuant to this subparagraph*
 9 *only if the crime is directly and adversely related to the*
 10 *qualifications, functions, or duties of the business or profession*
 11 *for which application is made.*

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

24 *(2) Denial of a license includes denial of an unrestricted license*
 25 *by issuance of a restricted or probationary license.*

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

34 *(c) Notwithstanding any other provision of this code, a person*
 35 *shall not be denied a license on the basis of any conviction, or on*
 36 *the basis of the acts underlying the conviction, that has been*
 37 *dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the*
 38 *Penal Code, or a comparable dismissal or expungement. An*
 39 *applicant who has a conviction that has been dismissed pursuant*
 40 *to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code*

1 *shall provide proof of the dismissal if it is not reflected on the*
2 *report furnished by the Department of Justice.*

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

7 ~~(e)~~

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

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

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

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

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

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

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

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

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

36 *(2) Each board under this code shall retain the number of*
37 *applications received for each license and the number of*
38 *applications requiring inquiries regarding criminal history. In*
39 *addition, each licensing authority shall retain all of the following*
40 *information:*

1 (A) The number of applicants with a criminal record who
2 received notice of denial or disqualification of licensure.

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

5 (C) The number of applicants with a criminal record who
6 appealed any denial or disqualification of licensure.

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

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

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

19 (h) "Conviction" as used in this section shall have the same
20 meaning as defined in Section 7.5.

21 (i) This section supersedes any contradictory provision in a
22 licensing act under this code or initiative act referred to in Division
23 2 (commencing with Section 500) that authorizes license denial
24 based on a criminal conviction, arrest, or the acts underlying an
25 arrest or conviction.

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

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

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

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

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

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

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

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

10 SEC. 4. *Section 481.5 is added to the Business and Professions*
 11 *Code, to read:*

12 481.5. (a) *Probationary terms or restrictions placed on a*
 13 *license by a board shall be limited to two years or less. Any*
 14 *additional conditions may be imposed only if the board determines*
 15 *that there is clear and convincing evidence that additional*
 16 *conditions are necessary to address a risk shown by clear and*
 17 *convincing evidence.*

18 (b) *Each board under this code shall develop criteria to aid it*
 19 *when considering the imposition of probationary conditions or*
 20 *restrictions to determine what conditions may be imposed to*
 21 *address a risk shown by clear and convincing evidence.*

22 (c) (1) *A licensee or registrant whose license or registration*
 23 *has been placed on probation may petition the board for a change*
 24 *to the probation, including modification or termination of*
 25 *probation, one year from the effective date of the decision. The*
 26 *board shall issue its decision on the petition within 90 days of*
 27 *submission of the petition. The petition shall be deemed granted*
 28 *by operation of law if the board does not file a decision denying*
 29 *the petition within 90 days of submission of the petition.*

30 (2) *The one-year time period to petition for modification or*
 31 *termination of penalty shall control over longer time periods under*
 32 *a licensing act under this code or initiative act referred to in*
 33 *Division 2 (commencing with Section 500).*

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

36 482. (a) *Each board under ~~the provisions of~~ this code shall*
 37 *develop criteria to evaluate the rehabilitation of a person ~~when:~~*
 38 *when doing either of the following:*

39 (a)

1 (1) Considering the denial of a license by the board under
2 Section ~~480~~; or 480.

3 ~~(b)~~

4 (2) Considering suspension or revocation of a license under
5 Section 490.

6 ~~Each~~

7 ~~(b) Each board shall take into account all competent evidence~~
8 ~~of rehabilitation furnished by the applicant or licensee. find that~~
9 ~~an applicant or licensee has made a showing of rehabilitation if~~
10 ~~any of the following are met:~~

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

13 (2) (A) *The applicant or licensee documents that he or she has*
14 *worked in a related field continuously for at least one year prior*
15 *to licensure or successfully completed a course of training in a*
16 *related field, unless the board finds a public record of an official*
17 *finding that the applicant committed professional misconduct in*
18 *the course of that work.*

19 (B) *Work in a related field may include, but is not limited to,*
20 *work performed without compensation and work performed while*
21 *incarcerated.*

22 (C) *“Related field,” for purposes of this paragraph, means a*
23 *field of employment whose duties are substantially similar to the*
24 *field regulated by the board.*

25 (3) *The applicant or licensee has satisfied criteria for*
26 *rehabilitation developed by the board.*

27 *SEC. 6. Section 488 of the Business and Professions Code is*
28 *amended to read:*

29 488. Except as otherwise provided by law, following a hearing
30 requested by an applicant pursuant to subdivision (b) of Section
31 485, the board may take any of the following actions:

32 (a) Grant the license effective upon completion of all licensing
33 requirements by the applicant.

34 (b) Grant the license effective upon completion of all licensing
35 requirements by the applicant, *grant the license and immediately*
36 *issue a public reproof pursuant to Section 495,* immediately
37 revoke the license, stay the revocation, and impose probationary
38 conditions on the license, which may include suspension.

39 (c) Deny the license.

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

3 *SEC. 7. Section 490 of the Business and Professions Code is*
4 *amended to read:*

5 490. (a) (1) In addition to any other action that a board is
6 permitted to take against a licensee, a board may suspend or revoke
7 a license on the ground that the licensee has been convicted of a
8 crime, ~~if the crime is substantially related to the qualifications,~~
9 ~~functions, or duties of the business or profession for which the~~
10 ~~license was issued: crime for which the applicant is presently~~
11 ~~incarcerated or for which the conviction occurred within the~~
12 ~~preceding five years. However, the preceding five year limitation~~
13 ~~shall not apply to a conviction for a violent felony, as defined in~~
14 ~~Section 667.5 of the Penal Code.~~

15 (2) ~~The board may suspend or revoke a license pursuant to this~~
16 ~~subdivision only if the crime is directly and adversely related to~~
17 ~~the qualifications, functions, or duties of the business or profession~~
18 ~~for which application is made.~~

19 (b) Notwithstanding any other provision of law, a board may
20 exercise any authority to discipline a licensee for conviction of a
21 crime that is independent of the authority granted under subdivision
22 (a) only if ~~the both of the following are met:~~

23 (1) ~~The crime is substantially directly and adversely related to~~
24 ~~the qualifications, functions, or duties of the business or profession~~
25 ~~for which the licensee's license was issued.~~

26 (2) ~~The licensee was convicted of the crime within the preceding~~
27 ~~five years or is presently incarcerated for the crime. However, the~~
28 ~~preceding five year limitation shall not apply to a conviction for~~
29 ~~a violent felony, as defined in Section 667.5 of the Penal Code.~~

30 ~~(e) A conviction within the meaning of this section means a~~
31 ~~plea or verdict of guilty or a conviction following a plea of nolo~~
32 ~~contendere. An action that a board is permitted to take following~~
33 ~~the establishment of a conviction may be taken when the time for~~
34 ~~appeal has elapsed, or the judgment of conviction has been affirmed~~
35 ~~on appeal, or when an order granting probation is made suspending~~
36 ~~the imposition of sentence, irrespective of a subsequent order under~~
37 ~~Section 1203.4 of the Penal Code.~~

38 ~~(d) The Legislature hereby finds and declares that the application~~
39 ~~of this section has been made unclear by the holding in Petropoulos~~
40 ~~v. Department of Real Estate (2006) 142 Cal.App.4th 554, and~~

1 that the holding in that case has placed a significant number of
2 statutes and regulations in question, resulting in potential harm to
3 the consumers of California from licensees who have been
4 convicted of crimes. Therefore, the Legislature finds and declares
5 that this section establishes an independent basis for a board to
6 impose discipline upon a licensee, and that the amendments to this
7 section made by Chapter 33 of the Statutes of 2008 do not
8 constitute a change to, but rather are declaratory of, existing law.

9 *(c) Notwithstanding any other provision of this code, a board
10 shall not suspend or revoke a license on the basis of a conviction,
11 or of the acts underlying a conviction, where that conviction has
12 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or
13 1203.42 of the Penal Code or a comparable dismissal or
14 expungement.*

15 *(d) Notwithstanding any other provision of this code, a board
16 shall not suspend or revoke a license on the basis of an arrest that
17 resulted in a disposition other than a conviction, including an
18 arrest that resulted in an infraction, citation, or juvenile
19 adjudication.*

20 *(e) The board shall use the following procedures in requesting
21 or acting on a licensee's criminal history information:*

22 *(1) A board shall not require a licensee to disclose any
23 information or documentation regarding the licensee's criminal
24 history.*

25 *(2) If a board chooses to file an accusation against a licensee
26 based solely or in part on the licensee's conviction history, the
27 board shall notify the licensee in writing of the processes for the
28 licensee to request a copy of the licensee's complete conviction
29 history and question the accuracy or completeness of his or her
30 criminal record pursuant to Sections 11122 to 11127, inclusive,
31 of the Penal Code.*

32 *(f) (1) For a minimum of three years, each board under this
33 code shall retain all documents submitted by a licensee, notices
34 provided to a licensee, all other communications received from or
35 provided to a licensee, and criminal history reports of a licensee.*

36 *(2) Each board under this code shall retain all of the following
37 information:*

38 *(A) The number of licensees with a criminal record who received
39 notice of potential revocation or suspension of their license or who
40 had their license suspended or revoked.*

1 (B) The number of licensees with a criminal record who
2 provided evidence of mitigation or rehabilitation.

3 (C) The number of licensees with a criminal record who
4 appealed any suspension or revocation of a license.

5 (D) The final disposition and demographic information,
6 including, but not limited to, voluntarily provided information on
7 race or gender, of any applicant described in subparagraph (A),
8 (B), or (C).

9 (3) (A) Each board under this code shall annually make
10 available to the public through the board's Internet Web site and
11 through a report submitted to the appropriate policy committees
12 of the Legislature deidentified information collected pursuant to
13 this subdivision. Each board shall ensure the confidentiality of the
14 individual licensees.

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

17 (g) (1) This section supersedes any contradictory provision in
18 a licensing act under this code or initiative act referred to in
19 Division 2 (commencing with Section 500) that authorizes action
20 based on a criminal conviction, arrest, or the acts underlying an
21 arrest or conviction.

22 (2) This section shall not prohibit any agency from taking
23 disciplinary action against a licensee for professional misconduct
24 in the course and scope of the licensee's profession that is based
25 on evidence that is independent of an arrest.

26 SEC. 8. Section 490.5 of the Business and Professions Code
27 is repealed.

28 ~~490.5. A board may suspend a license pursuant to Section~~
29 ~~17520 of the Family Code if a licensee is not in compliance with~~
30 ~~a child support order or judgment.~~

31 SEC. 9. Section 492 of the Business and Professions Code is
32 amended to read:

33 492. (a) Notwithstanding any other provision of law, successful
34 completion of any diversion program under the Penal Code,
35 successful completion by a licensee or applicant of any
36 nonstatutory diversion program, deferred entry of judgment, or
37 successful completion of an alcohol and drug problem assessment
38 program under Article 5 (commencing with Section 23249.50) of
39 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
40 any agency established under Division 2 (commencing with Section

1 500) of this code, or any initiative act referred to in that division,
 2 board from taking disciplinary action against a licensee or from
 3 denying a license for professional misconduct, notwithstanding
 4 that evidence of that misconduct may be recorded in a record
 5 pertaining to an arrest. *misconduct.*

6 This section shall not be construed to apply to any drug diversion
 7 program operated by any agency established under Division 2
 8 (commencing with Section 500) of this code, or any initiative act
 9 referred to in that division.

10 (b) This section shall not prohibit any agency established under
 11 Division 2 (commencing with Section 500) of this code, or any
 12 initiative act referred to in that division, from taking disciplinary
 13 action against a licensee for professional misconduct in the course
 14 and scope of the profession, which is based on evidence that is
 15 independent of an arrest.

16 SEC. 10. Section 493 of the Business and Professions Code is
 17 amended to read:

18 493. (a) Notwithstanding any other provision of law, in a
 19 proceeding conducted by a board within the department pursuant
 20 to law to deny an application for a license or to suspend or revoke
 21 a license or otherwise take disciplinary action against a person
 22 who holds a license, upon the ground that the applicant or the
 23 licensee has been convicted of a crime ~~substantially directly and~~
 24 ~~adversely~~ related to the qualifications, functions, and duties of the
 25 licensee in question, the record of conviction of the crime shall be
 26 conclusive evidence of the fact that the conviction occurred, but
 27 only of that fact, and the board may inquire into the circumstances
 28 surrounding the commission of the crime in order to fix the degree
 29 of discipline or to determine if the conviction is substantially
 30 related to the qualifications, functions, and duties of the licensee
 31 in question. *fact.*

32 (b) (1) Criteria for determining whether a crime is directly and
 33 adversely related to the qualifications, functions, or duties of the
 34 business or profession the board regulates shall include all of the
 35 following:

36 (A) The nature and gravity of the offense.

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

38 (C) The nature and duties of the profession.

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

4 ~~As~~

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

7 *SEC. 11. Section 1005 of the Business and Professions Code*
 8 *is amended to read:*

9 1005. The provisions of Sections 12.5, 23.9, 29.5, 30, 31, 35,
 10 104, 114, 115, 119, 121, 121.5, 125, 125.6, 136, 137, 140, 141,
 11 143, 163.5, 461, 462, 475, 480, 484, 485, 487, 489, 490, ~~490.5~~,
 12 491, 494, 495, 496, 498, 499, 510, 511, 512, 701, 702, 703, 704,
 13 710, 716, 730.5, 731, and 851 are applicable to persons licensed
 14 by the State Board of Chiropractic Examiners under the
 15 Chiropractic Act.

16 ~~SEC. 2.~~

17 *SEC. 12. Section 11345.2 of the Business and Professions Code*
 18 *is amended to read:*

19 11345.2. (a) An individual shall not act as a controlling person
 20 for a registrant if any of the following apply:

21 (1) The individual has entered a plea of guilty or no contest to,
 22 or been convicted of, a felony. If the individual’s felony conviction
 23 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
 24 of the Penal Code, the bureau may allow the individual to act as
 25 a controlling person.

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

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

O

Introduced Legislation
AB 2264 (Brough) San Juan Capistrano
Professions and vocations: fees

Status: 3/1/2018-Referred to Committee on Business & Professions.

Location: 3/1/2018-Assembly Business & Professions.

Introduced: 2/13/2018

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

Updated 4/18/18

Staff Analysis: AB 2264

Bill Summary: Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the Department of Consumer Affairs and each board in the department to charge a \$2 fee for the certification of a record, document, or paper in its custody or for the certification of a document evidencing the content of that record, document, or paper, except as otherwise provided by law. Existing law requires that the delinquency, penalty, or late fee for any licensee within the department be 50% of the renewal fee for that license that is in effect on the date of the renewal of the license, but not less than \$25 nor more than \$150, except as otherwise provided by law.

This bill would require the boards to charge a fee of not more than \$2 for certifications, except as otherwise provided by law. This bill would delete the requirement that the delinquency, penalty, or late fee not be less than \$25 and would make other nonsubstantive changes to these provisions.

Staff Comment: The Board currently charges a \$2 fee to certify documents as “true and correct copies” or to provide an official Certification of License (which is not to be confused with the wall certificates or pocket identification cards the Board issues to licensees). Additionally, Business and Professions Code section 163.5, which addresses delinquency and other renewal-related fees, does not apply to the Board since each of the three Acts the Board regulates contain specific provisions addressing these fees and Section 163.5 specifies it applies only if there are no other provisions of law that apply. As such, this bill would have no impact on the Board or its operations.

Staff Recommendation: No action needed.

Laws: An act to amend Sections 163 and 163.5 of the Business and Professions Code, relating to professions and vocations.

ASSEMBLY BILL

No. 2264

Introduced by Assembly Member Brough

February 13, 2018

An act to amend Sections 163 and 163.5 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2264, as introduced, Brough. Professions and vocations: fees.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the Department of Consumer Affairs and each board in the department to charge a \$2 fee for the certification of a record, document, or paper in its custody or for the certification of a document evidencing the content of that record, document, or paper, except as otherwise provided by law.

This bill would instead authorize the department and boards to charge a fee of not more than \$2 for these certifications, except as otherwise provided by law.

Existing law requires that the delinquency, penalty, or late fee for any licensee within the department be 50% of the renewal fee for that license that is in effect on the date of the renewal of the license, but not less than \$25 nor more than \$150, except as otherwise provided by law.

This bill would delete the requirement that the fee not be less than \$25 and would make other nonsubstantive changes to these provisions.

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

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

1 SECTION 1. Section 163 of the Business and Professions Code
2 is amended to read:

3 163. Except as otherwise expressly provided by law, the
4 department and each board in the department ~~shall~~ *may* charge a
5 fee of *not more than* two dollars (\$2) for the certification of a copy
6 of any record, document, or paper in its custody or for the
7 certification of any document evidencing the content of ~~any such~~
8 *that* record, document or paper.

9 SEC. 2. Section 163.5 of the Business and Professions Code
10 is amended to read:

11 163.5. (a) Except as otherwise provided by law, the
12 delinquency, penalty, or late fee for any licensee within the
13 Department of Consumer Affairs shall be 50 percent of the renewal
14 fee for ~~such that~~ license in effect on the date of the renewal of the
15 license, but ~~not less than twenty-five dollars (\$25) nor~~ more than
16 one hundred fifty dollars (\$150).

17 ~~A~~

18 (b) A delinquency, penalty, or late fee shall not be assessed until
19 30 days have elapsed from the date that the licensing agency mailed
20 a notice of renewal to the licensee at the licensee’s last known
21 address of record. The notice shall specify the date for timely
22 renewal, and that failure to renew in a timely fashion shall result
23 in the assessment of a delinquency, penalty, or late fee.

24 ~~In the event a~~

25 (c) *If a* reinstatement or like fee is charged for the reinstatement
26 of a license, the reinstatement fee shall be 150 percent of the
27 renewal fee for ~~such that~~ license in effect on the date of the
28 reinstatement of the license, but not more than twenty-five dollars
29 (\$25) in excess of the renewal fee, except that in the event that
30 ~~such a~~ *this* fee is fixed by statute at less than 150 percent of the
31 renewal fee and less than the renewal fee plus twenty-five dollars
32 (\$25), the fee so fixed shall be charged.

Introduced Legislation

AB 2409 (Kiley R) Granite Bay

Professions and vocations: occupational regulations.

Status: 4/17/2018-Re-referred to Committee on Business & Professions. In committee: Set, first hearing. Failed passage. Reconsideration granted.

Location: 4/17/2018-Assembly Business & Professions

Amended: 4/16/2018

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

Updated 4/18/18

Staff Analysis: AB 2409

Bill Summary: Existing law authorizes a board to deny a license if an applicant has been convicted of a crime, done any act involving dishonesty, fraud, or deceit with intent to substantially benefit himself or herself or another or substantially injure another, or does any act that, if done by a licentiate of the business or profession, would be grounds for suspension or revocation.

The bill, as amended April 16, 2018, states Legislative findings and declarations relating to government regulation of occupations and professions and proposes to add a new section to the Business and Professions Code. This new section would indicate that individuals have the right to not have their criminal record or the fact that they are behind on tax or student loan payments used as an automatic or permanent bar to licensure. The bill would allow a person to petition a board to review an occupational regulation for compliance with certain factors, as specified. The bill would authorize a person with a criminal record to petition a board at any time for a determination of whether the person's criminal record will automatically disqualify the person from obtaining a license from the board and would specify the criteria a board can use in making that determination.

Staff Comment: The intent of and necessity for this bill are unclear. Most of the requirements identified in AB 2409 are required by other provisions of the Business and Professions Code (BPC) and the Government Code. For example, the Board has an appeal process for a person who has been denied a license, BPC §485. The Board cannot use a person's criminal record as an automatic or mandatory permanent bar to licensure, BPC §482. The Board is required, per BPC §482, to adopt regulations that describe the criteria it will use in evaluating whether to deny issuing a license; those regulations are codified in Title 16, California Code of Regulations §418 and §3061. BPC §482 requires the Board to consider all competent evidence of rehabilitation. BPC §486 requires evidence of rehabilitation be considered upon a reapplication. Furthermore, there are already provisions in the Government Code that allow individuals to request determinations from the Office of Administrative Law relating to the Board's regulations or to petition the Board to adopt, amend, or repeal regulations. Many of these concerns were raised in the analysis for the hearing in the Assembly Business and Professions Committee, held on April 17, 2018. The bill failed passage at that hearing by a 5-11 vote; however, reconsideration was granted.

Staff Recommendation: Staff recommends the board vote to **watch** this legislation.

Laws: An act to add Section 37 to the Business and Professions Code, relating to professions and vocations.

AMENDED IN ASSEMBLY APRIL 16, 2018

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 2409

Introduced by Assembly Member Kiley

February 14, 2018

An act to add Section 37 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2409, as amended, Kiley. Professions and vocations: occupational regulations.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and provides that those boards are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities that have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California. Existing law authorizes a board to deny a license if an applicant has been convicted of a crime, done any act involving dishonesty, fraud, or deceit with intent to substantially benefit himself or herself or another or substantially injure another, or does any act that, if done by a licentiate of the business or profession, would be grounds for suspension or revocation.

This bill would establish that a person has a right to engage in a lawful profession or vocation without being subject to an occupational regulation, as defined, that imposes a substantial burden on that right, and would require each occupational regulation to be limited to what

is demonstrably necessary and narrowly tailored to fulfill a legitimate public health, safety, or welfare objective. The bill would include within this the right of a person with a criminal record to ~~obtain a license and not to have a board~~ use the person's criminal record *used by a board* as an automatic or mandatory permanent bar to engaging in a lawful profession or ~~vocation. The bill would also include~~ *vocation, except as specified*, and the right of a person who is behind on his or her taxes or student loans to ~~petition a board not to use these factors against that person, as prescribed.~~ *loan payments to not have a board use that fact as an automatic or mandatory permanent bar to engaging in a lawful profession or vocation.*

The bill would authorize a person ~~who is denied a license to file a petition and appeal to the board. The bill would prescribe procedures and legal standards by which a board may determine that a person's criminal record disqualifies that person. The bill would also permit a person, following the response to an administrative petition, to file an appeal to a court for a declaratory judgment or injunctive or other equitable relief, in accordance with certain legal procedures and criteria.~~ *to petition a board to review an occupational regulation, as defined, within the board's jurisdiction for compliance with the above rights, as specified. The bill would authorize a person with a criminal record to petition a board at any time for a determination of whether the person's criminal record will automatically disqualify the person from obtaining a license from the board and would specify the criteria a board is allowed to use in making that determination.* The bill would include related definitions and declare the intent of the Legislature in this regard.

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

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

- 1 SECTION 1. This act may be known as the "Occupational
- 2 Opportunity Act."
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Each individual has the right to pursue a chosen profession
- 5 and vocation, free from arbitrary or excessive government
- 6 interference.
- 7 (b) The freedom to earn an honest living traditionally has
- 8 provided the surest means for economic mobility.

1 (c) In recent years, many regulations of entry into professions
2 and vocations have exceeded legitimate public purposes and have
3 had the effect of arbitrarily limiting entry and reducing competition.

4 (d) The burden of excessive regulation is borne most heavily
5 by individuals outside the economic mainstream, for whom
6 opportunities for economic advancement are curtailed.

7 (e) It is in the public interest to do all of the following:

8 (1) Ensure the right of all individuals to pursue legitimate
9 entrepreneurial and professional opportunities to the limits of their
10 talent and ambition.

11 (2) Provide the means for the vindication of this right.

12 (3) Ensure that regulations of entry into professions and
13 vocations are demonstrably necessary and narrowly tailored to
14 fulfill legitimate health, safety, and welfare objectives.

15 SEC. 3. Section 37 is added to the Business and Professions
16 Code, to read:

17 37. (a) (1) Notwithstanding Section 480 or any other law, a
18 person has a right to engage in a lawful profession or vocation
19 without being subject to an occupational regulation that imposes
20 a substantial burden on that right. To achieve this purpose, each
21 occupational regulation shall be limited to what is demonstrably
22 necessary and shall be narrowly tailored to fulfill a legitimate
23 public health, safety, or welfare objective.

24 (2) Notwithstanding any other law, the right set forth in
25 paragraph (1) includes the right of a person with a criminal record
26 ~~to obtain a license to engage in a profession or vocation, and the~~
27 ~~right to not have a board use the person's criminal record as an~~
28 ~~automatic or mandatory permanent bar to engaging in a lawful~~
29 ~~profession or vocation.~~ *to not have the person's criminal record*
30 *be used by a board as an automatic or mandatory permanent bar*
31 *to engaging in a lawful profession or vocation, unless for reasons*
32 *specified in this section.*

33 (3) Notwithstanding any other law, the right set forth in
34 paragraph (1) also includes the right of a person who is behind on
35 his or her taxes or student ~~loans~~ *loan payments* to obtain a license
36 to engage in a profession or vocation, and the right to not have the
37 board use the person's status with respect to his or her taxes or
38 student ~~loans~~ *loan payments* as an automatic or mandatory
39 permanent bar to engaging in a lawful profession or vocation.

1 ~~(b) (1) (A) A person denied a license may file a petition and~~
2 ~~appeal to the board.~~

3 ~~(B) If the person has a criminal record, the person shall include~~
4 ~~in the petition a copy of his or her criminal record or shall authorize~~
5 ~~the board to obtain a copy that record. The person may additionally~~
6 ~~include information about his or her current circumstances,~~
7 ~~including, but not limited to, the time passed since the offense,~~
8 ~~completion of the criminal sentence, other evidence of~~
9 ~~rehabilitation, testimonials, employment history, and employment~~
10 ~~aspirations.~~

11 ~~(C) Notwithstanding any other law, the board may find that the~~
12 ~~person's criminal record disqualifies that person from obtaining a~~
13 ~~license only if the person's criminal record includes a conviction~~
14 ~~for a felony or a violent misdemeanor and the board concludes~~
15 ~~that the state has an important interest in protecting public safety~~
16 ~~that is superior to the person's individual right. The board may~~
17 ~~make this conclusion only if it determines, by clear and convincing~~
18 ~~evidence at the time of the petition, all of the following:~~

19 ~~(i) The specific offense for which the person was convicted is~~
20 ~~substantially related to the qualifications, functions, or duties of~~
21 ~~the profession or vocation for which application was denied.~~

22 ~~(ii) The person, based on the nature of the specific offense for~~
23 ~~which he or she was convicted and his or her current circumstances,~~
24 ~~would be put in a position in which that person is more likely to~~
25 ~~reoffend by having the license than if the person did not obtain~~
26 ~~that license.~~

27 ~~(iii) A reoffense by the person would cause greater harm than~~
28 ~~it would if the person did not have a license and was not put in a~~
29 ~~position in which the person is more likely to reoffend.~~

30 ~~(2) Within 90 days of a petition filed pursuant to paragraph (1),~~
31 ~~the board shall make a determination on the appeal, based on the~~
32 ~~standards set forth in subdivision (a).~~

33 ~~(e) (1) Following the response to an administrative petition~~
34 ~~pursuant to paragraph (2) of subdivision (b), a person may file an~~
35 ~~appeal to a court of general jurisdiction for a declaratory judgment~~
36 ~~or injunctive relief or other equitable relief for a violation of~~
37 ~~subdivision (a).~~

38 ~~(2) In such an action, the board bears the burden of proving by~~
39 ~~preponderance of the evidence that the challenged occupational~~

1 regulation meets the criteria set forth in paragraph (1) of
2 subdivision (a):

3 ~~(3) If the board fails to meet the burden of proof and the court
4 finds by a preponderance of evidence that the challenged
5 occupational regulation fails to meet the criteria set forth in
6 paragraph (1) of subdivision (a), the court shall enjoin further
7 enforcement of the occupational regulation and shall award
8 reasonable attorney's fees and costs to the plaintiff.~~

9 ~~(4) A court shall liberally construe this section to protect the
10 rights established in paragraph (1) of subdivision (a).~~

11 *(b) (1) A person may petition a board to review an occupational
12 regulation within the board's jurisdiction for compliance with
13 subdivision (a). The board shall respond within 90 days after the
14 petition is submitted, and shall, in writing, inform the petitioner
15 of the board's decision to do one of the following depending on
16 the circumstances:*

17 *(A) Subject to the Administrative Procedure Act (Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code), repeal the occupational regulation.*

20 *(B) Subject to the Administrative Procedure Act (Chapter 3.5
21 (commencing with Section 11340) of Part 1 of Division 3 of Title
22 2 of the Government Code), amend the occupational regulation
23 to bring it into compliance with subdivision (a).*

24 *(C) Recommend the enactment of legislation by the Legislature.*

25 *(D) State the basis on which the board concludes the
26 occupational regulation complies with subdivision (a).*

27 *(2) A person may appeal the board's determination in paragraph
28 (1) by filing an action in a court of general jurisdiction for
29 declaratory judgment, injunctive relief, or other equitable relief.*

30 *(A) In such an action, the board bears the burden of proving
31 by a preponderance of the evidence that the challenged
32 occupational regulation is in compliance with subdivision (a).*

33 *(B) If the board fails to meet the burden of proof and the court
34 finds by a preponderance of the evidence that the challenged
35 occupational regulation does not comply with subdivision (a), the
36 court shall enjoin further enforcement of the occupational
37 regulation and shall award reasonable attorney's fees and costs
38 to the petitioner.*

39 *(c) (1) Notwithstanding any other law, a person with a criminal
40 record may petition a board at any time for a determination of*

1 *whether the person's criminal record will automatically disqualify*
 2 *the person from obtaining a license from the board.*

3 (2) *The person shall include in the petition the person's criminal*
 4 *record or authorize the board to obtain the person's criminal*
 5 *record.*

6 (3) *Notwithstanding any other statute or rule, the board may*
 7 *find the individual's criminal record disqualifies the individual*
 8 *from obtaining a license only if both of the following are met:*

9 (A) *The person's criminal record includes a conviction for a*
 10 *felony or violent misdemeanor.*

11 (B) *The board concludes the state has an important interest in*
 12 *protecting public safety that is superior to the person's right in*
 13 *subdivision (a). The board may make this conclusion only if it*
 14 *determines, by clear and convincing evidence at the time of the*
 15 *petition, that all of the following are met:*

16 (i) *The specific offense for which the person was convicted is*
 17 *substantially related to the state's interest in protecting public*
 18 *safety.*

19 (ii) *The person, based on the nature of the specific offense for*
 20 *which he or she was convicted and the person's current*
 21 *circumstances, will be put in a position where the person is more*
 22 *likely to reoffend by having the license than if the individual did*
 23 *not have the license.*

24 (iii) *A reoffense will cause greater harm than if the individual*
 25 *did not have a license and was not put in the position where the*
 26 *individual is more likely to reoffend.*

27 (4) *The board shall issue its determination within 90 days after*
 28 *the board receives the petition. The determination shall be in*
 29 *writing and include, but not be limited to, the person's criminal*
 30 *record, findings of fact, and the board's legal conclusions.*

31 (d) *For purposes of this section, the following terms apply:*

32 (1) *"Board" has the same meaning as set forth in Section 22.*

33 (2) *"License" has the same meaning as set forth in Section 23.7.*

34 (3) *"Occupational regulation" means a regulation, rule, policy,*
 35 *condition, test, permit, administrative practice, or other state*
 36 *government-prescribed requirement for a person to engage in a*
 37 *lawful profession or vocation.*

Introduced Legislation

SB 984 (Skinner) Oakland

State boards and commissions: representation: women

Status: 4/13/2018-Set for hearing April 24.

Location: 4/10/2018-Senate Judiciary

Introduced: 2/5/2018

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

Updated 4/18/18

Staff Analysis: SB 984

Bill Summary: Existing law establishes various boards and commissions within state government. Under existing law, it is the policy of the State of California that the composition of these state boards and commissions broadly reflect the general public, including ethnic minorities and women. Under existing law, the Governor and other appointing authorities are responsible for nominating to these boards and commissions persons of different backgrounds, abilities, interests, and opinions.

This bill would require the composition of state boards and commissions to be comprised of, at a minimum, 50% women. The bill would also require the Secretary of State to disclose on its Internet Web site the gender composition of each state board and commission.

Staff Comment: Since this bill addresses the composition of boards, staff wanted to make the Board aware of it.

Staff Recommendation: No action needed.

Laws: An act to add Section 11142 to the Government Code, relating to state government.

Introduced by Senator Skinner

February 5, 2018

An act to add Section 11142 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 984, as introduced, Skinner. State boards and commissions: representation: women.

Existing law establishes various boards and commissions within state government. Under existing law, it is the policy of the State of California that the composition of these state boards and commissions broadly reflect the general public, including ethnic minorities and women. Under existing law, the Governor and other appointing authorities are responsible for nominating to these boards and commissions persons of different backgrounds, abilities, interests, and opinions.

This bill would require the composition of state boards and commissions to be comprised of, at a minimum, 50% women. The bill would also require the Secretary of State to disclose on its Internet Web site the gender composition of each state board and commission.

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

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

- 1 SECTION 1. Section 11142 is added to the Government Code,
- 2 to read:
- 3 11142. (a) The composition of state boards and commissions
- 4 shall be, at a minimum, 50 percent women.

- 1 (b) The Secretary of State shall disclose on its Internet Web site
- 2 the gender composition of each state board and commission.

O

Opposed Legislation

AB 2483 (Voepel-R) Santee

Indemnification of public officers and employees: antitrust awards.

Status: 4/10/2018-Re-referred to Committee on Appropriations

Location: 4/9/2018-Assembly Appropriations Committee

Last Amend: 4/9/2018

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

Updated 4/18/18

Staff Analysis: AB 2483

Bill Summary: The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Staff Comment: This bill has been amended since the March 2018 meeting when the Board voted to oppose the bill (which created an Office of Supervision of Occupational Boards within DCA). The amendments remove all of the provisions that the Board opposed. The bill now provides indemnity for members of boards relating to treble damages that could be awarded in antitrust claims. In prior years, the Board supported legislative efforts to provide for this indemnity. As such, staff recommends that the Board change its position and vote to support this bill as amended.

Staff Recommendation: Staff recommends the Board vote to **support** this bill, as amended April 9, 2018.

Laws: An act to amend Section 825 of the Government Code, relating to liability.

AMENDED IN ASSEMBLY APRIL 9, 2018

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 2483

Introduced by Assembly Member Voepel

February 14, 2018

An act to add Chapter 10 (commencing with Section 473) to Division 1 of the Business and Professions amend Section 825 of the Government Code, relating to professions: *liability*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Voepel. ~~Department of Consumer Affairs: Office of Supervision of Occupational Boards. Indemnification of public officers and employees: antitrust awards.~~

The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board within the Department of Consumer Affairs for an act or omission occurring within the scope of the member's official capacity as a member of that regulatory board. The bill would specify that treble

damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the act.

Under existing law, the Department of Consumer Affairs is composed of various boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate the practice of various professions and vocations for the purpose of protecting the people of California. With certain exceptions, decisions of these entities with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are final and are not subject to review by the Director of Consumer Affairs.

This bill would establish an Office of Supervision of Occupational Boards within the department to exercise active supervision over a "covered board," defined as specific licensing and regulatory agencies within the department, to ensure compliance with specific policies established in the bill regarding licensing and enforcement (established policies). The bill would require the office, in the exercise of active supervision, to be involved in the development of a covered board's rules and policies, to disapprove the use of any board rule or policy and terminate any enforcement action that is not consistent with the established policies, and to review and affirmatively approve only rules, policies, and enforcement actions consistent with the established policies. The bill would require the office to review and approve or reject any rule, policy, enforcement action, or other occupational licensure action proposed by each covered board before adoption or implementation. The bill would establish procedures for complaints, investigation, remedial action, and appeal relating to a rule, policy, enforcement action, or other occupational licensure action of a covered board inconsistent with the established policies.

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

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

1 SECTION 1. Section 825 of the Government Code is amended
2 to read:

3 825. (a) Except as otherwise provided in this section, if an
4 employee or former employee of a public entity requests the public
5 entity to defend him or her against any claim or action against him
6 or her for an injury arising out of an act or omission occurring

1 within the scope of his or her employment as an employee of the
2 public entity and the request is made in writing not less than 10
3 days before the day of trial, and the employee or former employee
4 reasonably cooperates in good faith in the defense of the claim or
5 action, the public entity shall pay any judgment based thereon or
6 any compromise or settlement of the claim or action to which the
7 public entity has agreed.

8 If the public entity conducts the defense of an employee or
9 former employee against any claim or action with his or her
10 reasonable good-faith cooperation, the public entity shall pay any
11 judgment based thereon or any compromise or settlement of the
12 claim or action to which the public entity has agreed. However,
13 where the public entity conducted the defense pursuant to an
14 agreement with the employee or former employee reserving the
15 rights of the public entity not to pay the judgment, compromise,
16 or settlement until it is established that the injury arose out of an
17 act or omission occurring within the scope of his or her
18 employment as an employee of the public entity, the public entity
19 is required to pay the judgment, compromise, or settlement only
20 if it is established that the injury arose out of an act or omission
21 occurring in the scope of his or her employment as an employee
22 of the public entity.

23 Nothing in this section authorizes a public entity to pay that part
24 of a claim or judgment that is for punitive or exemplary damages.

25 (b) Notwithstanding subdivision (a) or any other provision of
26 law, a public entity is authorized to pay that part of a judgment
27 that is for punitive or exemplary damages if the governing body
28 of that public entity, acting in its sole discretion except in cases
29 involving an entity of the state government, finds all of the
30 following:

31 (1) The judgment is based on an act or omission of an employee
32 or former employee acting within the course and scope of his or
33 her employment as an employee of the public entity.

34 (2) At the time of the act giving rise to the liability, the employee
35 or former employee acted, or failed to act, in good faith, without
36 actual malice and in the apparent best interests of the public entity.

37 (3) Payment of the claim or judgment would be in the best
38 interests of the public entity.

39 As used in this subdivision with respect to an entity of state
40 government, "a decision of the governing body" means the

1 approval of the Legislature for payment of that part of a judgment
2 that is for punitive damages or exemplary damages, upon
3 recommendation of the appointing power of the employee or
4 former employee, based upon the finding by the Legislature and
5 the appointing authority of the existence of the three conditions
6 for payment of a punitive or exemplary damages claim. The
7 provisions of subdivision (a) of Section 965.6 shall apply to the
8 payment of any claim pursuant to this subdivision.

9 The discovery of the assets of a public entity and the introduction
10 of evidence of the assets of a public entity shall not be permitted
11 in an action in which it is alleged that a public employee is liable
12 for punitive or exemplary damages.

13 The possibility that a public entity may pay that part of a
14 judgment that is for punitive damages shall not be disclosed in any
15 trial in which it is alleged that a public employee is liable for
16 punitive or exemplary damages, and that disclosure shall be
17 grounds for a mistrial.

18 (c) Except as provided in subdivision (d), if the provisions of
19 this section are in conflict with the provisions of a memorandum
20 of understanding reached pursuant to Chapter 10 (commencing
21 with Section 3500) of ~~Division 4 of Title 1, 4~~, the memorandum
22 of understanding shall be controlling without further legislative
23 action, except that if those provisions of a memorandum of
24 understanding require the expenditure of funds, the provisions
25 shall not become effective unless approved by the Legislature in
26 the annual Budget Act.

27 (d) The subject of payment of punitive damages pursuant to this
28 section or any other provision of law shall not be a subject of meet
29 and confer under the provisions of Chapter 10 (commencing with
30 Section 3500) of ~~Division 4 of Title 1, 4~~, or pursuant to any other
31 law or authority.

32 (e) Nothing in this section shall affect the provisions of Section
33 818 prohibiting the award of punitive damages against a public
34 entity. This section shall not be construed as a waiver of a public
35 entity's immunity from liability for punitive damages under Section
36 1981, 1983, or 1985 of Title 42 of the United States Code.

37 (f) (1) Except as provided in paragraph (2), a public entity shall
38 not pay a judgment, compromise, or settlement arising from a
39 claim or action against an elected official, if the claim or action is
40 based on conduct by the elected official by way of tortiously

1 intervening or attempting to intervene in, or by way of tortiously
2 influencing or attempting to influence the outcome of, any judicial
3 action or proceeding for the benefit of a particular party by
4 contacting the trial judge or any commissioner, court-appointed
5 arbitrator, court-appointed mediator, or court-appointed special
6 referee assigned to the matter, or the court clerk, bailiff, or marshal
7 after an action has been filed, unless he or she was counsel of
8 record acting lawfully within the scope of his or her employment
9 on behalf of that party. Notwithstanding Section 825.6, if a public
10 entity conducted the defense of an elected official against such a
11 claim or action and the elected official is found liable by the trier
12 of fact, the court shall order the elected official to pay to the public
13 entity the cost of that defense.

14 (2) If an elected official is held liable for monetary damages in
15 the action, the plaintiff shall first seek recovery of the judgment
16 against the assets of the elected official. If the elected official's
17 assets are insufficient to satisfy the total judgment, as determined
18 by the court, the public entity may pay the deficiency if the public
19 entity is authorized by law to pay that judgment.

20 (3) To the extent the public entity pays any portion of the
21 judgment or is entitled to reimbursement of defense costs pursuant
22 to paragraph (1), the public entity shall pursue all available
23 creditor's remedies against the elected official, including
24 garnishment, until that party has fully reimbursed the public entity.

25 (4) This subdivision shall not apply to any criminal or civil
26 enforcement action brought in the name of the people of the State
27 of California by an elected district attorney, city attorney, or
28 attorney general.

29 *(g) Notwithstanding subdivision (a), a public entity shall pay*
30 *for a judgment or settlement for treble damage antitrust awards*
31 *against a member of a regulatory board within the Department of*
32 *Consumer Affairs for an act or omission occurring within the scope*
33 *of the member's official capacity as a member of that regulatory*
34 *board.*

35 *(h) For purposes of this section, treble damages awarded*
36 *pursuant to the federal Clayton Act (Sections 12 to 27, inclusive,*
37 *of Title 15 of, and Sections 52 and 53 of Title 29 of, the United*
38 *States Code) for a violation of the federal Sherman Act (Sections*
39 *1 to 7, inclusive, of Title 15 of the United States Code) are not*
40 *punitive or exemplary damages under this division.*

1 SECTION 1. ~~Chapter 10 (commencing with Section 473) is~~
 2 ~~added to Division 1 of the Business and Professions Code, to read:~~

3
 4 CHAPTER 10. OFFICE OF SUPERVISION OF OCCUPATIONAL
 5 BOARDS
 6

7 473. ~~The following are policies of the state:~~

8 (a) ~~Occupational licensing laws should be construed and applied~~
 9 ~~to increase economic opportunity, promote competition, and~~
 10 ~~encourage innovation.~~

11 (b) ~~Regulators should displace competition through occupational~~
 12 ~~licensing only where less restrictive regulation will not suffice to~~
 13 ~~protect consumers from present, significant, and substantiated~~
 14 ~~harms that threaten public health, safety, or welfare.~~

15 (c) ~~An occupational licensing restriction should be enforced~~
 16 ~~against an individual only to the extent the individual sells goods~~
 17 ~~and services that are included explicitly in the statute or regulation~~
 18 ~~that defines the occupation's scope of practice.~~

19 473.1. ~~As used in this chapter:~~

20 (a) ~~"Covered board" means any entity listed in Section 101.~~

21 (b) ~~"Office" means the Office of Supervision of Occupational~~
 22 ~~Boards established in Section 473.2.~~

23 473.2. (a) ~~There is hereby established an Office of Supervision~~
 24 ~~of Occupational Boards within the department.~~

25 (b) (1) ~~Notwithstanding Section 109, the office shall be~~
 26 ~~responsible for exercising active supervision over each covered~~
 27 ~~board to ensure compliance with the policies in Section 473.~~

28 (2) ~~In exercising active supervision over covered boards under~~
 29 ~~paragraph (1), the office shall independently do the following:~~

30 (A) ~~Play a substantial role in the development of a covered~~
 31 ~~board's rules and policies to ensure they benefit consumers and~~
 32 ~~do not serve the private interests of providers of goods and services~~
 33 ~~regulated by the covered board.~~

34 (B) ~~Disapprove the use of any rule or policy of a covered board~~
 35 ~~and terminate any enforcement action, including any action pending~~
 36 ~~on January 1, 2019, that is not consistent with Section 473.~~

37 (C) ~~Exercise control over each covered board by reviewing and~~
 38 ~~affirmatively approving only rules, policies, and enforcement~~
 39 ~~actions that are consistent with Section 473.~~

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

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

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

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

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

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

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

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

Watched Legislation
AB 767 (Quirk-Silva) Buena Park
Master Business License Act

Status: 4/5/2018-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Committee on Business, Professions and Economic Development.

Location: 3/15/2018-Senate Business, Professions and Economic Development.

Last Amend: 4/5/2018

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

Updated 4/18/18

Staff Analysis: AB 767

Bill Summary: Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor’s Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor’s Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small businesses and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor’s Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and provide reasonable assistance to the office to implement these provisions, except as specified.

Staff Comment: Amendments made on 4/5/2018 indicate that a “state regulatory agency may deny or limit the ability of the office to establish an application to obtain multiple licenses from that state regulatory agency through the system.” A representative from the sponsor’s office indicated this newly added provision will make the requirements for regulatory agencies to cooperate and provide reasonable assistance optional.

Staff Recommendation: Staff recommends the Board vote to continue to **watch** this legislation, as amended April 5, 2018.

Laws: An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

AMENDED IN SENATE APRIL 5, 2018

AMENDED IN ASSEMBLY MAY 3, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Quirk-Silva

February 15, 2017

An act to add Part 12.5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as amended, Quirk-Silva. Master Business License Act.

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor's Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small businesses and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer an online master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state regulatory agency to cooperate and

provide reasonable assistance to the office to implement these ~~provisions~~. *provisions, except as specified.*

This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the businesses to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize the office to borrow up to \$140,000 from the ~~General Fund~~. *Fund, as specified.* The bill would authorize a state agency that the office has determined to have a license and fee that is appropriate for inclusion in the master business license system to borrow money as needed from the General Fund to support the reasonable costs of integrating into the ~~system~~. *system, as specified.* The bill would require these General Fund moneys to be deposited into the Master License Fund. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

~~The bill would require the office to establish a reasonable fee for each master license application and to collect those fees for deposit into the Master License Fund established by this bill. Funds derived from the master license application fees would be expended to administer the master business license program upon appropriation by the Legislature. The bill would require the license fees of the regulatory agencies deposited into the fund to be transferred to the appropriate accounts of the regulatory agencies, as provided.~~

The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.

The bill would also require the office, including the Director of Small Business Advocate, to work with small business owners and all

regulatory agencies to ensure the state’s implementation of a consolidated business license and permit system.

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

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

1 SECTION 1. Part 12.5 (commencing with Section 15930) is
2 added to Division 3 of Title 2 of the Government Code, to read:

3
4 PART 12.5. MASTER BUSINESS LICENSE ACT

5
6 CHAPTER 1. GENERAL PROVISIONS

7
8 15930. This part may be known, and may be cited as, the
9 Master Business License Act.

10 15931. As used in this part, the following words shall have the
11 following meanings:

12 (a) “Business license center” means the business registration
13 and licensing center established by this part and located in and
14 under the administrative control of the office.

15 (b) “Director” means the Director of the Governor’s Office of
16 Business and Economic Development.

17 (c) “License information packet” means a collection of
18 information about licensing requirements and application
19 procedures custom assembled for each request.

20 (d) “License” means the whole or part of any state agency
21 permit, license, certificate, approval, registration, charter, or any
22 form or permission required by law, including agency regulation,
23 to engage in any activity.

24 (e) “Master application” means a document incorporating
25 pertinent data from existing applications for licenses covered under
26 this part.

27 (f) “Master business license system” or “system” means the
28 mechanism by which licenses are issued, license and regulatory
29 information is disseminated, and account data is exchanged by
30 state agencies.

31 (g) “Office” means the Governor’s Office of Business and
32 Economic Development or its successor.

1 (h) "Person" means any individual, sole proprietorship,
 2 partnership, association, cooperative, corporation, nonprofit
 3 organization, state or local government agency, and any other
 4 organization required to register with the state to do business in
 5 the state and to obtain one or more licenses from the state or any
 6 of its agencies.

7 (i) "Regulatory" means all licensing and other governmental or
 8 statutory requirements pertaining to business activities.

9 (j) "Regulatory agency" means any state agency, board,
 10 commission, or division that regulates one or more industries,
 11 businesses, or activities.

12
 13 CHAPTER 2. BUSINESS LICENSE CENTER
 14

15 15932. (a) There is created within the office a business license
 16 center.

17 (b) The duties of the center shall include, but not be limited to,
 18 all of the following:

19 (1) Developing and administering an online master business
 20 license system capable of storing, retrieving, and exchanging
 21 license information with due regard to privacy statutes.

22 (2) Providing a license information service detailing
 23 requirements to establish or engage in business in this state.

24 (3) Identifying types of licenses appropriate for inclusion in the
 25 master business license system.

26 ~~(4) Recommending in reports to the Governor and the~~
 27 ~~Legislature the elimination, consolidation, or other modification~~
 28 ~~of duplicative, ineffective, or inefficient licensing.~~

29 ~~(5)~~

30 (4) Incorporating licenses into the master business license
 31 system.

32 15933. (a) The office shall adopt regulations as may be
 33 necessary to effectuate the purposes of this part.

34 (b) The director shall encourage state regulatory ~~entities~~ *agencies*
 35 to participate in the online master business license system.

36 *(c) The office shall adopt and periodically update a schedule*
 37 *for the buildout and upgrading of the master business license*
 38 *system to allow for the integration of additional licenses into the*
 39 *Internet-based platform of the system. The office shall integrate*
 40 *additional licenses to the Internet-based platform after the director*

1 *determines that funding for this project is available and the project*
 2 *is in alignment with required elements of the state planning*
 3 *practices for the development of state information technology*
 4 *projects.*

5 15934. Each state regulatory agency shall cooperate and provide
 6 reasonable assistance to the office in the implementation of this
 7 ~~part.~~ *part, except that a state regulatory agency may deny or limit*
 8 *the ability of the office to establish an application to obtain multiple*
 9 *licenses from that state regulatory agency through the system.*

10
 11 CHAPTER 3. MASTER LICENSE
 12

13 15935. (a) Any person that applies for two or more business
 14 licenses that have been incorporated into the master business
 15 license system may submit a master application to the office
 16 requesting the issuance of the licenses. The office shall develop
 17 and adopt an Internet-based platform that allows the business to
 18 electronically submit the master application to the office, as well
 19 as the payment of every fee required to obtain each requested
 20 license and a master application fee established pursuant to Section
 21 15936.

22 (b) Irrespective of any authority delegated to the office to
 23 implement this part, the authority for approving the issuance and
 24 renewal of any requested license that requires a prelicensing or
 25 renewal investigation, inspection, testing, or other judgmental
 26 review by the regulatory agency otherwise legally authorized to
 27 issue the license shall remain with that agency.

28 (c) Upon receipt of the application and proper fee payment for
 29 any license for which issuance is subject to regulatory agency
 30 action under subdivision (a), the office shall immediately notify
 31 the business of receipt of the application and fees.

32 15936. (a) The office shall establish a fee for each master
 33 application that does not exceed the reasonable costs of
 34 administering this part and collect that fee.

35 (b) ~~The~~ *Subject to subdivision (d), the office may borrow up to*
 36 *one hundred forty thousand dollars (\$140,000) from the General*
 37 *Fund in the State Treasury.*

38 (c) ~~A~~ *Subject to subdivision (d), a state agency that the office*
 39 *has determined to have a license and fee that is appropriate for*
 40 *inclusion in the master business license system may borrow money*

1 from the General Fund in the State Treasury in an amount
 2 necessary to support the reasonable cost of integrating into the
 3 system.

4 (d) *Before the office or a state agency may request a loan*
 5 *pursuant to this section, the director shall make a determination*
 6 *that both the project to integrate a license into the system is ready*
 7 *to be moved forward and that with the addition of the loan funds*
 8 *there is sufficient funding to implement the project.* The loans made
 9 pursuant to subdivisions (b) and (c) shall be repaid with interest,
 10 calculated at the rate earned by the Pooled Money Investment
 11 Account at the time of the transfer from the General Fund, from
 12 the fees collected pursuant to this section.

13 15937. All fees collected under the master business license
 14 system, including the master license application fee and the fees
 15 of the regulatory agencies, and all moneys borrowed under Section
 16 15936 shall be deposited into the Master License Fund, which is
 17 hereby created in the State Treasury. Moneys in the fund from
 18 master application fees may, upon appropriation by the Legislature,
 19 be expended only to administer this part or be transferred to the
 20 appropriate licensing agencies. Moneys in the fund from other fees
 21 shall be transferred to the appropriate accounts under the applicable
 22 statutes for those regulatory agencies' licenses.

23

24 CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER

25

26 15940. (a) The office, in consultation with other regulatory
 27 agencies, shall establish a uniform business identification number
 28 for each business. The uniform business identification number
 29 shall be recognized by all affected state agencies and shall be used
 30 by state agencies to facilitate information sharing between state
 31 agencies and to improve customer service to businesses.

32 (b) It is the intent of the Legislature that the uniform business
 33 number would permit the office to do both of the following:

34 (1) Register a business with multiple state agencies electronically
 35 as licenses and permits are processed.

36 (2) Input and update information regarding a business once,
 37 thereby reducing the number of duplicate or conflicting records
 38 from one state agency to another.

CHAPTER 5. OVERSIGHT

1
2
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7

15945. The office, including the Director of Small Business Advocate from the Governor’s Office of Business and Economic Development shall work with small business owners and all regulatory agencies to ensure the state’s implementation of a consolidated business license and permit system under this part.

O

Watched Legislation

AB 3126 (Brough-R) San Juan Capistrano

Contractors' State License Law: cash deposit in lieu of a bond.

Status: 4/17/2018-From committee: Do pass and re-refer to Committee on Judiciary with recommendation: To Consent Calendar.

Location: 4/17/2018-Assembly Judiciary

Last Amend: 4/19/18

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

Updated 4/18/18

Staff Analysis: AB 3126

Bill Summary: Existing law, the Contractors' State License Law, provides for licensing and regulation of contractors by the Contractors' State License board, which is within the Department of Consumer Affairs. Existing law requires an applicant for licensure or a licensee to file or have on file certain bonds, including a contractor's bond in the sum of \$15,000. Existing law authorizes an applicant or licensee to instead post a cash deposit in lieu of a required bond.

This bill would delete the authorization to post a cash deposit in lieu of a bond, would prohibit the board from accepting an alternative in lieu of the bond, and would require each person licensed under that law and subject to any bond requirement to maintain the required bond as executed by an admitted surety insurer in the appropriate amount, except as specified. The bill would prohibit the board from accepting an alternative in lieu of a bond on and after January 1, 2019, and would require all existing alternatives in lieu of a bond currently filed with the board to be replaced for a surety bond by January 1, 2020.

Staff Comment: This bill previously proposed to amend a section of the Professional Engineers Act as a "spot bill." At its March 2018 meeting, the Board chose to take no position on this bill. It has since been amended to affect only the Contractors' State License Law. In its current form, it has no impact on this Board.

Staff Recommendation: No action needed.

Laws: An act to amend Sections 7071.17, 7074, and 7091 of, to add Section 7071.4 to, and to repeal Section 7071.12 of, the Business and Professions Code, relating to contractors.

AMENDED IN ASSEMBLY APRIL 19, 2018

AMENDED IN ASSEMBLY MARCH 23, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 3126

Introduced by Assembly Member Brough

February 16, 2018

An act to amend Sections 7071.17, 7074, and 7091 of, to add Section 7071.4 to, and to repeal Section 7071.12 of, the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 3126, as amended, Brough. Contractors' State License Law: cash deposit in lieu of a bond.

Existing law, the Contractors' State License Law, provides for licensing and regulation of contractors by the Contractors' State License Board, which is within the Department of Consumer Affairs. Existing law requires an applicant for licensure or a licensee to file or have on file certain bonds, including a contractor's bond in the sum of \$15,000. Existing law authorizes an applicant or licensee to instead post a cash deposit in lieu of a required bond.

This bill would delete the authorization to post a cash deposit in lieu of a bond, would prohibit the board from accepting an alternative in lieu of the ~~bond~~, *bond on and after January 1, 2019*, and would require each person licensed under that law and subject to any bond requirement to maintain the required bond as executed by an admitted surety insurer in the appropriate amount, except as specified. The bill would ~~prohibit the board from accepting an alternative in lieu of a bond on and after January 1, 2019, and would~~ require all existing alternatives in lieu of a

bond currently filed with the board to be replaced for a surety bond by January 1, 2020.

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

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

1 SECTION 1. Section 7071.4 is added to the Business and
2 Professions Code, to read:

3 7071.4. (a) Notwithstanding Article 7 (commencing with
4 Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of
5 Civil Procedure, each person licensed under the provisions of this
6 chapter and subject to any of the bonding provisions of this article
7 shall maintain the requisite bond as executed by an admitted surety
8 insurer in the appropriate amount. Another method of deposit,
9 including, but not limited to, a certificate of deposit or other
10 undertaking, shall not satisfy a bond requirement under this article.

11 (b) All existing alternatives in lieu of a bond currently filed with
12 the board shall be replaced for a surety bond by January 1, 2020.

13 (c) Notwithstanding subdivision (a), this section shall not apply
14 to the bond equivalents described in Section 7159.5 of this chapter.

15 (d) This section shall be operative on and after January 1, 2019,
16 upon which date the board shall thereafter no longer accept
17 alternatives in lieu of a bond.

18 (e) *All alternatives in lieu of a bond filed with the board before*
19 *January 1, 2019, shall be subject to the following limitations*
20 *periods:*

21 (1) *Any action, other than an action to recover wages or fringe*
22 *benefits, against a deposit given in lieu of a contractor's bond or*
23 *bond of a qualifying individual filed by an active licensee shall be*
24 *brought within three years after the expiration of the license period*
25 *during which the act or omission occurred, or within three years*
26 *of the date the license of the active licensee was inactivated,*
27 *canceled, or revoked by the board, whichever occurs first.*

28 (2) *Any action, other than an action to recover wages or fringe*
29 *benefits, against a deposit given in lieu of a disciplinary bond filed*
30 *by an active licensee pursuant to Section 7071.8 shall be brought*
31 *within three years after the expiration of the license period during*
32 *which the act or omission occurred, or within three years of the*
33 *date the license of the active licensee was inactivated, canceled,*

1 or revoked by the board, or within three years after the last date
2 for which a deposit given in lieu of a disciplinary bond filed
3 pursuant to Section 7071.8 was required, whichever date is first.

4 (3) A claim to recover wages or fringe benefits shall be brought
5 within six months from the date that the wage or fringe benefit
6 delinquencies were discovered, but in no event shall a civil action
7 thereon be brought later than two years from the date the wage
8 or fringe benefit contributions were due.

9 (f) In any case in which a claim is filed against an alternative
10 given in lieu of a bond filed with the board before January 1, 2019,
11 by any employee or by an employee organization on behalf of an
12 employee, concerning wages or fringe benefits based upon the
13 employee's employment, claims for the nonpayment shall be filed
14 with the Labor Commissioner. The Labor Commissioner shall,
15 pursuant to the authority vested by Section 96.5 of the Labor Code,
16 conduct hearings to determine whether or not the wages or fringe
17 benefits should be paid to the complainant. Upon a finding by the
18 commissioner that the wages or fringe benefits should be paid to
19 the complainant, the commissioner shall notify the registrar of the
20 findings. The registrar shall not make payment from the deposit
21 on the basis of findings by the commissioner for a period of 10
22 days following determination of the findings. If, within the period,
23 the complainant or the contractor files written notice with the
24 registrar and the commissioner of an intention to seek judicial
25 review of the findings pursuant to Section 11523 of the Government
26 Code, the registrar shall not make payment if an action is actually
27 filed, except as determined by the court. If, thereafter, no action
28 is filed within 60 days following determination of findings by the
29 commissioner, the registrar shall make payment from the deposit
30 to the complainant.

31 (g) Legal fees may not be charged by the board against any
32 alternative given in lieu of a bond filed with the board before
33 January 1, 2019.

34 SEC. 2. Section 7071.12 of the Business and Professions Code
35 is repealed.

36 SEC. 3. Section 7071.17 of the Business and Professions Code
37 is amended to read:

38 7071.17. (a) Notwithstanding any other provision of law, the
39 board shall require, as a condition precedent to accepting an
40 application for licensure, renewal, reinstatement, or to change

1 officers or other personnel of record, that an applicant, previously
2 found to have failed or refused to pay a contractor, subcontractor,
3 consumer, materials supplier, or employee based on an unsatisfied
4 final judgment, file or have on file with the board a bond sufficient
5 to guarantee payment of an amount equal to the unsatisfied final
6 judgment or judgments. The applicant shall have 90 days from the
7 date of notification by the board to file the bond or the application
8 shall become void and the applicant shall reapply for issuance,
9 reinstatement, or reactivation of a license. The board may not issue,
10 reinstate, or reactivate a license until the bond is filed with the
11 board. The bond required by this section is in addition to the
12 contractor's bond. The bond shall be on file for a minimum of one
13 year, after which the bond may be removed by submitting proof
14 of satisfaction of all debts. The applicant may provide the board
15 with a notarized copy of any accord, reached with any individual
16 holding an unsatisfied final judgment, to satisfy a debt in lieu of
17 filing the bond. The board shall include on the license application
18 for issuance, reinstatement, or reactivation, a statement, to be made
19 under penalty of perjury, as to whether there are any unsatisfied
20 judgments against the applicant on behalf of contractors,
21 subcontractors, consumers, materials suppliers, or the applicant's
22 employees. Notwithstanding any other provision of law, if it is
23 found that the applicant falsified the statement then the license
24 will be retroactively suspended to the date of issuance and the
25 license will stay suspended until the bond, satisfaction of judgment,
26 or notarized copy of any accord applicable under this section is
27 filed.

28 (b) (1) Notwithstanding any other provision of law, all licensees
29 shall notify the registrar in writing of any unsatisfied final judgment
30 imposed on the licensee. If the licensee fails to notify the registrar
31 in writing within 90 days, the license shall be automatically
32 suspended on the date that the registrar is informed, or is made
33 aware of the unsatisfied final judgment.

34 (2) The suspension shall not be removed until proof of
35 satisfaction of the judgment, or in lieu thereof, a notarized copy
36 of an accord is submitted to the registrar.

37 (3) If the licensee notifies the registrar in writing within 90 days
38 of the imposition of any unsatisfied final judgment, the licensee
39 shall, as a condition to the continual maintenance of the license,
40 file or have on file with the board a bond sufficient to guarantee

1 payment of an amount equal to all unsatisfied judgments applicable
2 under this section.

3 (4) The licensee has 90 days from date of notification by the
4 board to file the bond or at the end of the 90 days the license shall
5 be automatically suspended. In lieu of filing the bond required by
6 this section, the licensee may provide the board with a notarized
7 copy of any accord reached with any individual holding an
8 unsatisfied final judgment.

9 (c) By operation of law, failure to maintain the bond or failure
10 to abide by the accord shall result in the automatic suspension of
11 any license to which this section applies.

12 (d) A license that is suspended for failure to comply with the
13 provisions of this section can only be reinstated when proof of
14 satisfaction of all debts is made, or when a notarized copy of an
15 accord has been filed as set forth under this section.

16 (e) This section applies only with respect to an unsatisfied final
17 judgment that is substantially related to the construction activities
18 of a licensee licensed under this chapter, or to the qualifications,
19 functions, or duties of the license.

20 (f) Except as otherwise provided, this section shall not apply to
21 an applicant or licensee when the financial obligation covered by
22 this section has been discharged in a bankruptcy proceeding.

23 (g) Except as otherwise provided, the bond shall remain in full
24 force in the amount posted until the entire debt is satisfied. If, at
25 the time of renewal, the licensee submits proof of partial
26 satisfaction of the financial obligations covered by this section,
27 the board may authorize the bond to be reduced to the amount of
28 the unsatisfied portion of the outstanding judgment. When the
29 licensee submits proof of satisfaction of all debts, the bond
30 requirement may be removed.

31 (h) The board shall take the actions required by this section
32 upon notification by any party having knowledge of the outstanding
33 judgment upon a showing of proof of the judgment.

34 (i) For the purposes of this section, the term "judgment" also
35 includes any final arbitration award where the time to file a petition
36 for a trial de novo or a petition to vacate or correct the arbitration
37 award has expired, and no petition is pending.

38 (j) (1) If a judgment is entered against a licensee, then a
39 qualifying person or personnel of record of the licensee at the time
40 of the activities on which the judgment is based shall be

1 automatically prohibited from serving as a qualifying individual
2 or other personnel of record on another license until the judgment
3 is satisfied.

4 (2) The prohibition described in paragraph (1) shall cause the
5 license of any other existing renewable licensed entity with any
6 of the same personnel of record as the judgment debtor licensee
7 to be suspended until the license of the judgment debtor is
8 reinstated or until those same personnel of record disassociate
9 themselves from the renewable licensed entity.

10 (k) Notwithstanding subdivision (f), the failure of a licensee to
11 notify the registrar of an unsatisfied final judgment in accordance
12 with this section is cause for disciplinary action.

13 SEC. 4. Section 7074 of the Business and Professions Code is
14 amended to read:

15 7074. (a) Except as otherwise provided by this section, an
16 application for an original license, for an additional classification,
17 or for a change of qualifier shall become void when:

18 (1) The applicant or the examinee for the applicant has failed
19 to achieve a passing grade in the qualifying examination within
20 18 months after the application has been deemed acceptable by
21 the board.

22 (2) The applicant for an original license, after having been
23 notified to do so, fails to pay the initial license fee within 90 days
24 from the date of the notice.

25 (3) The applicant, after having been notified to do so, fails to
26 file within 90 days from the date of the notice any bond or other
27 documents that may be required for issuance or granting pursuant
28 to this chapter.

29 (4) After filing, the applicant withdraws the application.

30 (5) The applicant fails to return the application rejected by the
31 board for insufficiency or incompleteness within 90 days from the
32 date of original notice or rejection.

33 (6) The application is denied after disciplinary proceedings
34 conducted in accordance with the provisions of this code.

35 (b) The void date on an application may be extended up to 90
36 days or one examination may be rescheduled without a fee upon
37 documented evidence by the applicant that the failure to complete
38 the application process or to appear for an examination was due
39 to a medical emergency or other circumstance beyond the control
40 of the applicant.

1 (c) An application voided pursuant to this section shall remain
2 in the possession of the registrar for the period as he or she deems
3 necessary and shall not be returned to the applicant. Any
4 reapplication for a license shall be accompanied by the fee fixed
5 by this chapter.

6 SEC. 5. Section 7091 of the Business and Professions Code is
7 amended to read:

8 7091. (a) (1) A complaint against a licensee alleging
9 commission of any patent acts or omissions that may be grounds
10 for legal action shall be filed in writing with the registrar within
11 four years after the act or omission alleged as the ground for the
12 disciplinary action.

13 (2) A disciplinary action against a licensee relevant to this
14 subdivision shall be filed or a referral to the arbitration program
15 outlined in Section 7085 shall be referred within four years after
16 the patent act or omission alleged as the ground for disciplinary
17 action or arbitration or within 18 months from the date of the filing
18 of the complaint with the registrar, whichever is later.

19 (b) (1) A complaint against a licensee alleging commission of
20 any latent acts or omissions that may be grounds for legal action
21 pursuant to subdivision (a) of Section 7109 regarding structural
22 defects, as defined by regulation, shall be filed in writing with the
23 registrar within 10 years after the act or omission alleged as the
24 ground for the disciplinary action.

25 (2) A disciplinary action against a licensee relevant to this
26 subdivision shall be filed within 10 years after the latent act or
27 omission alleged as the ground for disciplinary action or within
28 18 months from the date of the filing of the complaint with the
29 registrar, whichever is later. As used in this subdivision "latent act
30 or omission" means an act or omission that is not apparent by
31 reasonable inspection.

32 (c) A disciplinary action alleging a violation of Section 7112
33 shall be filed within two years after the discovery by the registrar
34 or by the board of the alleged facts constituting the fraud or
35 misrepresentation prohibited by the section.

36 (d) With respect to a licensee who has been convicted of a crime
37 and, as a result of that conviction is subject to discipline under
38 Section 7123, the disciplinary action shall be filed within two years
39 after the discovery of the conviction by the registrar or by the
40 board.

1 (e) A disciplinary action regarding an alleged breach of an
2 express, written warranty issued by the contractor shall be filed
3 not later than 18 months from the expiration of the warranty.

4 (f) The proceedings under this article shall be conducted in
5 accordance with the provisions of Chapter 5 (commencing with
6 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
7 Code, and the registrar shall have all the powers granted therein.

8 (g) Nothing in this section shall be construed to affect the
9 liability of a surety or the period of limitations prescribed by law
10 for the commencement of actions against a surety.

Watched Legislation

AB 3134 (Nazarian D) Van Nuys

Professional engineers.

Status: 2/17/2018-From printer. May be heard in committee March 19.

Location: 2/16/2018-Assembly PRINT

Introduced: 2/16/2018

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

Updated 4/18/18

Staff Analysis: AB 3134

Bill Summary: The Professional Engineers Act provides for the licensure and regulation of professional engineers by the board for Professional Engineers, Land Surveyors, and Geologists. Existing law defines the term “professional engineer” for purposes of that act. This bill would make nonsubstantive changes to that definitional provision.

Staff Comment: This is a “spot bill.” At its March 2018 meeting, the Board chose to take no position on this bill. The author’s office now indicates this bill will not move forward.

Staff Recommendation: No action needed.

Laws: An act to amend Section 6701 of the Business and Professions Code, relating to professions and vocations.

ASSEMBLY BILL

No. 3134

Introduced by Assembly Member Nazarian

February 16, 2018

An act to amend Section 6701 of the Business and Professions Code, relating to engineers.

LEGISLATIVE COUNSEL'S DIGEST

AB 3134, as introduced, Nazarian. Professional engineers.

The Professional Engineers Act provides for the licensure and regulation of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. Existing law defines the term “professional engineer” for purposes of that act.

This bill would make nonsubstantive changes to that definitional provision.

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

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

- 1 SECTION 1. Section 6701 of the Business and Professions
- 2 Code is amended to read:
- 3 6701. “Professional engineer,” ~~within the meaning and intent~~
- 4 ~~of this act, refers to~~ *for purposes of this chapter, means* a person
- 5 engaged in the professional practice of rendering service or creative
- 6 work requiring education, ~~training~~ *training*, and experience in
- 7 engineering sciences and the application of special knowledge of
- 8 the mathematical, ~~physical~~ *physical*, and engineering sciences in
- 9 such professional or creative work as consultation, investigation,

- 1 evaluation, ~~planning~~ *planning*, or design of public or private
- 2 utilities, structures, machines, processes, circuits, buildings,
- 3 ~~equipment~~ *equipment*, or projects, and supervision of construction
- 4 for the purpose of securing compliance with specifications and
- 5 design for ~~any such~~ *that* work.

Supported Legislation

SB 920 (Cannella R) Merced

Engineering, land surveying, and architecture: limited liability partnerships

Status: 4/11/2018-Set for hearing April 24.

Location: 4/9/2018-Senate Judiciary

Last Amend: 4/2/2018

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

Updated 4/18/18

Staff Analysis: SB 920

Bill Summary: This bill eliminates the sunset on authority for architects, engineers, and land surveyors to form as Limited Liability Partnerships (LLPs).

Staff Comment: This bill is sponsored by American Council of Engineering Companies, California and the American Institute of Architects, California Council. The Author's office indicates "The ability to form as an LLP is simply one more tool that California businesses can employ that allows them to be nimble in a 21st Century economy. SB 920 extends a permission that has proven successful over the course of several decades."

In 2015, the Board voted to support SB 284 which extended the authority for engineers and land surveyors to conduct business as a LLP to 2019. SB 920 would remove the sunset dates on provisions that allow licensed engineers, land surveyors, and architects to form Limited Liability Partnerships, thereby extending this authority indefinitely.

The amendments made on 4/2/2018 were nonsubstantive.

Staff Recommendation: Staff recommends the Board vote to continue to **support** this legislation, as amended April 2, 2018.

Laws: An act to amend Sections 6738 and 8729 of the Business and Professions Code, and to amend Sections 16101, 16956, and 16959 of the Corporations Code, relating to limited liability partnerships.

AMENDED IN SENATE APRIL 2, 2018

SENATE BILL

No. 920

Introduced by Senator Cannella

(Coauthors: Senators Bates and Morrell)

~~(Coauthor: Assembly Member~~ *Members Caballero and Mathis)*

January 23, 2018

An act to amend Sections 6738 and 8729 of the Business and Professions Code, and to amend Sections 16101, 16956, and 16959 of the Corporations Code, relating to limited liability partnerships.

LEGISLATIVE COUNSEL'S DIGEST

SB 920, as amended, Cannella. Engineering, land surveying, and architecture: limited liability partnerships.

The Professional Engineers Act and the Professional Land Surveyors' Act provide for the licensure and regulation of engineers and land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists. The Architects Practice Act provides for the licensure and regulation of architects by the California Architects Board. The Uniform Partnership Act of 1994 authorizes the formation of registered limited liability partnerships and foreign limited liability partnerships, as specified.

Existing law authorizes persons licensed to engage in the practice of engineering, land surveying, or architecture to form registered limited liability partnerships and foreign limited liability partnerships if specified conditions are met. Existing law requires those partnerships to provide security of no less than \$2,000,000 for claims arising out of the partnership's professional practice. Existing law repeals these provisions on January 1, 2019.

This bill would extend indefinitely the authorization for persons licensed to engage in the practice of engineering, land surveying, or architecture to form limited liability partnerships, as specified.

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

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

1 SECTION 1. Section 6738 of the Business and Professions
2 Code, as amended by Section 2 of Chapter 157 of the Statutes of
3 2015, is amended to read:

4 6738. (a) This chapter does not prohibit one or more civil,
5 electrical, or mechanical engineers from practicing or offering to
6 practice within the scope of their license civil (including
7 geotechnical and structural), electrical, or mechanical engineering
8 as a sole proprietorship, partnership, limited liability partnership,
9 firm, or corporation (hereinafter called business), if all of the
10 following requirements are met:

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

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

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

28 (b) An out-of-state business with a branch office in this state
29 shall meet the requirements of subdivision (a) and shall have an
30 owner, partner, or officer who is in charge of the engineering work
31 in the branch in this state, who is licensed in this state, and who is
32 physically present at the branch office in this state on a regular

1 basis. However, the name of the business may contain the name
2 of any person not licensed in this state if that person is
3 appropriately registered or licensed in another state. Any offer,
4 promotion, or advertisement that contains the name of any
5 individual in the business, other than by use of the names of the
6 individuals in the business name, shall clearly and specifically
7 designate the license or registration discipline of each individual
8 named.

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

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

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

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

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

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

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

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

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

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

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

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

23 SEC. 2. Section 8729 of the Business and Professions Code,
24 as amended by Section 4 of Chapter 157 of the Statutes of 2015,
25 is amended to read:

26 8729. (a) This chapter does not prohibit one or more licensed
27 land surveyors or civil engineers licensed in this state prior to 1982
28 (hereinafter called civil engineers) from practicing or offering to
29 practice within the scope of their licensure, land surveying as a
30 sole proprietorship, partnership, limited liability partnership, firm,
31 or corporation (hereinafter called business), if the following
32 conditions are satisfied:

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

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

38 (3) If the business name of a California land surveying business
39 contains the name of a person, then that person shall be licensed
40 by the board as a land surveyor or licensed by the board in any

1 year as a civil engineer. Any offer, promotion, or advertisement
2 by the business that contains the name of any individual in the
3 business, other than by use of the name of the individual in the
4 business name, shall clearly and specifically designate the license
5 discipline of each individual named.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 SEC. 3. Section 16101 of the Corporations Code, as amended
27 by Section 6 of Chapter 157 of the Statutes of 2015, is amended
28 to read:

29 16101. As used in this chapter, the following terms and phrases
30 have the following meanings:

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

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

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

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

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

4 (4) “Electronic transmission by the partnership” means a
5 communication (a) delivered by (1) facsimile telecommunication
6 or electronic mail when directed to the facsimile number or
7 electronic mail address, respectively, for that recipient on record
8 with the partnership, (2) posting on an electronic message board
9 or network that the partnership has designated for those
10 communications, together with a separate notice to the recipient
11 of the posting, which transmission shall be validly delivered upon
12 the later of the posting or delivery of the separate notice thereof,
13 or (3) other means of electronic communication, (b) to a recipient
14 who has provided an unrevoked consent to the use of those means
15 of transmission, and (c) that creates a record that is capable of
16 retention, retrieval, and review, and that may thereafter be rendered
17 into clearly legible tangible form. However, an electronic
18 transmission by a partnership to an individual partner is not
19 authorized unless, in addition to satisfying the requirements of this
20 section, the transmission satisfies the requirements applicable to
21 consumer consent to electronic records as set forth in the Electronic
22 Signatures in Global and National Commerce Act (15 U.S.C. Sec.
23 7001(c)(1)).

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

39 (6) (A) “Foreign limited liability partnership” means a
40 partnership, other than a limited partnership, formed pursuant to

1 an agreement governed by the laws of another jurisdiction and
2 denominated or registered as a limited liability partnership or
3 registered limited liability partnership under the laws of that
4 jurisdiction (i) in which each partner is a licensed person or a
5 person licensed or authorized to provide professional limited
6 liability partnership services in a jurisdiction or jurisdictions other
7 than this state, (ii) which is licensed under the laws of the state to
8 engage in the practice of architecture, the practice of public
9 accountancy, the practice of engineering, the practice of land
10 surveying, or the practice of law, or (iii) which (I) is related to a
11 registered limited liability partnership that practices public
12 accountancy or, to the extent permitted by the State Bar of
13 California, practices law or is related to a foreign limited liability
14 partnership and (II) provides services related or complementary
15 to the professional limited liability partnership services provided
16 by, or provides services or facilities to, that registered limited
17 liability partnership or foreign limited liability partnership.

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

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

34 (8) (A) "Registered limited liability partnership" means a
35 partnership, other than a limited partnership, formed pursuant to
36 an agreement governed by Article 10 (commencing with Section
37 16951), that is registered under Section 16953 and (i) each of the
38 partners of which is a licensed person or a person licensed or
39 authorized to provide professional limited liability partnership
40 services in a jurisdiction or jurisdictions other than this state, (ii)

1 is licensed under the laws of the state to engage in the practice of
2 architecture, practice of public accountancy, the practice of
3 engineering, the practice of land surveying, or the practice of law,
4 or (iii)(I) is related to a registered limited liability partnership that
5 practices public accountancy or, to the extent permitted by the
6 State Bar of California, practices law or is related to a foreign
7 limited liability partnership and (II) provides services related or
8 complementary to the professional limited liability partnership
9 services provided by, or provides services or facilities to, that
10 registered limited liability partnership or foreign limited liability
11 partnership.

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

23 (9) "Partnership" means an association of two or more persons
24 to carry on as coowners a business for profit formed under Section
25 16202, predecessor law, or comparable law of another jurisdiction,
26 and includes, for all purposes of the laws of this state, a registered
27 limited liability partnership, and excludes any partnership formed
28 under Chapter 4.5 (commencing with Section 15900).

29 (10) "Partnership agreement" means the agreement, whether
30 written, oral, or implied, among the partners concerning the
31 partnership, including amendments to the partnership agreement.

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

35 (12) "Partnership interest" or "partner's interest in the
36 partnership" means all of a partner's interests in the partnership,
37 including the partner's transferable interest and all management
38 and other rights.

39 (13) "Person" means an individual, corporation, business trust,
40 estate, trust, partnership, limited partnership, limited liability

1 partnership, limited liability company, association, joint venture,
2 government, governmental subdivision, agency, or instrumentality,
3 or any other legal or commercial entity.

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

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

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

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

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

22 SEC. 4. Section 16956 of the Corporations Code, as amended
23 by Section 8 of Chapter 157 of the Statutes of 2015, is amended
24 to read:

25 16956. (a) At the time of registration pursuant to Section
26 16953, in the case of a registered limited liability partnership, and
27 Section 16959, in the case of a foreign limited liability partnership,
28 and at all times during which those partnerships shall transact
29 intrastate business, every registered limited liability partnership
30 and foreign limited liability partnership, as the case may be, shall
31 be required to provide security for claims against it as follows:

32 (1) For claims based upon acts, errors, or omissions arising out
33 of the practice of public accountancy, a registered limited liability
34 partnership or foreign limited liability partnership providing
35 accountancy services shall comply with one, or pursuant to
36 subdivision (b) some combination, of the following:

37 (A) Maintaining a policy or policies of insurance against liability
38 imposed on or against it by law for damages arising out of claims;
39 however, the total aggregate limit of liability under the policy or
40 policies of insurance for partnerships with five or fewer licensed

1 persons shall not be less than one million dollars (\$1,000,000),
2 and for partnerships with more than five licensees rendering
3 professional services on behalf of the partnership, an additional
4 one hundred thousand dollars (\$100,000) of insurance shall be
5 obtained for each additional licensee; however, the maximum
6 amount of insurance is not required to exceed five million dollars
7 (\$5,000,000) in any one designated period, less amounts paid in
8 defending, settling, or discharging claims as set forth in this
9 subparagraph. The policy or policies may be issued on a
10 claims-made or occurrence basis, and shall cover: (i) in the case
11 of a claims-made policy, claims initially asserted in the designated
12 period, and (ii) in the case of an occurrence policy, occurrences
13 during the designated period. For purposes of this subparagraph,
14 “designated period” means a policy year or any other period
15 designated in the policy that is not greater than 12 months. The
16 impairment or exhaustion of the aggregate limit of liability by
17 amounts paid under the policy in connection with the settlement,
18 discharge, or defense of claims applicable to a designated period
19 shall not require the partnership to acquire additional insurance
20 coverage for that designated period. The policy or policies of
21 insurance may be in a form reasonably available in the commercial
22 insurance market and may be subject to those terms, conditions,
23 exclusions, and endorsements that are typically contained in those
24 policies. A policy or policies of insurance maintained pursuant to
25 this subparagraph may be subject to a deductible or self-insured
26 retention.

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

34 (B) Maintaining in trust or bank escrow, cash, bank certificates
35 of deposit, United States Treasury obligations, bank letters of
36 credit, or bonds of insurance or surety companies as security for
37 payment of liabilities imposed by law for damages arising out of
38 all claims; however, the maximum amount of security for
39 partnerships with five or fewer licensed persons shall not be less
40 than one million dollars (\$1,000,000), and for partnerships with

1 more than five licensees rendering professional services on behalf
2 of the partnership, an additional one hundred thousand dollars
3 (\$100,000) of security shall be obtained for each additional
4 licensee; however, the maximum amount of security is not required
5 to exceed five million dollars (\$5,000,000). The partnership
6 remains in compliance with this section during a calendar year
7 notwithstanding amounts paid during that calendar year from the
8 accounts, funds, Treasury obligations, letters of credit, or bonds
9 in defending, settling, or discharging claims of the type described
10 in this paragraph, provided that the amount of those accounts,
11 funds, Treasury obligations, letters of credit, or bonds was at least
12 the amount specified in the preceding sentence as of the first
13 business day of that calendar year. Notwithstanding the pendency
14 of other claims against the partnership, a registered limited liability
15 partnership or foreign limited liability partnership shall be deemed
16 to be in compliance with this subparagraph as to a claim if within
17 30 days after the time that a claim is initially asserted through
18 service of a summons, complaint, or comparable pleading in a
19 judicial or administrative proceeding, the partnership has provided
20 the required amount of security by designating and segregating
21 funds in compliance with the requirements of this subparagraph.

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

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

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

10 (A) Each registered limited liability partnership or foreign
11 limited liability partnership providing legal services shall maintain
12 a policy or policies of insurance against liability imposed on or
13 against it by law for damages arising out of claims; however, the
14 total aggregate limit of liability under the policy or policies of
15 insurance for partnerships with five or fewer licensed persons shall
16 not be less than one million dollars (\$1,000,000), and for
17 partnerships with more than five licensees rendering professional
18 services on behalf of the partnership, an additional one hundred
19 thousand dollars (\$100,000) of insurance shall be obtained for
20 each additional licensee; however, the maximum amount of
21 insurance is not required to exceed seven million five hundred
22 thousand dollars (\$7,500,000) in any one designated period, less
23 amounts paid in defending, settling, or discharging claims as set
24 forth in this subparagraph. The policy or policies may be issued
25 on a claims-made or occurrence basis, and shall cover (i) in the
26 case of a claims-made policy, claims initially asserted in the
27 designated period, and (ii) in the case of an occurrence policy,
28 occurrences during the designated period. For purposes of this
29 subparagraph, "designated period" means a policy year or any
30 other period designated in the policy that is not greater than 12
31 months. The impairment or exhaustion of the aggregate limit of
32 liability by amounts paid under the policy in connection with the
33 settlement, discharge, or defense of claims applicable to a
34 designated period shall not require the partnership to acquire
35 additional insurance coverage for that designated period. The policy
36 or policies of insurance may be in a form reasonably available in
37 the commercial insurance market and may be subject to those
38 terms, conditions, exclusions, and endorsements that are typically
39 contained in those policies. A policy or policies of insurance

1 maintained pursuant to this subparagraph may be subject to a
2 deductible or self-insured retention.

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

10 (B) Each registered limited liability partnership or foreign
11 limited liability partnership providing legal services shall maintain
12 in trust or bank escrow, cash, bank certificates of deposit, United
13 States Treasury obligations, bank letters of credit, or bonds of
14 insurance or surety companies as security for payment of liabilities
15 imposed by law for damages arising out of all claims; however,
16 the maximum amount of security for partnerships with five or
17 fewer licensed persons shall not be less than one million dollars
18 (\$1,000,000), and for partnerships with more than five licensees
19 rendering professional services on behalf of the partnership, an
20 additional one hundred thousand dollars (\$100,000) of security
21 shall be obtained for each additional licensee; however, the
22 maximum amount of security is not required to exceed seven
23 million five hundred thousand dollars (\$7,500,000). The partnership
24 remains in compliance with this section during a calendar year
25 notwithstanding amounts paid during that calendar year from the
26 accounts, funds, Treasury obligations, letters of credit, or bonds
27 in defending, settling, or discharging claims of the type described
28 in this paragraph, provided that the amount of those accounts,
29 funds, Treasury obligations, letters of credit, or bonds was at least
30 the amount specified in the preceding sentence as of the first
31 business day of that calendar year. Notwithstanding the pendency
32 of other claims against the partnership, a registered limited liability
33 partnership or foreign limited liability partnership shall be deemed
34 to be in compliance with this subparagraph as to a claim if within
35 30 days after the time that a claim is initially asserted through
36 service of a summons, complaint, or comparable pleading in a
37 judicial or administrative proceeding, the partnership has provided
38 the required amount of security by designating and segregating
39 funds in compliance with the requirement of this subparagraph.

1 (C) Unless the partnership has satisfied the requirements of
2 subparagraph (D), each partner of a registered limited liability
3 partnership or foreign limited liability partnership providing legal
4 services, by virtue of that person's status as a partner, thereby
5 automatically guarantees payment of the difference between the
6 maximum amount of security required for the partnership by this
7 paragraph and the security otherwise provided in accordance with
8 the provisions of subparagraphs (A) and (B), provided that the
9 aggregate amount paid by all partners under these guarantees shall
10 not exceed the difference. Neither withdrawal by a partner nor the
11 dissolution and winding up of the partnership shall affect the rights
12 or obligations of a partner arising prior to withdrawal or dissolution
13 and winding up, and the guarantee provided for in this
14 subparagraph shall apply only to conduct that occurred prior to
15 the withdrawal or dissolution and winding up. Nothing contained
16 in this subparagraph shall affect or impair the rights or obligations
17 of the partners among themselves, or the partnership, including,
18 but not limited to, rights of contribution, subrogation, or
19 indemnification.

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

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

29 (A) Maintaining a policy or policies of insurance against liability
30 imposed on or against it by law for damages arising out of claims
31 in an amount for each claim of at least one hundred thousand
32 dollars (\$100,000) multiplied by the number of licensed persons
33 rendering professional services on behalf of the partnership;
34 however, the total aggregate limit of liability under the policy or
35 policies of insurance for partnerships with five or fewer licensees
36 rendering professional services on behalf of the partnership shall
37 not be less than five hundred thousand dollars (\$500,000), and for
38 all other partnerships is not required to exceed five million dollars
39 (\$5,000,000) in any one designated period, less amounts paid in
40 defending, settling, or discharging claims as set forth in this

1 subparagraph. On and after January 1, 2008, the total aggregate
2 limit of liability under the policy or policies of insurance for
3 partnerships with five or fewer licensees rendering professional
4 services on behalf of the partnership shall not be less than one
5 million dollars (\$1,000,000), and for partnerships with more than
6 five licensees rendering professional services on behalf of the
7 partnership, an additional one hundred thousand dollars (\$100,000)
8 of liability coverage shall be obtained for each additional licensee;
9 however, the total aggregate limit of liability under the policy or
10 policies of insurance is not required to exceed five million dollars
11 (\$5,000,000). The policy or policies may be issued on a
12 claims-made or occurrence basis, and shall cover: (i) in the case
13 of a claims-made policy, claims initially asserted in the designated
14 period, and (ii) in the case of an occurrence policy, occurrences
15 during the designated period. For purposes of this subparagraph,
16 “designated period” means a policy year or any other period
17 designated in the policy that is not greater than 12 months. The
18 impairment or exhaustion of the aggregate limit of liability by
19 amounts paid under the policy in connection with the settlement,
20 discharge, or defense of claims applicable to a designated period
21 shall not require the partnership to acquire additional insurance
22 coverage for that designated period. The policy or policies of
23 insurance may be in a form reasonably available in the commercial
24 insurance market and may be subject to those terms, conditions,
25 exclusions, and endorsements that are typically contained in those
26 policies. A policy or policies of insurance maintained pursuant to
27 this subparagraph may be subject to a deductible or self-insured
28 retention.

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

36 (B) Maintaining in trust or bank escrow, cash, bank certificates
37 of deposit, United States Treasury obligations, bank letters of
38 credit, or bonds of insurance or surety companies as security for
39 payment of liabilities imposed by law for damages arising out of
40 all claims in an amount of at least one hundred thousand dollars

1 (\$100,000) multiplied by the number of licensed persons rendering
2 professional services on behalf of the partnership; however, the
3 maximum amount of security for partnerships with five or fewer
4 licensees rendering professional services on behalf of the
5 partnership shall not be less than five hundred thousand dollars
6 (\$500,000), and for all other partnerships is not required to exceed
7 five million dollars (\$5,000,000). On and after January 1, 2008,
8 the maximum amount of security for partnerships with five or
9 fewer licensees rendering professional services on behalf of the
10 partnership shall not be less than one million dollars (\$1,000,000),
11 and for partnerships with more than five licensees rendering
12 professional services on behalf of the partnership, an additional
13 one hundred thousand dollars (\$100,000) of security shall be
14 obtained for each additional licensee; however, the maximum
15 amount of security is not required to exceed five million dollars
16 (\$5,000,000). The partnership remains in compliance with this
17 section during a calendar year notwithstanding amounts paid during
18 that calendar year from the accounts, funds, Treasury obligations,
19 letters of credit, or bonds in defending, settling, or discharging
20 claims of the type described in this paragraph, provided that the
21 amount of those accounts, funds, Treasury obligations, letters of
22 credit, or bonds was at least the amount specified in the preceding
23 sentence as of the first business day of that calendar year.
24 Notwithstanding the pendency of other claims against the
25 partnership, a registered limited liability partnership or foreign
26 limited liability partnership shall be deemed to be in compliance
27 with this subparagraph as to a claim if within 30 days after the
28 time that a claim is initially asserted through service of a summons,
29 complaint, or comparable pleading in a judicial or administrative
30 proceeding, the partnership has provided the required amount of
31 security by designating and segregating funds in compliance with
32 the requirements of this subparagraph.

33 (C) Unless the partnership has satisfied subparagraph (D), each
34 partner of a registered limited liability partnership or foreign
35 limited liability partnership providing architectural services, by
36 virtue of that person's status as a partner, thereby automatically
37 guarantees payment of the difference between the maximum
38 amount of security required for the partnership by this paragraph
39 and the security otherwise provided in accordance with
40 subparagraphs (A) and (B), provided that the aggregate amount

1 paid by all partners under these guarantees shall not exceed the
2 difference. Neither withdrawal by a partner nor the dissolution and
3 winding up of the partnership shall affect the rights or obligations
4 of a partner arising prior to withdrawal or dissolution and winding
5 up, and the guarantee provided for in this subparagraph shall apply
6 only to conduct that occurred prior to the withdrawal or dissolution
7 and winding up. Nothing contained in this subparagraph shall
8 affect or impair the rights or obligations of the partners among
9 themselves, or the partnership, including, but not limited to, rights
10 of contribution, subrogation, or indemnification.

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

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

21 (A) Maintaining a policy or policies of insurance against liability
22 imposed on or against it by law for damages arising out of claims;
23 however, the total aggregate limit of liability under the policy or
24 policies of insurance for partnerships with five or fewer licensees
25 rendering professional services on behalf of the partnership shall
26 not be less than two million dollars (\$2,000,000), and for
27 partnerships with more than five licensees rendering professional
28 services on behalf of the partnership, an additional one hundred
29 thousand dollars (\$100,000) of liability coverage shall be obtained
30 for each additional licensee; however, the total aggregate limit of
31 liability under the policy or policies of insurance is not required
32 to exceed five million dollars (\$5,000,000). The policy or policies
33 may be issued on a claims-made or occurrence basis, and shall
34 cover: (i) in the case of a claims-made policy, claims initially
35 asserted in the designated period, and (ii) in the case of an
36 occurrence policy, occurrences during the designated period. For
37 purposes of this subparagraph, "designated period" means a policy
38 year or any other period designated in the policy that is not greater
39 than 12 months. The impairment or exhaustion of the aggregate
40 limit of liability by amounts paid under the policy in connection

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

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

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

1 30 days after the time that a claim is initially asserted through
2 service of a summons, complaint, or comparable pleading in a
3 judicial or administrative proceeding, the partnership has provided
4 the required amount of security by designating and segregating
5 funds in compliance with the requirements of this subparagraph.

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

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

29 (b) For purposes of satisfying the security requirements of this
30 section, a registered limited liability partnership or foreign limited
31 liability partnership may aggregate the security provided by it
32 pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1)
33 of subdivision (a), subparagraphs (A), (B), (C), and (D) of
34 paragraph (2) of subdivision (a), subparagraphs (A), (B), (C), and
35 (D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B),
36 (C), and (D) of paragraph (4) of subdivision (a), as the case may
37 be. Any registered limited liability partnership or foreign limited
38 liability partnership intending to comply with the alternative
39 security provisions set forth in subparagraph (D) of paragraph (1)
40 of subdivision (a), subparagraph (D) of paragraph (2) of subdivision

1 (a), subparagraph (D) of paragraph (3) of subdivision (a), or
2 subparagraph (D) of paragraph (4) of subdivision (a) shall furnish
3 the following information to the Secretary of State’s office, in the
4 manner prescribed in, and accompanied by all information required
5 by, the applicable section:

6
7 TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE
8 WITH SECTION 16956(a)(1)(D), SECTION 16956(a)(2)(D), OR
9 SECTION 16956(a)(3)(D) OF THE CALIFORNIA
10 CORPORATIONS CODE

11
12 The undersigned hereby confirms the following:

- 13 1. _____
14 Name of registered or foreign limited liability partnership
- 15 2. _____
16 Jurisdiction where partnership is organized
- 17 3. _____
18 Address of principal office
- 19 4. The registered or foreign limited liability partnership chooses
20 to satisfy the requirements of Section 16956 by confirming,
21 pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D),
22 ~~16956(a)(3)(D)~~, ~~or 16956(a)(3)(D)~~, or 16956(a)(4)(D) and pursuant
23 to Section 16956(c), that, as of
24 the most recently completed fiscal year, the partnership had
25 a net worth equal to or exceeding ten million dollars
26 (\$10,000,000), in the case of a partnership providing
27 accountancy services, fifteen million dollars (\$15,000,000)
28 in the case of a partnership providing legal services, or
29 ten million dollars (\$10,000,000), in the case of a partnership
30 providing architectural services.
- 31 5. _____
32 Title of authorized person executing this form
- 33 6. _____
34 Signature of authorized person executing this form

35
36 (c) Pursuant to subparagraph (D) of paragraph (1) of subdivision
37 (a), subparagraph (D) of paragraph (2) of subdivision (a),
38 subparagraph (D) of paragraph (3) of subdivision (a), or
39 subparagraph (D) of paragraph (4) of subdivision (a), a registered
40 limited liability partnership or foreign limited liability partnership

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

19 (d) Neither the existence of the requirements of subdivision (a)
20 nor the extent of the registered limited liability partnership's or
21 foreign limited liability partnership's compliance with the
22 alternative requirements in this section shall be admissible in court
23 or in any way be made known to a jury or other trier of fact in
24 determining an issue of liability for, or to the extent of, the damages
25 in question.

26 (e) Notwithstanding any other provision of this section, if a
27 registered limited liability partnership or foreign limited liability
28 partnership is otherwise in compliance with the terms of this section
29 at the time that a bankruptcy or other insolvency proceeding is
30 commenced with respect to the registered limited liability
31 partnership or foreign limited liability partnership, it shall be
32 deemed to be in compliance with this section during the pendency
33 of the proceeding. A registered limited liability partnership that
34 has been the subject of a proceeding and that conducts business
35 after the proceeding ends shall thereafter comply with paragraph
36 (1), (2), (3), or (4) of subdivision (a), in order to obtain the
37 limitations on liability afforded by subdivision (c) of Section
38 16306.

1 SEC. 5. Section 16959 of the Corporations Code, as amended
2 by Section 10 of Chapter 157 of the Statutes of 2015, is amended
3 to read:

4 16959. (a) (1) Before transacting intrastate business in this
5 state, a foreign limited liability partnership shall comply with all
6 statutory and administrative registration or filing requirements of
7 the state board, commission, or agency that prescribes the rules
8 and regulations governing a particular profession in which the
9 partnership proposes to be engaged, pursuant to the applicable
10 provisions of the Business and Professions Code relating to the
11 profession or applicable rules adopted by the governing board. A
12 foreign limited liability partnership that transacts intrastate business
13 in this state shall within 30 days after the effective date of the act
14 enacting this section or the date on which the foreign limited
15 liability partnership first transacts intrastate business in this state,
16 whichever is later, register with the Secretary of State by submitting
17 to the Secretary of State an application for registration as a foreign
18 limited liability partnership, signed by a person with authority to
19 do so under the laws of the jurisdiction of formation of the foreign
20 limited liability partnership, stating the name of the partnership,
21 the street address of its principal office, the mailing address of the
22 principal office if different from the street address, the name and
23 street address of its agent for service of process in this state in
24 accordance with subdivision (a) of Section 16309, a brief statement
25 of the business in which the partnership engages, and any other
26 matters that the partnership determines to include.

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

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

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

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

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

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

32 (g) The Secretary of State shall provide a form for a registration
33 under subdivision (a), which shall include the form for confirming
34 compliance with the optional security requirement pursuant to
35 subdivision (c) of Section 16956. The Secretary of State shall
36 include with instructional materials, provided in conjunction with
37 the form for registration under subdivision (a), a notice that filing
38 the registration will obligate the limited liability partnership to pay
39 an annual tax for that taxable year to the Franchise Tax Board
40 pursuant to Section 17948 of the Revenue and Taxation Code.

1 That notice shall be updated annually to specify the dollar amount
2 of this tax.

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

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

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

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

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

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

30 (1) A shareholder of a domestic corporation.

31 (2) A shareholder of a foreign corporation transacting intrastate
32 business.

33 (3) A limited partner of a foreign limited partnership transacting
34 intrastate business.

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

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

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

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

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

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

12 (3) Maintaining bank accounts.

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

17 (5) Effecting sales through independent contractors.

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

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

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

25 (9) Conducting an isolated transaction that is completed within
26 180 days and not in the course of a number of repeated transactions
27 of a like nature.

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

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

36 (q) Nothing in this section is intended to, or shall, augment,
37 diminish, or otherwise alter existing provisions of law, statutes,
38 or court rules relating to services by a California architect,
39 California public accountant, California engineer, California land
40 surveyor, or California attorney in another jurisdiction, or services

1 by an out-of-state architect, out-of-state public accountant,
2 out-of-state engineer, out-of-state land surveyor, or out-of-state
3 attorney in California.

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

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

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

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

O

Supported Legislation

SB 1098 (Cannella R) Merced Geologists and geophysicists: fees.

Status: 4/12/2018- Re-referred to Committee on Business, Professions and Economic Development; set for hearing 4/23/18.

Location: 2/22/2018-Senate Business, Professions and Economic Development.

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

Last Amend: 4/12/2018

Updated 4/18/18

Staff Analysis: SB 1098

Bill Summary: This bill would require the Board to fix the application fee for certification as a geologist-in-training at no more than \$100. The bill would delete a provision setting the license fee for a geologist or geophysicist and for certification in a specialty required to be paid in addition to the application fee. The bill would delete a provision limiting the examination fee for licensure as a geophysicist or certification as an engineering geologist or hydrogeologist to \$100, and would instead require the fee to be fixed at an amount equal to the Board's costs to administer the examination. The bill would delete a provision fixing the fee for a specialty geologist or specialty geophysicist at no more than \$100, and would provide that the renewal fee for a geophysicist, for each branch of professional geologist in which licensure is held, and for each certified specialty license held, is required to be no more than \$400. The bill would delete a provision fixing the amount of a duplicate certificate fee and would require the board to set all other document fees by regulation, as provided. This bill contains other related provisions.

Staff Comment: This bill is sponsored by the Board. Currently the fee structure established in the Geologist and Geophysicist Act is not appropriate for the recovery of the actual cost incurred by the Board for its services. This fee structure defined in the Geologist and Geophysicist Act is hindering the Board's ability to establish a consistent and equitable fee structure for the Board's applicants and licensees. The amendments made on April 12, 2018, were made at the request of the Board to correct inappropriate language that had been used in the original version of the bill.

Staff Recommendation: Staff recommends the Board vote to continue to **support** this legislation, as amended April 12, 2018.

Laws: An act to amend Sections 7840, 7847, 7850, 7850.1, 7850.5, 7850.6, and 7887 of the Business and Professions Code, relating to professions and vocations and making an appropriation therefor.

AMENDED IN SENATE APRIL 12, 2018

SENATE BILL

No. 1098

Introduced by Senator Cannella

February 13, 2018

An act to amend ~~Section~~ Sections 7840, 7847, 7850, 7850.1, 7850.5, 7850.6, and 7887 of the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1098, as amended, Cannella. Geologists and geophysicists: fees.

Existing law, the Geologist and Geophysicist Act, provides for the registration and regulation of geologists and geophysicists by the Board for Professional Engineers, Land Surveyors, and Geologists. ~~Existing~~ Existing law requires the board to fix various license, renewal, and document fees in accordance with a specified schedule. Existing law requires fees and civil penalties received pursuant to the act to be deposited in the Professional Engineer's, Land Surveyor's, and Geologist's Fund and continuously appropriates those funds to the board for purposes of the act.

This bill would require the board to fix the ~~application~~ fee for *filing an application for* certification as a geologist-in-training at no more than \$100. The bill would delete a provision setting the license fee for a geologist or geophysicist and for certification in a specialty required to be paid in addition to the application fee. The bill would delete a provision limiting the examination fee for licensure as a geophysicist or certification as an engineering geologist or hydrogeologist to \$100, and would instead require the fee to be fixed at an amount equal to the board's costs to administer the examination. The bill would ~~delete a provision fixing~~ increase the *maximum renewal* fee for a specialty

geologist or specialty geophysicist at no more than \$100, and would provide that the renewal fee for a geophysicist, for each branch of professional geologist in which licensure is held, and for each authority level designation held, is required to be no more than \$400. *to \$400.* The bill would delete a provision fixing the amount of a duplicate certificate fee and would require the board to set all other document fees by regulation, *as provided, in an amount not to exceed a reasonable regulatory cost. The bill would make other nonsubstantive, conforming changes.*

Because the bill would authorize additional fee money to be deposited into the Professional Engineer's, Land Surveyor's, and Geologist's Fund, a continuously appropriated fund, the bill would make an appropriation.

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

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

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

3 7840. An application for ~~registration as a geologist or for~~
4 ~~registration as a geophysicist~~ *licensure as a geologist, certification*
5 *in a specialty in geology, certification as a geologist-in-training,*
6 *licensure as a geophysicist, or certification in a specialty in*
7 *geophysics shall be made to the board on a form prescribed by it*
8 *and shall be accompanied by the application fee fixed by this*
9 *chapter.*

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

12 7847. The board, upon application therefor, on its prescribed
13 form, and upon the payment of the ~~application and registration~~
14 ~~fees~~ *fee* fixed by this chapter, which fees shall be retained by the
15 board, may issue a certificate of registration as a geologist or as a
16 geophysicist to a person holding an equivalent certificate of
17 registration as a geologist or as a geophysicist, issued to him or
18 her by any state or country when the applicant's qualifications
19 meet the other requirements of this chapter and the rules established
20 by the board.

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

1 7850. Any applicant for licensure as a professional geologist
2 who meets all the requirements prescribed in Section 7841 and
3 who has otherwise qualified hereunder as a ~~geologist, upon~~
4 ~~payment of the registration fee fixed by this chapter,~~ *geologist*
5 shall have a certificate of registration issued to him or her as a
6 professional geologist.

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

9 7850.1. Any applicant for licensure as a professional
10 geophysicist who meets all the requirements prescribed in Section
11 7841.1 and who has otherwise qualified hereunder as a
12 ~~geophysicist, upon payment of the registration fee fixed by this~~
13 ~~chapter,~~ *geophysicist* shall have a certificate of registration issued
14 to him or her as a professional geophysicist.

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

17 7850.5. An applicant for certification as a certified specialty
18 geologist who meets all the requirements prescribed in Section
19 7842 and who has otherwise qualified under this chapter in the
20 ~~specialty, upon payment of the fee fixed by this chapter,~~ *specialty*
21 shall have a certificate issued to him or her as a certified specialty
22 geologist.

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

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

28 7850.6. An applicant who has passed the examination for a
29 certified specialty geophysicist and has otherwise qualified under
30 this chapter in the ~~specialty, upon payment of the fee fixed by this~~
31 ~~chapter~~ *specialty* shall have a certificate issued to him or her as a
32 certified specialty geophysicist. A certificate of certified specialty
33 geophysicist shall be signed by the president and executive officer
34 and issued under the seal of the board.

35 **SECTION 1.**

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

38 7887. The amount of the fees prescribed by this chapter shall
39 be fixed by the board in accordance with the following schedule:

1 (a) The fee for filing ~~each~~ *an* application for licensure as a
 2 geologist or a geophysicist or certification as a specialty geologist
 3 or a specialty geophysicist ~~and for administration of the~~
 4 ~~examination~~ shall be fixed at not more than two hundred fifty
 5 dollars (\$250). The ~~filing~~ fee for *filing* an application for
 6 certification as a geologist-in-training shall be fixed at not more
 7 than one hundred dollars (\$100).

8 (b) The renewal fee for a ~~geophysicist, for each branch of~~
 9 ~~professional geologist in which licensure is held, and for each~~
 10 ~~authority level designation held, geologist or for a geophysicist~~
 11 shall be fixed at not more than four hundred dollars (\$400).

12 (c) *The renewal fee for a specialty geologist or for a specialty*
 13 *geophysicist shall be fixed at not more than four hundred dollars*
 14 *(\$400).*

15 (e)

16 (d) Notwithstanding Section 163.5, the delinquency fee for a
 17 certificate is an amount equal to 50 percent of the renewal fee in
 18 effect on the last regular renewal date.

19 (d)

20 (e) Each applicant for licensure as a geologist shall pay an
 21 examination fee fixed at an amount equal to the actual cost to the
 22 board to administer the examination described in subdivision (d)
 23 of Section 7841, unless an applicant pays the examination fee
 24 directly to an organization pursuant to Section 7844.

25 (e)

26 (f) Each applicant for licensure as a geophysicist or certification
 27 as an engineering geologist or certification as a hydrogeologist
 28 shall pay an examination fee fixed by the board at an amount equal
 29 to the actual cost to the board for the development and maintenance
 30 of the written examination.

31 (f)

32 (g) The fee for a retired license shall be fixed at not more than
 33 50 percent of the fee for filing an application for licensure as a
 34 geologist or a geophysicist in effect on the date of application for
 35 a retired license.

36 (g)

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

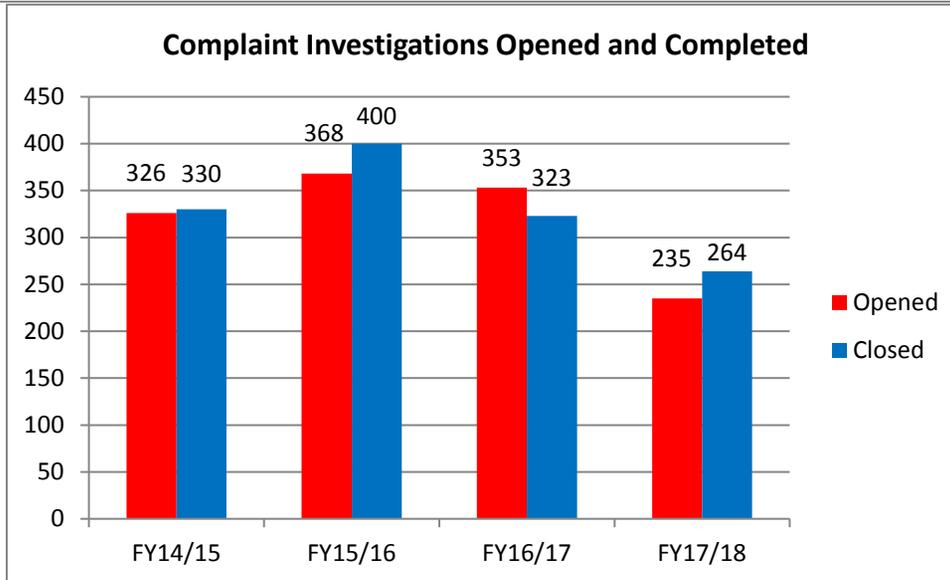
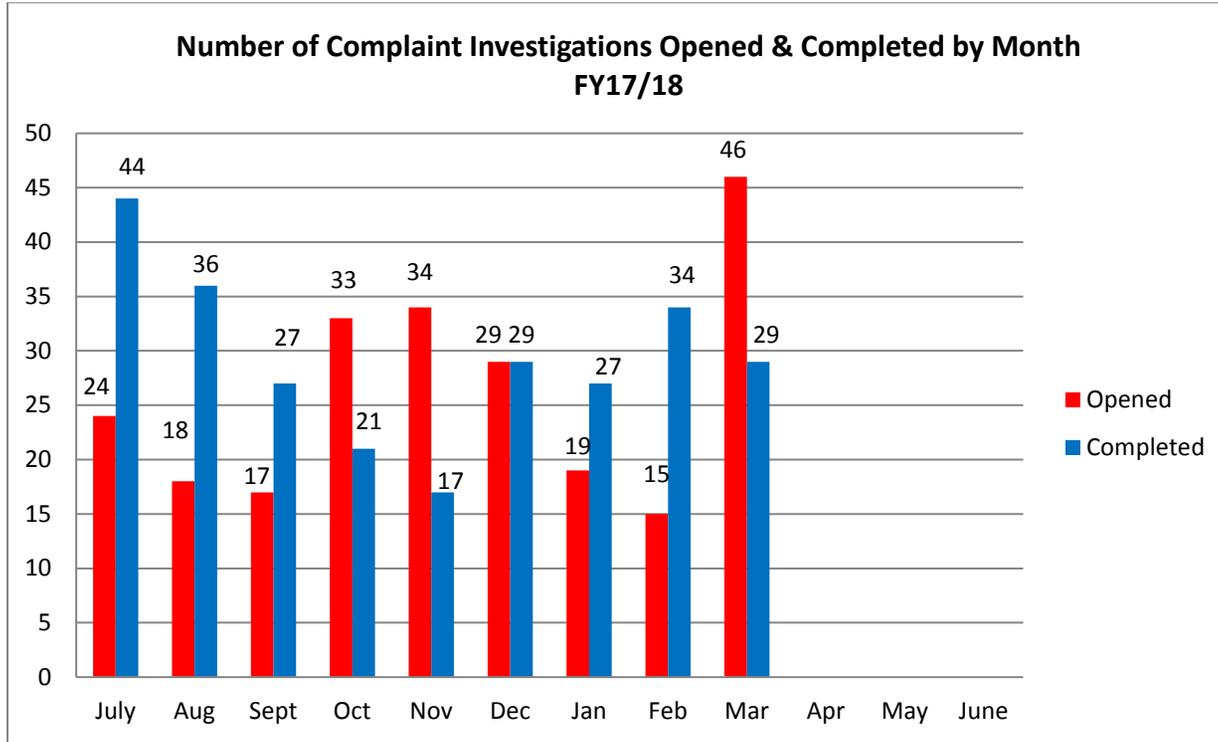
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VI. Enforcement

A. Enforcement Statistical Reports

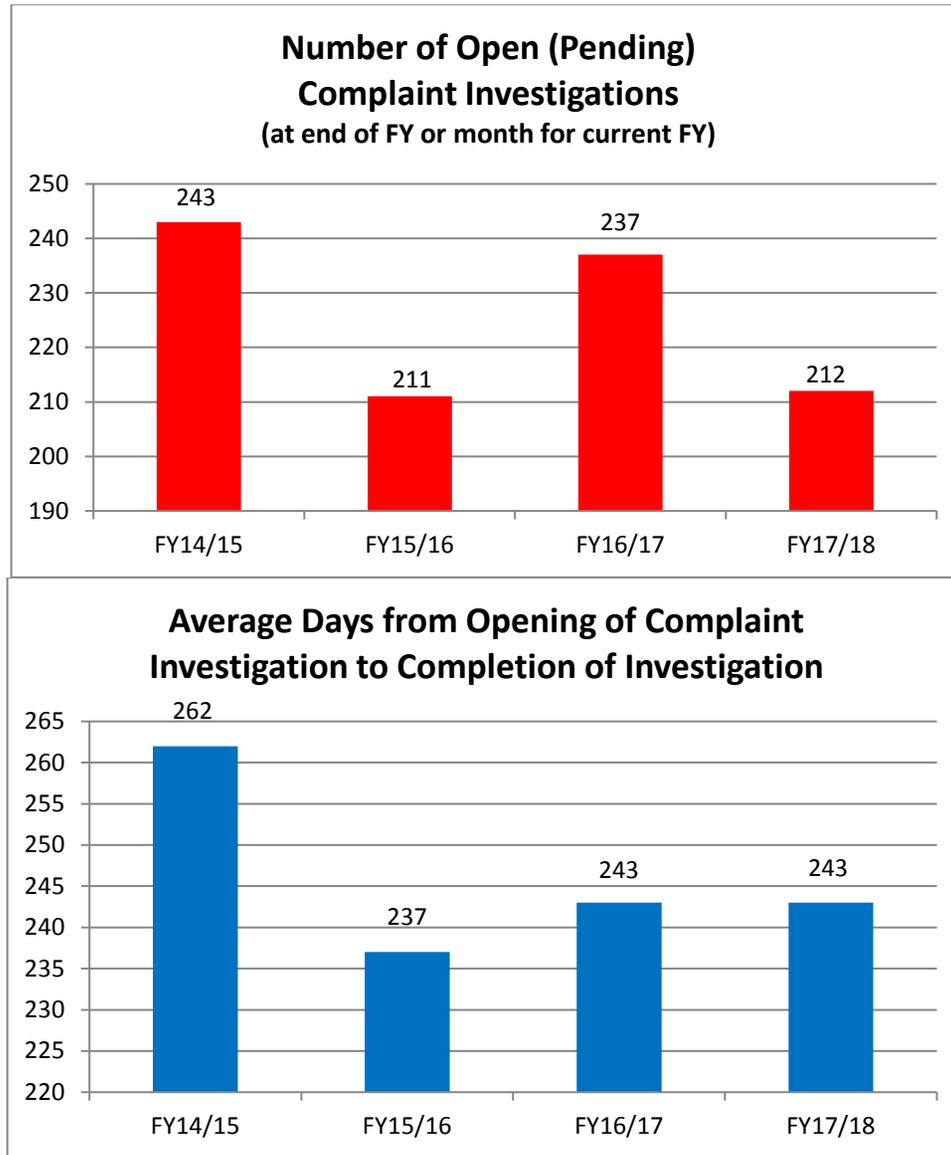
1. Fiscal Year 2017/18 Update

Complaint Investigation Phase



NOTE: FY17/18 statistics are through March 31, 2018

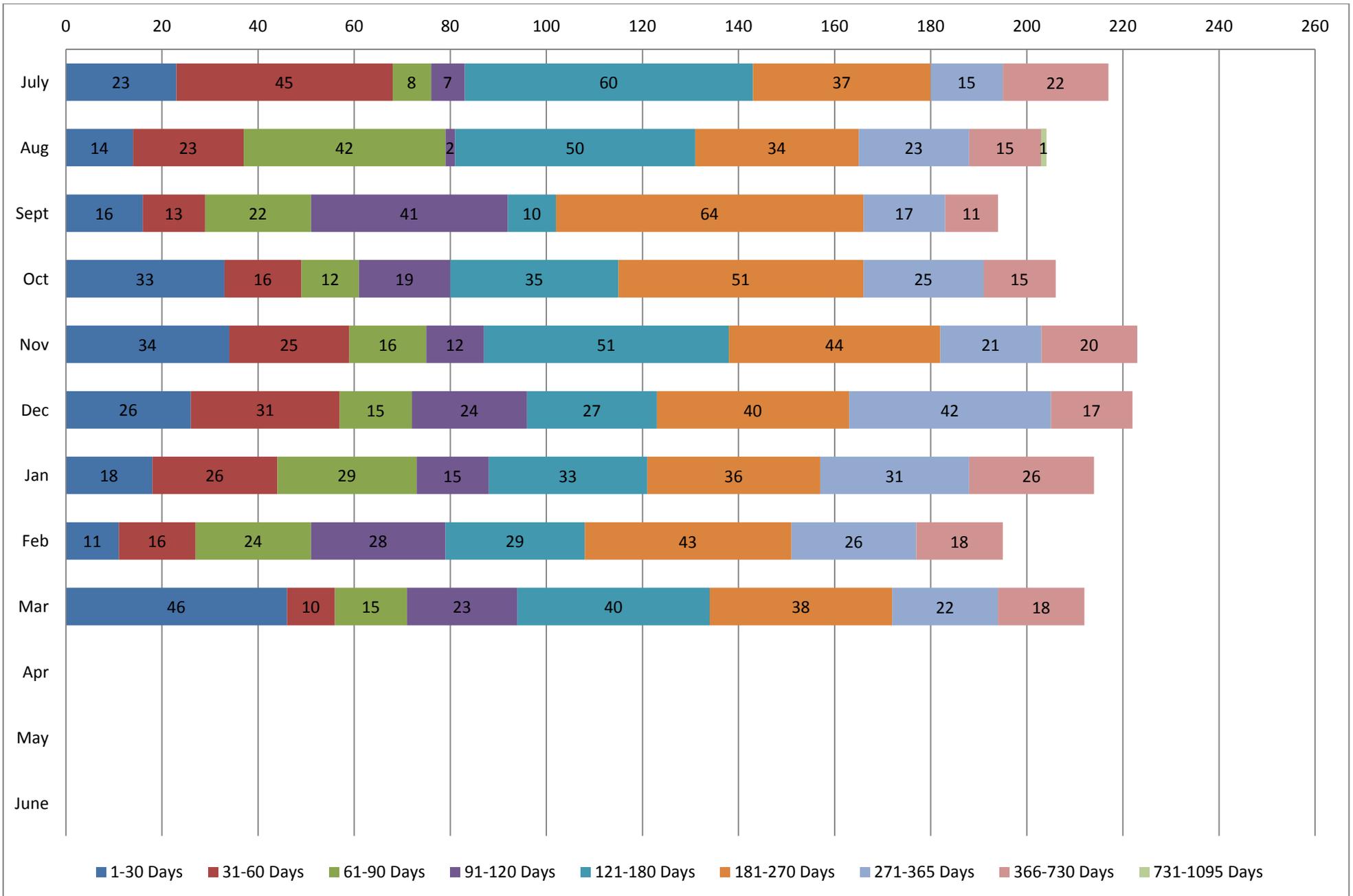
Complaint Investigation Phase



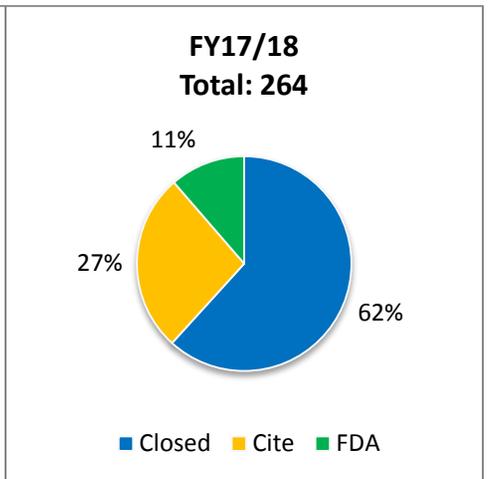
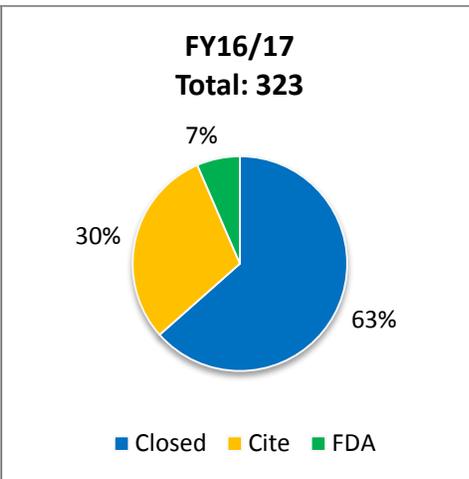
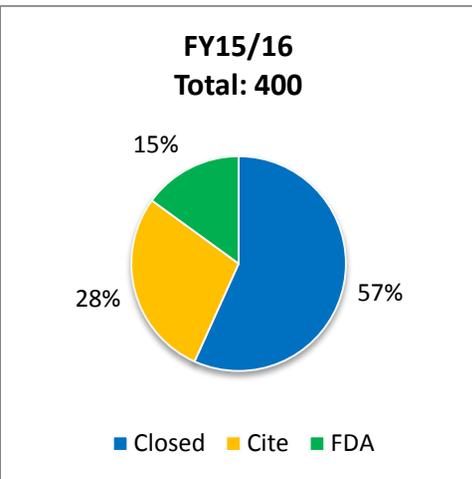
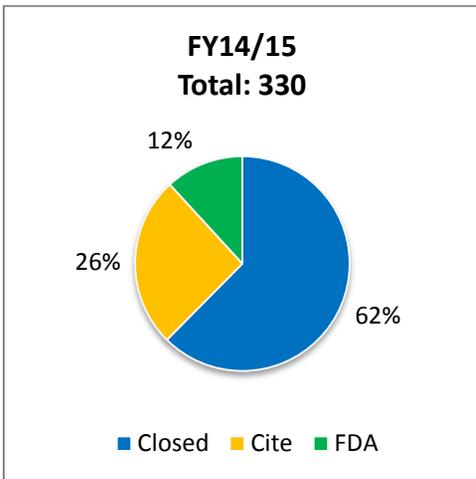
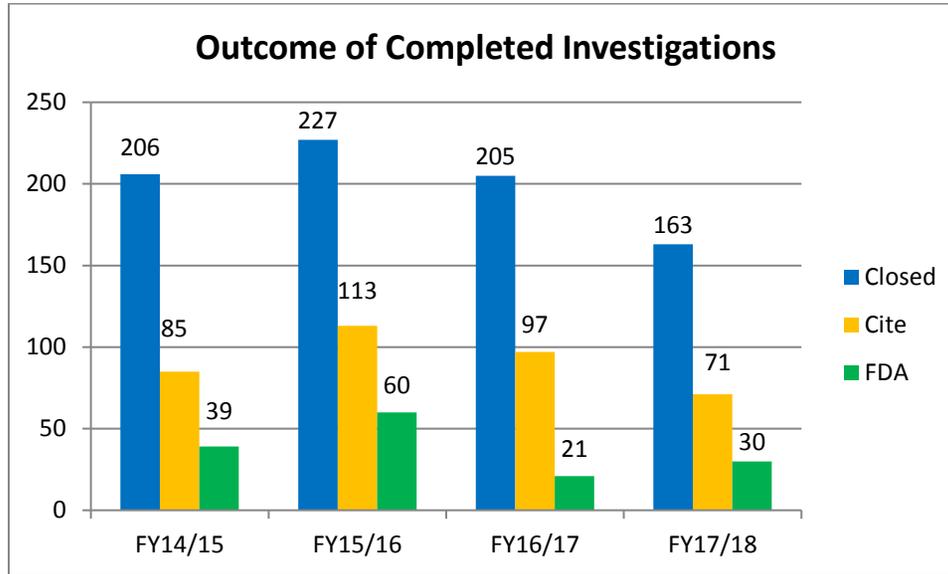
NOTE: FY17/18 statistics are through March 31, 2018

Complaint Investigation Phase

Aging of Open (Pending) Complaint Investigation Cases – FY17/18



Complaint Investigation Phase Outcome of Completed Investigations



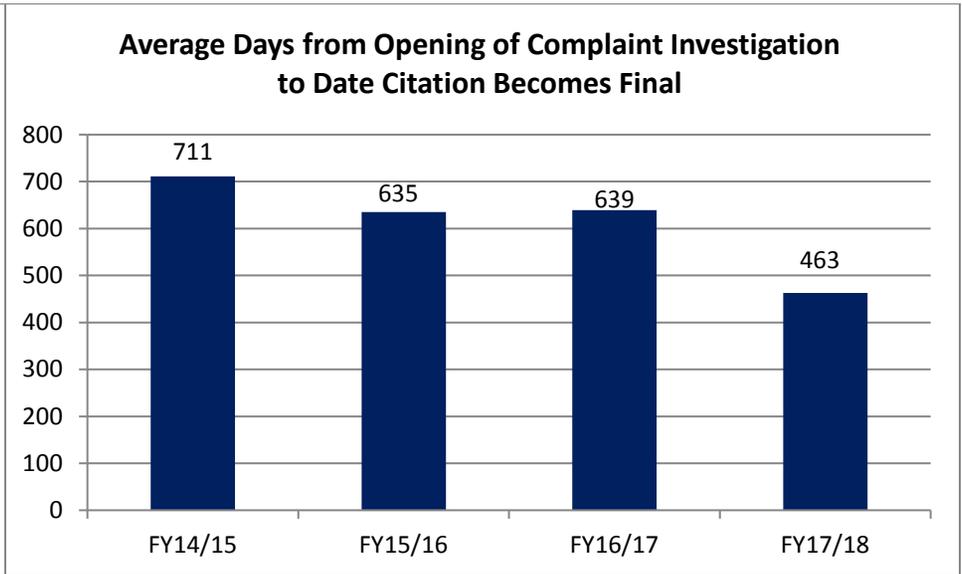
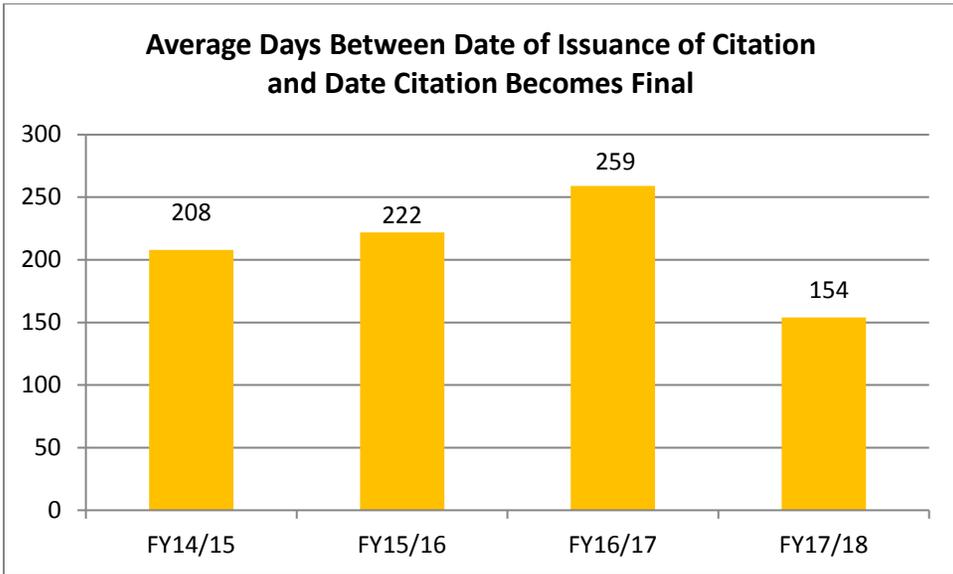
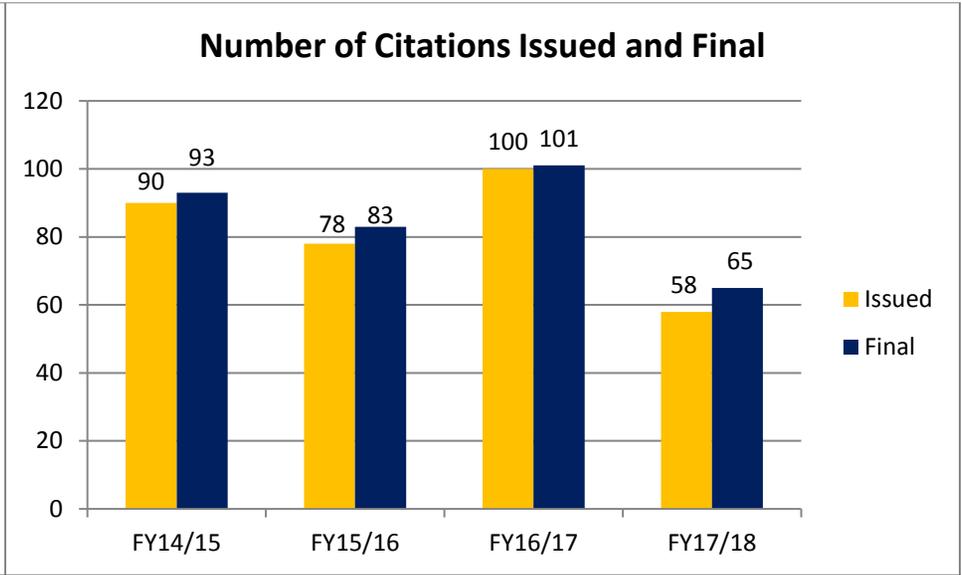
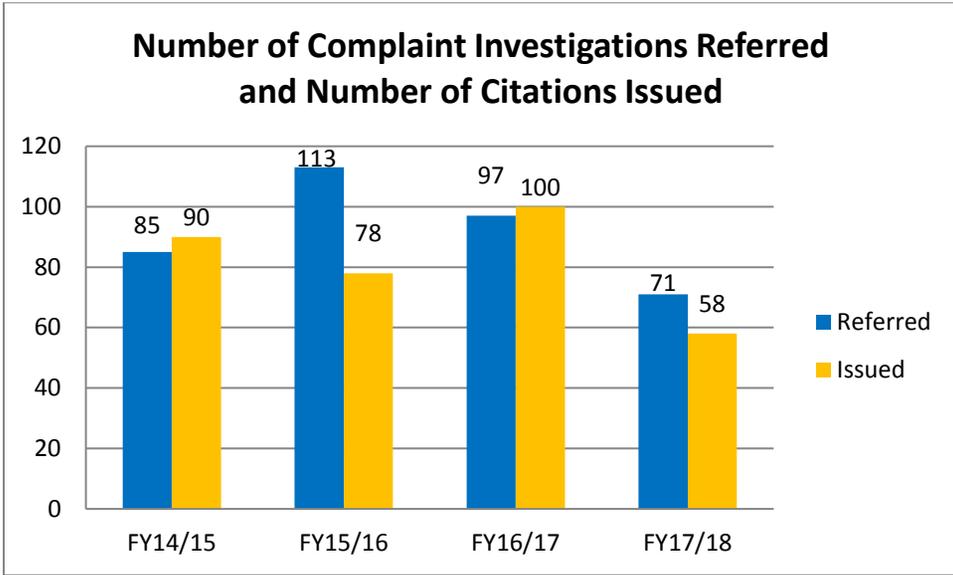
NOTE: FY17/18 statistics are through March 31, 2018

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

Cite = Referred for Issuance of Citation

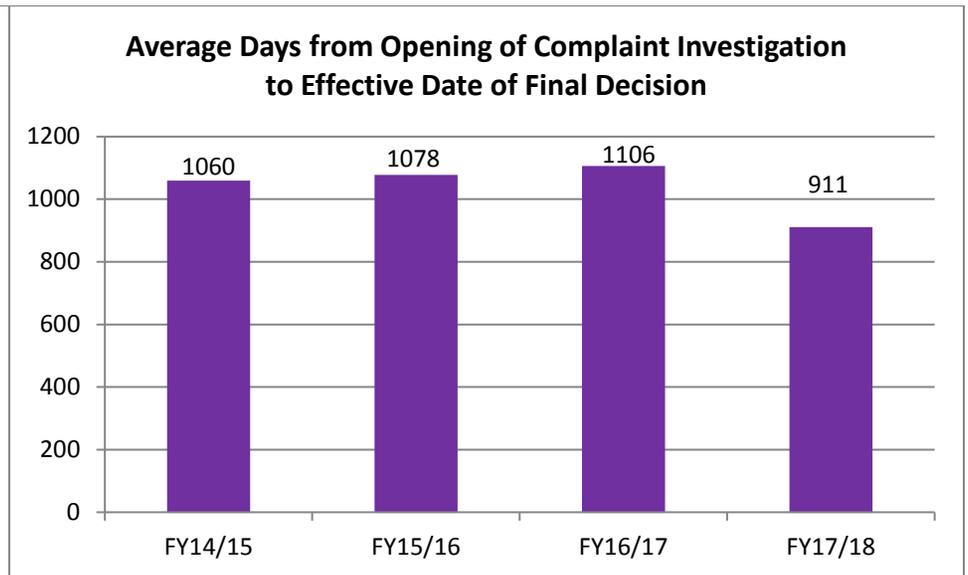
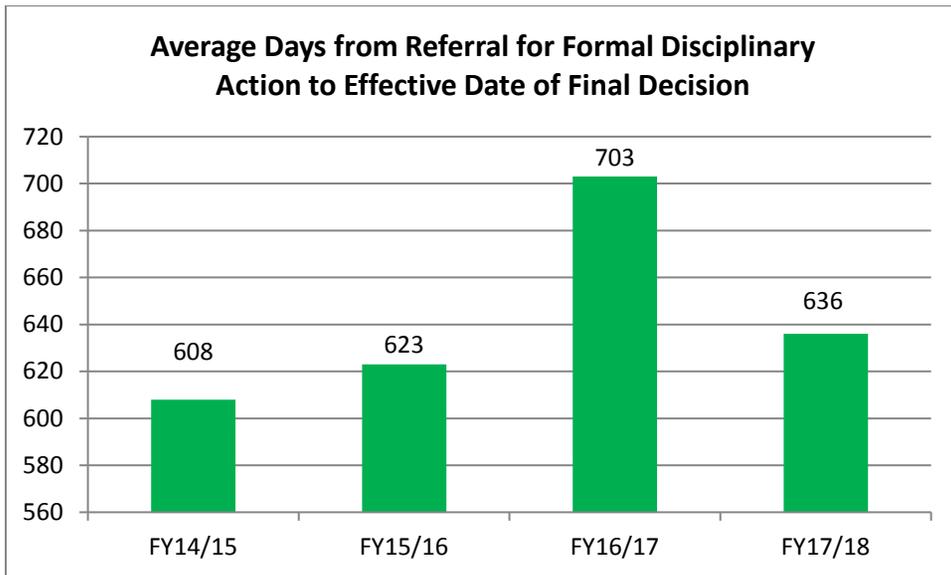
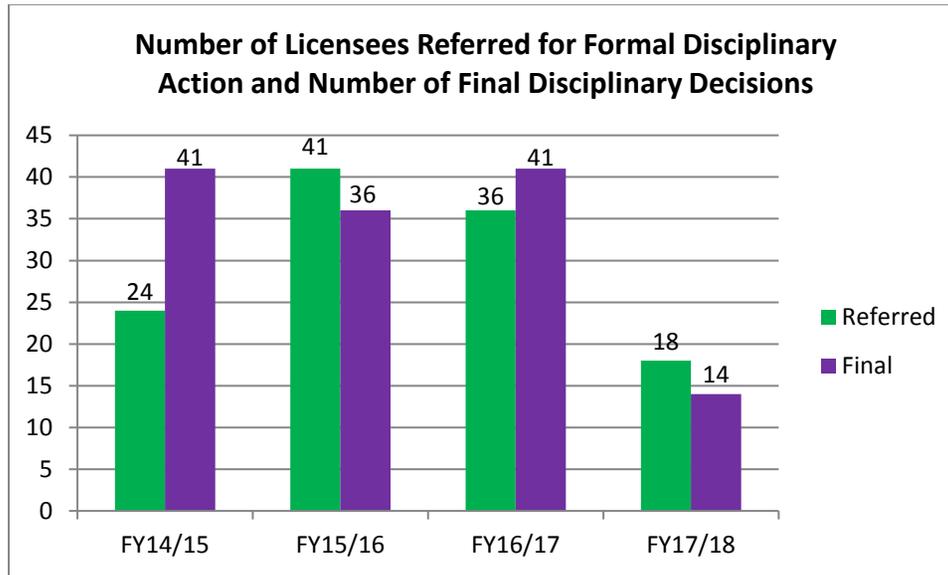
FDA = Referred for Formal Disciplinary Action

Citations (Informal Enforcement Actions)



NOTE: FY17/18 statistics are through March 31, 2018

Formal Disciplinary Actions Against Licensees



NOTE: FY17/18 statistics are through March 31, 2018

VII. Exams/Licensing

- A. Update on Spring 2018 Examinations
- B. Update on Application Numbers
- C. Adoption of Test Plan Specifications for the California Professional Land Surveyor Examination (Possible Action)
- D. Adoption of Test Plan Specifications for California Geotechnical Engineer Examination (Possible Action)

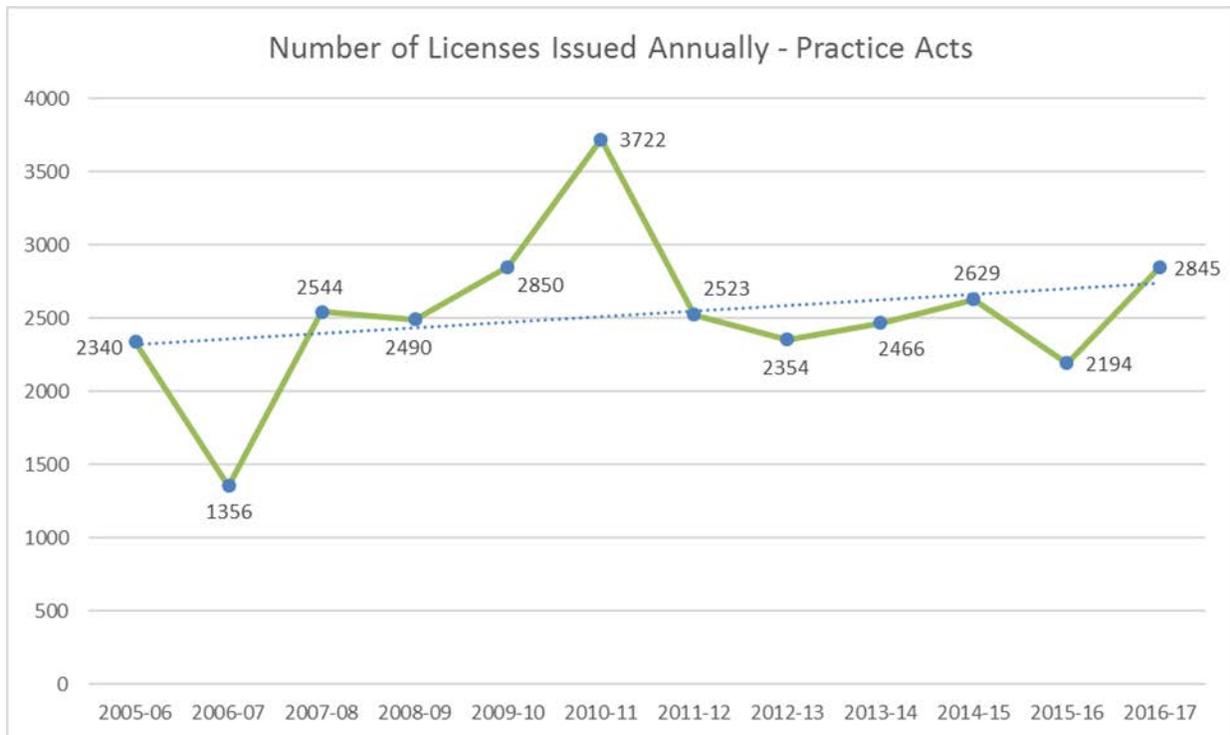
Item VII. Exams/Licensing

Traditionally, we have included an update on examinations as a way to gauge a relationship to our applicant/licensee population trends and to explain seasonal spikes in workload, expenditures, and anticipated revenue sources. Given that the registration and administration of the national engineering and surveying exams are largely managed by NCEES now and the Board is evolving from being “exam-centric” to more “application and license centric” in our processes, Staff believes we need to provide reports that more directly assess those changes in our workload, processes, and trends. In addition to our normal reports on examination statistics, we’ve decided to begin also reporting on the number of licenses issued and on the number of applications received, both during a given period. We welcome board member feedback and anticipate these becoming quarterly reports as our processes continue to develop and evolve.

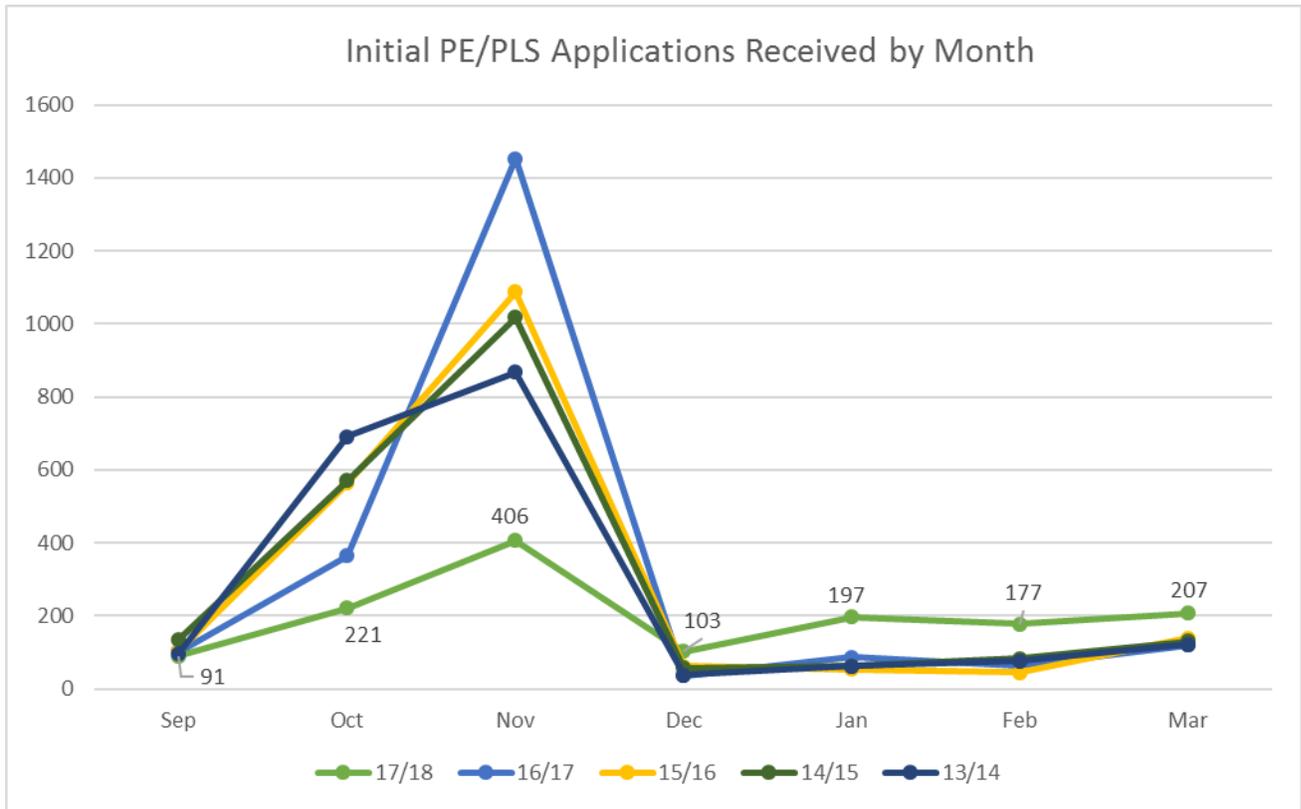
B. Update on Application Numbers

Number of licenses issued December 2017 – March 2018:

1381	Total PE
32	Total PLS
93	Total PG (and related)
5	Total PGp
1511	Total Licenses Issued



Item VII. Exams/Licensing (cont.)



- Prior to 2018, the bulk of initial PE/PLS applications were received during the months of May and November each year.
- Currently averaging approximately 200 initial PE/PLS applications on a monthly basis due to change in application/examination processes.
- Note: Historical numbers for PG/PGp and related licenses not available prior to Sept 2017 as initial applications and refile applications were not separately tracked prior to that date.

VIII. Executive Officer's Report

- A. Rulemaking Status Report
- B. SB 2 (2017 Ch. 364) Effect on Filing a Record of Survey
- C. Update on Board's Business Modernization Report
- D. Personnel
- E. ABET
- F. Association of State Boards of Geology (ASBOG)
- G. National Council of Examiners for Engineering and Surveying (NCEES)
 - 1. Report of Western Zone Interim Meeting
 - 2. Selection of Funded Delegates to Attend Annual Meeting – August 15-18, 2018 (Possible Action)
 - 3. Recommend Dallas Sweeney as Associate Member to NCEES (Possible Action)
- H. Update on Outreach Efforts

Greetings,

Senator Anthony Cannella has requested an opinion from the Attorney General on the following question:

How is recordation of maps and surveys to be treated under SB 2, the Building Homes and Jobs Act?

More specifically, the requestor is concerned that the general nature of the term “maps,” as used in Government Code section 27388.1, subdivision (a)(1), could result in inconsistent implementation as relates to particular documents prepared by licensed land surveyors. The full request is attached for your information.

It is our policy to solicit views from interested parties before issuing an opinion, and we thought this topic might be of interest to you. If you would like to submit comments, a response by April 27, 2018, would be most helpful; materials received after such date will nonetheless be considered. Views submitted will be treated by our office as public records under the Public Records Act. Please address your comments to me at the address indicated below.

Please feel free to share with this with others who might be interested in commenting on this topic. Information regarding the status of this opinion request, copies of the published opinions, and a description of our opinion-writing policies are available on the Opinion Unit’s Internet website: www.ag.ca.gov/opinions.

Thank you,

Anya Binsacca

Deputy Attorney General, Opinion Unit
California Attorney General's Office

STATE CAPITOL
SACRAMENTO, CA 95814
(916) 651-4012
2561 THIRD STREET, SUITE A
CERES, CA 95307
(209) 581-9827
1640 N STREET, SUITE 210
MERCED, CA 95340
(209) 726-5495
369 MAIN STREET, SUITE 208
SALINAS, CA 93901
(831) 769-8040

California State Senate

SENATOR
ANTHONY CANNELLA
TWELFTH SENATE DISTRICT



COMMITTEES
RULES
VICE-CHAIR
TRANSPORTATION
& HOUSING
VICE-CHAIR
ENERGY, UTILITIES &
COMMUNICATIONS
GOVERNMENTAL
ORGANIZATION

March 6, 2018

Susan Duncan Lee
Senior Assistant Attorney General
Office of the Attorney General
Opinion Unit, Dept. of Justice
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102

RE: Request for a Legal Opinion by Senator Anthony Cannella

Dear Assistant Attorney General Lee,

I respectfully request for a legal opinion on whether filing of a Record of Survey, as defined in the Professional Land Surveyors' Act, is subject to the fee imposed under G.C. 27388.1.

Background

The Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG) is tasked with regulating the professions of engineering, land surveying, geology, and geophysics through the Professional Engineers Act (Business and Professions Code section 6700, et seq.), Professional Land Surveyors' Act (Business and Professions Code section 8700, et seq.), and the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.), and their respective regulations.

Maps prepared by licensed land surveyors pertaining to the Subdivision Map Act (Government Code sections 66410-66499.58) are for the purposes of assisting with the orderly subdivision and development of real property and are therefore developed in accordance with the aforementioned state law and local agency ordinances. These maps do directly affect title to real property, appear in a chain of title search, and provide constructive notice as to rights to real property. This is also true for those other documents listed under Government Code §27388.1(a)(1).

A Record of Survey is a document solely mandated by the Professional Land Surveyors' Act (B&P 8700-8805) for the licensed land surveyor to use for the purposes of reporting a field survey that was recently performed by the licensed land surveyor and contains that licensed land surveyor's opinion relative to the location for where a boundary of real property is located on the ground. While B&P §8762(a) allows for a licensed land surveyor to file a Record of Survey in any voluntary situation, §8762(b) mandates when the licensed land surveyor is required to file a Record of Survey. Situations that normally arise that trigger the mandatory filing are usually the result of a property line dispute; when the survey discloses field evidence that is not shown on current maps or differs substantially from what is currently shown on current maps; or when the survey is marking the location of a property line on the ground where it has never been marked on the ground previously.

Unlike those maps prepared in accordance with the aforementioned Subdivision Map Act, a Record of Survey does not directly affect title interests, does not normally appear in a chain of title search, and does not provide constructive notice to the public as to rights to real property.

The Professional Land Surveyors' Act dictates that the licensed land surveyor who performed the survey submit the Record of Survey to the County Surveyor for review and once the County Surveyor has deemed the Record of Survey as compliant with the pertinent provisions of the Professional Land Surveyors' Act, the County Surveyor must sign and seal the Record of Survey and present it to the County Recorder for filing.

The survey and the resulting Record of Survey does not, and in fact is statutorily prohibited from, subdividing existing parcels of land. In many cases, the Record of Survey only shows one or two property lines and does not show an entire legal parcel or, in some cases, no property lines at all and is only serving to document information for other licensed land surveyors to use as survey control points in their geographic area. In all of these cases, the mandatory requirement to file the Record of Survey is solely the responsibility of the licensed land surveyor and not any member of the public. If a condition is triggered that requires a mandatory filing of a Record of Survey, the licensed land surveyor must comply with the law regardless of whether the client pays for this action.

Concerns Associated with Implementation of Senate Bill 2 (2017)

Historically speaking, BPELSG spends a great deal of time and effort, both through outreach and from a disciplinary action effort, related to violations associated with the mandatory filing of a Record of Survey by licensed land surveyors. In fact, these violations are so troublesome that BPELSG tracks these violations as a separate category.

I am concerned that the general nature of the language contained in SB 2 (2017) related to "...maps..." will result in inconsistent implementation/application by the County Recorders and County Surveyors across the state.

Given that a Record of Survey prepared in accordance with the Professional Land Surveyors' Act does not impart constructive notice or directly affects title interest and differs from the types of maps prepared in accordance with the subdivision development process as mandated by the Subdivision Map Act and those other documents listed under Government Code §27388.1(a)(1), I am requesting clarification to the question above in an effort to understand BPELSG's role in advising all licensed professionals and public agencies, as well as consumers, in understanding how this new law affects a process that has been in place for many years.

Please contact Baltazar Cornejo in my office at (916) 651-4012 should you have any questions on this request.

Thank you.



Anthony Cannella
Senator, 12th District

EXECUTIVE OFFICER'S REPORT

VIII. B. SB 2 (2017 Ch. 364) Effect on Filing a Record of Survey

The AG's Office sent out an invitation to comment on a request for opinion related to Senator Cannella's and the Board's request. Please see the attached letter. AG is seeking comment by April 27, 2018 though will consider comment after that date.

VIII. C. Update on Board's Business Modernization Report

- We have completed the technical system requirements to meet California Department of Technology (CDT) mid-level solutions requirement for the PAL process.
- Met with CDT personnel to discuss best strategies and currently scheduling a kickoff meeting for end of May.

VIII. D. Personnel

The Board is currently recruiting for:

- Senior Registrar (Civil Engineer) – exam/eligibility list is being currently being developed by DCA
- Enforcement Analyst – to replace Jackie Lowe, Senior Enforcement Analyst, who has worked at the Board since 1995 and is retiring May 31, 2018.
- Front Desk Receptionist starts May 1
- Applications Evaluator

VIII. G. NCEES

Seeking the Board to formally recommend Dallas Sweeney, Senior Registrar Land Surveyor, as an Associate Member to NCEES. In his role at the Board, Dallas is very involved in the development of the state land surveyor examination and outreach related to licensure. It is hoped that submitting a request to the NCEES Board of Directors to name Dallas as an Associate Member of our Board, he can request committee assignments and serve on exam development efforts for the national surveying examinations which should benefit the Board in maintaining an understanding for how the national surveying exams meet California's criteria for licensing.



Q1 2018 OUTREACH REPORT

COLLEGE OUTREACH MAILINGS

Engineering - 44 Individual ABET Colleges/Universities
 Land Surveying - 13 Individual ABET and Community Colleges
 Geology - 38 Individual ASBOG Colleges/Universities
 Mailed to ALL Board Programs' Deans and Department Chairs

Every year we send a mailing to every ABET college/university engineering and land surveying program in California. We have found that by following up with a phone call, we are promoting the Board, and can offer to provide the program with an opportunity for interaction. By attending a college "Career Fair" or an engineering "Senior Project Day," we introduce ourselves to the staff of the various programs, and offer our presentations supporting the value and the path to professional licensure to their student clubs and their engineering classes.

Results of Mailings:

Engineering Presentations	2015- '16	2016- '17	2017- '18
College Year:			
In-Class	Cal Poly, SLO	Cal Poly, SLO	Cal Poly, SLO Fresno State Loyola Marymount UC Irvine
Career Fair	CSU Sacramento	CSU Sacramento UCLA UC Irvine Cal State LA UC San Diego	CSU Sacramento UCLA UC Irvine UC San Diego
Senior Project Day	CSU Northridge UC Davis	CSU Northridge UC Davis	CSU Northridge UC Davis
Student Club Presentation		USC	CSU Sacramento UCLA



Summary of Results of Mailings:

By increasing our interactions with ABET programs, we have also increased our number of invitations to “College Career Fairs” and “Senior Project Days” by our Outreach Coordinator, Brooke Phayer. As shown in the display, these have led to engineering “Student Club Presentations” to student groups, and finally to make “In-Class” presentations by Brooke Phayer and Staff Senior Registrar Mike Donelson, PE. These Power Point presentations have ranged from 20 minutes to over one hour in length, depending on the diversity of engineering disciplines addressed. Of note is the fact that, once participation is initiated, it has increased to the point of the “In-Class” presentation, and, in every case, the Board has been invited back again the next year.

OUTREACH EVENTS January – March 2018

Sacramento CLSA, January 2

Staff Senior Registrar Dallas Sweeney, PLS attended the LS review course and did a presentation about the application process and exam specifications.

San Diego CLSA, January 4

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, PLS attended the LS review course and did a presentation about the application process and exam specifications.

UC San Diego Engineering Career Fair, January 17 - 18

Outreach Coordinator Brooke Phayer participated in the UC San Diego Engineering Career Fair to give broader awareness of the possibilities of professional licensure.

UCLA Engineering Tech Career Fair, January 23 - 24

Outreach Coordinator Brooke Phayer participated in the UCLA Engineering Tech Career Fair to give broader awareness of the possibilities of professional licensure.

League of California Surveying Organizations, Martinez, CA, January 24

Staff Senior Registrar Dallas Sweeney, PLS made a presentation at the monthly meeting to answer questions on compliance with the PLS Act.



UC Davis Student Chapter AIPG, January 25

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.



Laurie Racca PG, with UCD Student Chapter President Minda Moe

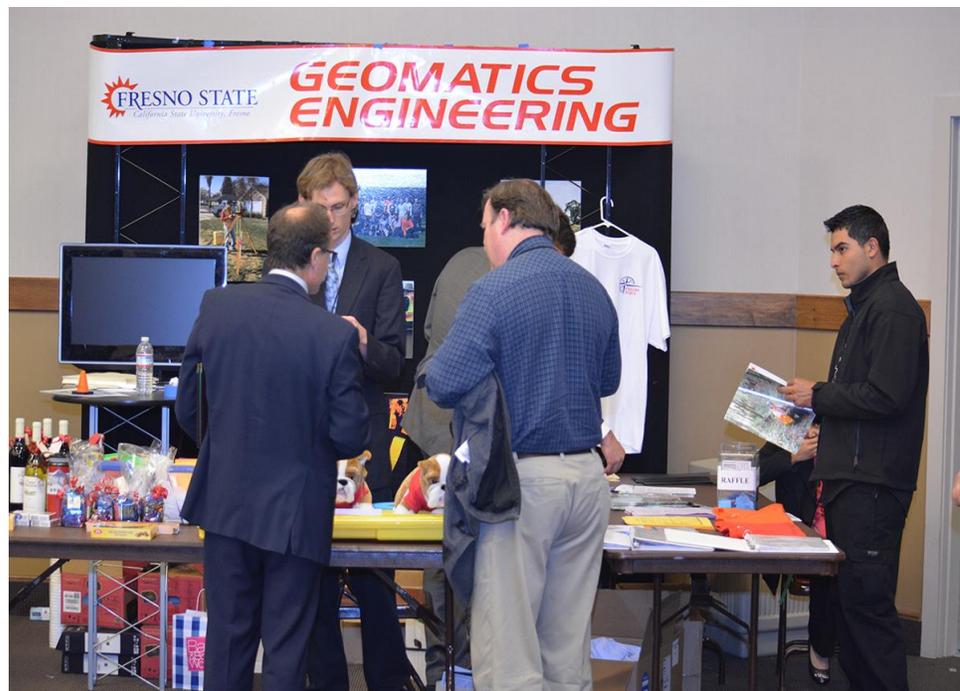
UC Irvine Engineering Career Fair, January 25

Outreach Coordinator Brooke Phayer, attended the “Career Fair” and distributed Board promotional pieces on the “Path to Professional Licensure.”

Cal State University, Fresno,

January 26 - 27

Executive Officer Ric Moore, PLS, and Outreach Coordinator Brooke Phayer participated in the 57th Annual Cal State Fresno Geomatics Conference to give broader awareness of the possibilities of professional licensure.



**South Coast Geological Society, Orange County, Feb 12**

Senior Registrar Laurie Racca PG provided information to the South Coast Geological Society on common problems seen in applications submitted to the Board and provided guidance to future applicants on what is needed for the Board's review of a candidate's qualifications. 40 to 50 people attended.

East Bay CLSA, February 13

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, PLS made a presentation at the monthly meeting to answer questions on compliance with the PLS Act and licensing statistics.

San Francisco Bay Area Association of Environmental & Engineering Geologists, February 13

Senior Registrar Laurie Racca, PG, attended a meeting of the SF Bay Area Association of Environmental and Engineering Geologists (AEG) to update their membership on the Board's activities and answer questions from AEG members. 45-50 people attended the event.

San Diego State University Engineering Career Fair, February 14 - 15

Outreach Coordinator Brooke Phayer participated in the San Diego State Engineering Career Fair to give broader awareness of the possibilities of professional licensure.

Cal State University, Sacramento Engineering Career Fair, February 16

Staff Senior Engineering Registrar Mike Donelson, PE, participated in the Cal State University, Sacramento Engineering Career Fair to give broader awareness of the possibilities of professional licensure. In addition, he gave a presentation to interested students on the "Path to Professional Licensure" to students of the various engineering clubs on campus.

**Loyola Marymount University, Los Angeles, February 20**

Staff Senior Engineering Registrar Mike Donelson, PE, and Outreach Coordinator Brooke Phayer, gave a presentation to 35+ senior civil engineering students on the "Path to Professional Licensure."



UC Irvine, February 20
Staff Senior Engineering Registrar Mike Donelson, PE, and Outreach Coordinator Brooke Phayer, gave a presentation to 100+ senior engineering students on the “Path to Professional Licensure.”

Inland Geologic Society, March 6

Staff Senior Registrar Laurie Racca, PG, made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.

Rancho Santiago Community College, Santa Ana, March 12

Rancho Santiago Community College District (RSCCD) Board of Trustees Meeting
At the Rancho Santiago Community College District (RSCCD) Board of Trustees Meeting
Winners of 2017 NCEES Surveying Education Award were announced. This annual award recognizes surveying programs that best reflect the organization’s mission to advance licensure for surveyors in order to safeguard the health, safety, and welfare of the public. Santiago Canyon College Business and Career Technical Education Division Surveying/Mapping Sciences program was awarded a \$10,000 prize.

See photo on the following page.



In the photo from left to right are the following:

- Von Lawson, Dean of Business & Career Technical Education, Santiago Canyon College
- John Hernandez, President of Santiago Canyon College
- Donald Mertens, PLS, Program Facilitator for Surveying/Mapping Sciences, Santiago Canyon College
- Robert Stockton, PE, Civil Engineer Member of the BPELSG (on behalf of the NCEES)
- Nelida Mendoza, President of the RSCCD Board of Trustees



San Diego State University, March 14

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.

Cal State Bakersfield, March 16

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.

CA Department of Conservation, State Mining and Geology Board, Santa Ana, March 20

Staff Senior Registrar Laurie Racca, PG and Staff Senior Registrar Dallas Sweeney, PLS made a presentation at The Surface Mining and Reclamation Act (SMARA) workshop on professional licensing requirements and a discussion of key concepts (types of licenses, which license applies etc.).

Marin CLSA, March 21

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, PLS made a presentation at the monthly meeting to answer questions on compliance with the PLS Act and licensing statistics. While in Marin we were given a tour of the Anne T. Kent California Room Digital Archive which includes 150 years of surveying maps and field notes.

Fresno State University, March 22

Staff Senior Registrar Laurie Racca, PG made a presentation on the GIT Certificate and the path to the Professional Geologist (PG) License.



San Joaquin Valley Association of Engineering and Environmental Sciences, March 22

Staff Senior Registrar Laurie Racca, PG made a presentation on the 50year anniversary of the passing of the Geologic Act.

Marin County Surveyor and Staff, March 29

Executive Officer Ric Moore, PLS and Staff Senior Registrar Dallas Sweeney, met with the County Surveyor, staff and contract map checkers to discuss their process and compliance with the PLS Act.

SOCIAL MEDIA January - March 2018

Top 5 Twitter “Tweets” of Past Quarter

Posts	Date Posted	Views
1. Geotechnical Occupational Analysis	Jan 24	522
2. Senior Registrar Recruitment - Civil	Feb 27	476
3. Electronic Version of Professional Acts Published	Jan 5	318
4. Meeting Materials Published – April Mtg.	Mar 2	283
5. Fresno Geomatics Conference	Jan 26	261

Top 5 Facebook Posts of Past Quarter

Posts	Date Posted	Views
1. Recruiting for Senior Registrar	Feb 2	1,049
2. Land Surveyors – Occupational Analysis	Jan 19	983
3. Electronic Version of Professional Acts Published	Jan 5	661
4. Meeting Materials Published – Jan. Mtg.	Jan 2	609
5. Meeting Materials Published – April Mtg.	Jan 24	542



Top 5 Webpage Views of Past Quarter

Page Title	Views
1. License Lookup	75,769
2. Home Page	52,517
3. Instructions on How to Apply for a CA Engineer License	44,903
4. Professional Engineer Application	30,527
5. EIT/LSIT Certificate Info	21,084

PRINTED MATERIALS January – March 2018

Spring 2018 Bulletin:

VOLUME 5 | NUMBER 1

SPRING 2018

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

BULLETIN

FEATURES

- 2 Examination Statistics
- 4 Mud Creek Landslide: Board Licenses in Action, Part 3

IN EVERY ISSUE

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- 5 Board News
- 6 Get to Know Our Licensees
- 7 Board Members
- 8 Enforcement Actions
- 11 Definitions: Outcomes of Formal Administrative Disciplinary Decisions
- 11 In Memoriam
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- 12 Outreach Events
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- 14 Social Media

Our Spring 2018 Bulletin

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

Take a look inside! Let us know if you have any feedback or topic ideas for future issues of the *Bulletin*.

Message from the Executive Officer

RICHARD B. MOORE, PLS

Have you visited the board's website lately? If so, I hope you are benefiting from recent revisions. If not, please be sure to visit our website and see all the changes made to improve communication and accessibility. I'm most excited about our website now being more "mobile-friendly." Board staff is working to confirm all information transferred appropriately. If you see something askew or wish to provide feedback, please email the board's webmaster at BPELSG.Webmaster@dca.ca.gov and we'll look into it.

As a follow-up to the executive officer message from the board's last *Bulletin* newsletter, we are excited that the new administration of the two California civil engineer exams is upon us, and as of the publishing of this message, will have begun. It appears that for the most part, communication on the changes with applicants has progressed as well as can be expected. There are many approved candidates already scheduled for the first administration between April 1 and June 30 of this year, and we are regularly receiving a couple hundred new professional engineer applications monthly. We look forward to having the ability to process applications and license qualified candidates throughout the year.

Please provide the board with any feedback as these changes are implemented over the next six to 12 months, so we can continue to evaluate how we can improve our services.

BP.ELSG.CA.GOV

Military Publication:

DEPARTMENT OF CONSUMER AFFAIRS

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

MILITARY SERVICE PERSONNEL AND SPOUSES APPLYING FOR LICENSURE OR CERTIFICATION

Military experience counting as qualifying work experience
Experience must be documented and verified in the same manner as all other work experience.

Expedited licensure for honorably discharged military service personnel
The Board for Professional Engineers, Land Surveyors, and Geologists (Board) shall expedite the initial licensure process for an applicant who served as an active duty member of the Armed Forces of the United States and was honorably discharged.

If you would like to be considered for the expedited review process, provide a copy of military orders identifying honorable discharge from the Armed Forces of the United States and write "MILITARY-HONORABLE DISCHARGE" on the bottom-left corner of the front of your envelope.

MEET A HIGHER STANDARD. COMPETE AT A HIGHER LEVEL.

IX. Technical Advisory Committees (TACs)

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

X. President's Report/Board Member Activities

XI. Approval of Meeting Minutes (Possible Action)

A. Approval of the Minutes of the March 8, 2018, Board Meeting

DRAFT

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

California State University, Fresno
Lyles College of Engineering, IT160
2320 E. San Ramon
Fresno, CA 93740

Thursday, March 8, 2018, beginning at 9:00 a.m., and continuing on
Friday, March 9, 2018, beginning at 9:00 a.m., if necessary

Board Members Present:	Eric Johnson, President; Betsy Mathieson, Vice-President; Fel Amistad; Kathy Jones Irish; Coby King; Asha Lang; Mohammad Qureshi; Robert Stockton; and Steve Wilson
Board Members Absent:	Natalie Alavi; Karen Roberts; and Jerry Silva
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Brooke Phayer (Outreach Coordinator); Michael Donelson; and Michael Santiago (Legal Counsel)

I. Roll Call to Establish a Quorum

President Johnson called the meeting to order at 9:13 a.m., and a quorum was established.

II. Public Comment for Items Not on the Agenda

During public comment, Brooke Phayer, Outreach Coordinator for the Board introduced and thanked Dr. Riadh Munjy, Department Chair for the Civil and Geomatics Program with Fresno State. Mr. Phayer discussed the Board’s outreach efforts that took place the night before. Dr. Munjy welcomed the Board to California State University of Fresno and reported that the University takes licensing seriously and noted it is a requirement for tenure and promotion with the University.

Christopher Pluhar, Professor with the Earth and Environmental Science Department with Fresno State, provided a PowerPoint presentation, “Preparing the Next Generation of Professionals.”

III. Administration

A. Fiscal Year 2017/18 Budget Review

Mr. Moore reported that DCA has provided the first month’s Fi\$Cal tracking report and that Fiscal Months 2 and 3 should be released by late April. He met with DCA Budgets and reviewed the upcoming Governor’s budget and Fiscal Year 2017/18 year-end projections. The Board is projecting \$10.7 million in expenditures, \$8.4 million in revenue, with a deficit of \$2.3 million. The Board’s

fund balance will be sufficient for this Fiscal Year's projected deficit. Given the fund balance and months in reserve, the Department is satisfied with the projections.

Revenue from applications is down and revenue from renewal applications is up. Total revenue compared to last year is close to a \$400,000 increase over this time last year. Mr. Moore noted that the Board is looking at a higher fund balance of 8.4 months in reserve.

Ms. Irish arrived at 9:31 a.m.

II. Legislation

A. Legislative Calendar

Ms. Eissler noted important dates on the Legislative Calendar.

B. Discussion of Legislation for 2018 :

AB 767: Master Business License Act

MOTION:	Mr. Stockton and Ms. Irish moved to watch this legislation as amended May 3, 2017.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

AB 2483: Department of Consumer Affairs: Office of Supervision of Occupational Boards

MOTION:	Mr. Wilson and Mr. Stockton moved to oppose this legislation.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	

Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

AB 3126: Board for Professional Engineers, Land Surveyors, and Geologists

Ms. Eissler indicated that staff will monitor this bill and provide updates as appropriate. A vote was not necessary.

AB 3134: Professional Engineers

Ms. Eissler reported that currently it does not appear that this bill would have an impact on the operations of the Board. Staff will monitor this bill and provide updates as appropriate. A vote was not necessary.

SB 920: Engineering, land surveying, and architecture: limited liability partnerships

MOTION:	Mr. Wilson and Dr. Amistad moved to support this legislation.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

SB 1098: Geologists and geophysicists: fees

MOTION:	Mr. Wilson and Dr. Amistad moved to support this legislation.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

III. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2017/18 Update

Ms. Criswell presented the enforcement statistics. The Board was pleased with the efficiency of the Enforcement staff. Ms. Criswell is confident that staff is capable of managing an increase in cases if it arises.

IV. Exams/Licensing

A. Update on Spring 2018 Examinations

Mr. Moore reported that there is a 10% increase in number of candidates scheduled for NCEES national exams in California compared to last October 2017 and 16% higher than last April 2017, not counting structural engineering exam candidates.

Mr. Moore reviewed the Spring 2018 examination dates and noted that as of February 23, 2018, there are 1,190 Seismic candidates and 1,098 for Engineering Surveying. The Spring 2017 examinations saw 1,969 Seismic candidates and 1,911 for Engineering Surveying. Staff continues to fine tune changes with DCA's Office of Information Services staff and the legacy system.

B. Update on Licenses Issued

Mr. Moore indicated that an update on issued licenses will be provided on a quarterly basis. Traditionally, there were many licenses issued in the December/January timeframe due to the October exams and then the May/June timeframe due to the April exams. He is hoping to illustrate the trends in licenses issued on a monthly basis. There were 1,437 licenses issued from December 2017 – February 2018.

C. Update on Application Numbers

Cashiering staff has been monitoring applications and, through their observations, have been able to track trends since the change in the application process. Mr. Moore reported that currently the Board is averaging approximately 200 initial Professional Engineer and Professional Land Surveyor applications on a monthly basis. He noted that Geology statistics were not available prior to September 2017, as initial applications and refile examinations were not separately tracked.

V. Executive Officer's Report

A. Rulemaking Status Report

Ms. Eissler reported that there are two regulations that are referred to as Section 100 regulations. There is a provision in the regulations process that allows an easier method without public notices if the changes are nonsubstantive such as correcting typographical errors or statutory reference changes.

The regulation that defines the Geology Education requirements is still going through the preliminary process. It is currently at the executive level to be signed by the Deputy Director of the Legal Office, the Legislative and Regulatory Review Unit, and Budgets. DCA is anticipating that it will go to Agency by the end of March. Agency indicated that they need approximately 30 days to review. Once it has gone through this preliminary review process, the Board will then be able to notice it for public comment.

B. SB 2 (2017 Ch. 364) Effect on Filing a Record of Survey

Mr. Moore reported that when SB 2 became law, it included a new recording fee of \$75. In the Board's opinion, it was vague as to how it would affect the licensees in relating to filing a Record of Survey. In discussing it with legislators, a legislator understood the concerns and offered to seek an official Attorney General Opinion.

C. Update on Board's Business Modernization Report.

Mr. Moore reported that a contract was initiated with Business Advantage Consulting, and the consultant, Craig Osborn, has been working directly with staff. The services include developing use cases, assisting in identifying and design system requirements for the next stage, helping with the submittal of requirements for Stage 2 Project Approval Lifecycle (PAL) process and market research to help determine what is needed based on the system requirements.

D. Personnel

Angelica Munoz, the Board's receptionist, accepted a promotion with the State Treasurer's Office.

E. ABET

No report given.

F. Association of State Boards of Geology (ASBOG)

No report given.

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

1. Western Zone Interim Meeting – Nominations for Zone Vice-President

Mr. Moore presented two candidates who have expressed interest for NCEES Western Zone Vice-President: Karen Purcell, PE, Member of the Nevada Board, and Brian G. Robertson, PE, Member of the Colorado Board. Dr. Qureshi added that Scott Bishop, Land Surveyor and member of the Utah Board, is running unopposed for the Assistant Vice-President position.

NCEES will be discontinuing the Software Engineering PE examination after the April 2018 administration. There have been approximately 81 candidates in the 3-4 years it has been in effect. Mr. Moore reported that policy dictates that once an examination has less than 50 candidates for two consecutive administrations, it is subject to be discontinued.

H. Update on Outreach Efforts

Mr. Phayer provided the Board members and staff with the materials that are disseminated during the Board's outreach presentations and provided an overview of the topics discussed. Ms. Irish requested that he send out email alerts with information on dates and locations so that Board members could attend in their geographic area. She also suggested more cultural diversity be represented on the handouts.

VI. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs

No report given.

B. Appointment of TAC Members

No report given.

C. Reports from the TACs

1. Report from the Traffic Engineering TAC: Recommendation to Amend Title 16, California Code of Regulations section 404(qq) [Definition of Traffic Engineering]

The Traffic TAC met and based on their discussion recommend the Board modify the definition of traffic engineering as it is in regulation.

MOTION:	Dr. Qureshi and Mr. Stockton moved to begin the rulemaking process to amend Title 16, California Code of Regulations section 404(qq) - definition of traffic engineering.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	

Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

D. Approval of Work Plans

1. Civil Engineering TAC
2. Geology and Geophysics TAC
3. Land Surveying TAC
4. Structural Engineering TAC

MOTION:	Dr. Qureshi and Dr. Amistad moved to approve all work plans.
VOTE:	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts	X				
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

VII. President’s Report/Board Member Activities

President Johnson reported that he attended the quarterly meeting with DCA. One of the topics of discussion was the Executive Officer salary. He would like to add the discussion to a future agenda. Mr. Moore recommended that President Johnson work with the Board’s legal counsel.

Another topic of discussion was armed personnel at board meetings. Ms. Eissler explained that DCA is currently renewing the contract with CHP and they would be available on an on-call basis. If at any time the Board felt security was needed, the contract would be in place.

Dr. Qureshi announced that he is now the Director of Public Works for the County of Glenn.

Mr. Wilson was a judge for the Future City competition with NCEES, which consisted of 6th, 7th, and 8th graders.

Mr. Stockton attended the NCEES Finance Committee meeting. There was a significant increase in exam retakes and new applications. He is also visiting Santiago Canyon College in Southern California representing NCEES and the California Board in presenting the NCEES 2017 Surveying Education award.

VIII. Approval of Meeting Minutes

A. Approval of the Minutes of the January 8, 2018, Board Meeting

MOTION:	Mr. King and Mr. Stockton moved to approve minutes as amended.
VOTE:	8-0-1, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Eric Johnson	X				
Betsy Mathieson	X				
Natalie Alavi				X	
Fel Amistad	X				
Kathy Jones Irish	X				
Coby King	X				
Asha Lang				X	
Mohammad Qureshi	X				
Karen Roberts			X		
William Silva				X	
Robert Stockton	X				
Steve Wilson	X				

IX. Discussion Regarding Proposed Agenda Items for Next Board Meeting

A. May 3-4, 2018, Board Meeting will be held in Sacramento at DCA’s HQ2 Hearing Room.

Mr. Moore suggested that at the May meeting, President Johnson should consider appointing two Board Members to present nominations for Board President and Vice President for the next year.

II. Public Comment (Cont.)

Mike Hartley, representing Bedrock Engineering, noted that there is no enforcement of Qualifications Based Selection (QBS). One of the items discussed within the QBS Committee in ACEC is to introduce a provision within the acts or Board rules that makes it a violation for licensees to respond with a price to any solicitations based on price. He is requesting to possibly look at data of the type of

enforcement issues that arise and whether they are based on low-bid projects or QBS.

X. Other Items Not Requiring Board Action

No report given.

XI. Closed Session – The Board will meet in Closed Session to discuss, as needed:

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
- C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]
- D. Pending Litigation [Pursuant to Government Code section 11126(e)]
 - 1. Thomas Lutge v. Richard B. Moore, in his capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, U.S. District Court, Eastern District, Case No. 2:17-CV-02290-KJM-EFB (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
 - 2. Lawrence Allen Stevens v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Sacramento Superior Court Case No. 34-2016-80002334

XII. Open Session to Announce the Results of Closed Session

During Closed Session, the Board took action on three stipulations and one default decision and discussed litigation as noticed.

XIII. Adjourn

The meeting adjourned at 3:53 p.m.

PUBLIC PRESENT

Rob McMillan, CLSA

Emily Morrow

Bob DeWitt, ACEC

Mike Hartley, ACEC

Christopher Pluhar, Earth and Environmental Science Department, Fresno State

XII. Discussion Regarding Proposed Agenda Items for Next Board Meeting

- A. June 28-29, 2018, Board Meeting will be held in San Diego at CalTrans District 11, 4050 Taylor Street, Wallace Room #134 San Diego, CA 92110-2737

XIII. Other Items Not Requiring Board Action

XIV. Closed Session – The Board will meet in Closed Session to discuss, as needed:

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
- C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]

XV. Open Session to Announce the Results of Closed Session

XVI. Adjourn
