

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

Thursday, August 22, 2024

Board Members Present:	President Christina Wong; Vice-President Guillermo Martinez; Fel Amistad; Alireza Asgari; Khaesha Brooks; Rossana D’Antonio; Michael Hartley; Frank Ruffino; Fermin Villegas; and Cliff Waldeck
Board Members Absent:	Coby King; Betsy Mathieson; Wilfredo Sanchez
Board Staff Present:	Ric Moore (Executive Officer); Tiffany Criswell (Assistant Executive Officer); Dawn Hall (Administrative Manager); Celina Calderone (Board Liaison); Joshua Goodwin (Senior Registrar Geologist); Natalie King (Senior Registrar Civil Engineer); Dallas Sweeney (Senior Registrar Land Surveyor); and Christopher Pirrone (Legal Counsel)

I. Roll Call to Establish a Quorum

President Wong called the meeting to order at 9:00 a.m. and a quorum was established. The Board took an opportunity to introduce themselves to the two newly appointed Board members, Khaesha Brooks and Cliff Waldeck.

II. Pledge of Allegiance

Mr. Ruffino led everyone in the recitation of the Pledge of Allegiance.

III. Public Comment for Items Not on the Agenda

There was no public comment.

IV. Administration

A. Fiscal Year 2023/24 Budget Report

Ms. Hall, Administrative Services Manager, introduced the budget report. She noted that the materials include actual results through Fiscal Month 11 as full year actual results were released for Fiscal Month 12 just prior to the meeting. Fiscal Month 13 results were not available at the time of reporting.

As of Fiscal Month 11, the Board revenue was at almost \$12.5 million, which was ahead of Fiscal Year 2021/22 which was a comparable volume year for renewals. Fiscal Year 2021/22 and Fiscal Year 2023/24 were both high volume years for renewal revenue, which is why we compare those years as opposed to annually. Fiscal Month 12 revenue will be reported at the next Board meeting at \$12,657, which is slightly higher than our projections mostly due to higher

investment income. The Board's actual expenses through Fiscal Month 11 were \$11,137 and the full year projected expenditures were \$12,300.

Based on increases to the projected revenues and decreases in projected expenses, the months in reserve calculation is improved slightly, from 1.5 to 1.8 months in reserve. Ms. Hall explained that months in reserve is a calculation to assess how many months the Board could operate on the fund reserves with no additional revenue. Even with the slight increase to the months in reserve, the Board is still anticipating the need for a fee increase, which is outlined in the included fee analysis.

During Public Comment, Alan Escarda, representing Professional Engineers in California Government (PECG), believes in the Board's mission and fully supports the efforts to resist any reductions from the special funds borrowed by the general fund, which may result in increased fees for members. PECG believes staffing and outreach efforts should remain a priority along with having applications processed in a timely manner along with examination scheduling. Compliance and enforcement efforts would suffer, which would impact public safety. He offered PECG's support in the distribution of information.

Rob McMillan, representing California Land Surveyors Association (CLSA), supports the Board and, as a licensee, he would prefer to have fees remain low. However, the renewal fees are very reasonable for a license. Personally, he would like to see more enforcement against unlicensed practice with higher fees.

Mr. Moore reported that the Board will determine what reductions will have minimal impact on the Board's services while remaining attentive to enforcement, licensing, application, and exams. Travel will be impacted for Board meetings and outreach. President Wong suggested a possibility for more virtual meetings in the future.

B. 2024 Fee Study (Possible Action)

Ms. Hall recalled that the DCA Budget Office and Regulations unit prepared a presentation at the May 2024 meeting that outlined the process for increasing fees. Board fees are established in the Business and Professions Code which are set in statute. Fees may not exceed the statutory limits set in the Business and Professions Code, but increases can be implemented up to the limit by submitting a regulations package. Approval to change the regulations can take up to 18 months, which is why the Board is currently seeking review of the fee analysis and recommendations.

Ms. Hall predicts that the Board's expenses are projected to outpace revenues by over \$11 million dollars over the next five Fiscal Years. The scenario that is recommended is Scenario D. This scenario increases Initial Application fees to \$250.00 (\$100.00 for In-Training certificates) an increase of \$25.00 for In-

Training certificates and \$75.00 for professional licenses. Examination Fees are increased to \$250.00, an increase of \$75.00. Biennial Renewal Fees are increased to \$250.00, an increase of \$70.00. Retired License fees are increased to \$100.00. Savings and reversions are expected to offset negative fund reserves through Fiscal Year 2025/26 and could extend into Fiscal Year 2026/27. Adopting the recommended fee increase and structure is intended to improve the fund reserves and continue to fund the Board’s operation.

During Public Comment, Alan Escarda believes that the fees are reasonable and confident that the Board is conducting a good analysis. Also, it may be unreasonable given the current budget climate, but he would like to see the board strengthen its fight against unlicensed activity, especially among land surveyors. He reiterated that this is from a personal standpoint and not a concern with the organization as they self-regulate.

Ms. Hall reported that at the time that the fee analysis was being prepared, there was no definitive guidance to assess those changes in the budget act; and because the Board is not funded by the general fund, she did not think it was a good idea to include it in the fee analysis when we did not know what the impact would be for the Board. Even with an 8% reduction in expenses, she does not believe it will dramatically change the revenues and expenses over a five-year period. Mr. Moore reported that there will not be any added positions over the next few years.

MOTION:	Mr. Ruffino and Vice-President Martinez moved to adopt Scenario D.
VOTE:	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Wong	X				
Vice-President Martinez	X				
Fel Amistad	X				
Alireza Asgari	X				
Khaesha Brooks	X				
Rossana D’Antonio	X				
Michael Hartley	X				
Coby King				X	
Betsy Mathieson				X	

Frank Ruffino	X				
Wilfredo Sanchez				X	
Fermin Villegas	X				
Cliff Waldeck	X				

V. Consideration of Rulemaking Proposal (Possible Action)

Approval of Rulemaking Proposal to Amend Title 16, California Code of Regulations sections 407 and 3005 (Fees)

Mr. Moore reported that staff is asking the Board to approve the language that covers both the Engineers Act, the Professional Land Surveyors' Act, and the Geologists and Geophysicists Act. The only change are the actual fees and recommended that the Board direct staff to begin the rulemaking process.

Andrew Johnson, PE electrical engineer representing the National Society of Professional Engineers (NSPE), commented that there is an exemption in the PE Act, where individuals are practicing engineering while employed at exempt industries which could be revenue producing.

MOTION:	Mr. Ruffino and Ms. D'Antonio moved to approve the language and fees in accordance with Scenario D from the previously described Fee Study and direct staff to begin the rulemaking process to amend Title 16, California Code of Regulations sections 407 and 3005.
VOTE:	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Wong	X				
Vice-President Martinez	X				
Fel Amistad	X				
Alireza Asgari	X				
Khaesha Brooks	X				
Rossana D'Antonio	X				
Michael Hartley	X				
Coby King				X	
Betsy Mathieson				X	

Frank Ruffino	X				
Wilfredo Sanchez				X	
Fermin Villegas	X				
Cliff Waldeck	X				

VI. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2023/24 Update

Ms. Criswell reviewed the Enforcement statistics. Mr. Moore added historical information for the various statistics provided for the benefit of the newly appointed Board members. Ms. Criswell also introduced the new Enforcement Analyst, Anjannae Laird.

During Public Comment, Carl Josephson, representing the Structural Engineering Association of California (SEAOC), reported that the Arizona board has a panel of three structural engineers who review claims against engineers for negligence or incompetence instead of a single subject matter expert to review cases. Through this process, it could not simply have an opinion that was skewed by a single subject matter expert, rather a panel of three people who could balance each other and discuss the issues. He thought the process was very fair for the person who is being investigated. He is aware that it is not in the budget to review claims in this manner in California and the California Board has a lot more cases, but he was impressed with the process and wanted to share it with the Board.

VII. Exams/Licensing

A. Examination/Licensing Updates

Mr. Moore presented the Examination/Licensing statistics and explained that there are state specific exams that are developed in-house and national exams. The Board relies on two entities for the national exams, National Council of Examiners for Engineering and Surveying (NCEES) and Association of State Boards of Geology (ASBOG).

An addendum was provided with the latest structural exam updates. Mr. Moore reported that this spring was the first time that the National Structural Engineer Exam was administered via Computer Based Testing (CBT) and explained that any time there is a change in format, there will be fluctuation in results. The structural engineering community has expressed concern with the current pass rates especially in the depth portion of the exam. Structural exams are much more complex in the manner in which they are presented, administered, and scored. This is a new exam, and the reality was that there was a higher incidence of repeat test takers which will ultimately affect the pass rate. In addition, there were new multiple-choice features. There have been continued discussions with NCEES and applicants themselves. Overall, Mr. Moore

believes California candidates did as well or even better than the average population. However, when you see pass rates below 20%, there is a cause for concern.

During Public Comment Krista Looza, licensed structural engineer, representing Buehler Engineering, expressed concerns about the continual evolution of the Structural exam, especially with the recent shift to Computer Based Testing (CBT). The concerns are shared primarily with their colleagues, SEAOC, and National Council of Structural Engineers Association (NCSEA) as they believe they have long been the voices of the profession. She understands that over the years, the Structural Engineer (SE) exam and the Professional Engineer (PE) exam for that matter, have needed to evolve to address industry changes, financial pressures, and reciprocity concerns. She noted that the cost to the individual to sit for the SE exam has increased by approximately 800% in the last 12 years. Candidates have slowly become accustomed to the changes made to the exam and have relinquished control to NCEES, and they are wondering what has happened to the exam and what licensure will mean to the profession going forward. It is their opinion that pass rates similar to exams in the past may mask what is really happening with the exam. While they understand that the test is intended to assess minimal competency, they believe that standards have decreased over the years since California administered its own exam. The ability to express intent, understanding, and engineering judgment has all but been removed from the exam and currently, the complexity primarily lies in navigating for test conditions. This not only compromises the profession by not testing actual engineering competency but compromises public safety. California currently has no continuing education requirements and no significant structures act. Once licensed, there is little that can be done to ensure our structures are designed by competent engineers. The concern is the ongoing dilution of the education and certification associated with the profession. When universities and the licensure process do not adequately prepare students to be engineers, our industry must do it itself. This forces employers to provide even more training and oversight to develop the qualifications necessary to adequately perform the enormously complex work of engineering. If this trend continues, the ongoing degradation of the qualifications to be a licensed California structural engineer would result in a decrease in the quality of work. Ultimately, this degradation puts the public at risk. She does not believe NCEES has the capacity to correct the issues with the structural exam and CBT. She asks that the board take action on this matter to prevent years of poor testing to compromise the profession and public safety.

Carl Josephson reported that SEAOC has not taken a formal position. There are a lot of members who feel the way Ms. Looza feels. He reported that there was about a 50% pass rate for multiple choice nationally and the pass rate for the Alternate Item Type (AIT) which replaced the pencil and paper exam was around the 15% range. Nationally, structural engineers are dissatisfied with the results. California did slightly better than the national average, as expected,

since you must hold a professional engineering license and more experience. While it is good that California is doing slightly better, 20% is still low. An ideal position for a pass rate is between 30% and 50%. Mr. Josephson reported that California makes up about 30% of the exams purchased from NCEES. It is a 21-hour exam over four days in which the candidate is financially responsible and can burden the examinees and employers who are paying for their employee to take the exam. One of the complaints is that NCEES is using the examinees to test exam questions that are not graded but may be used for future exams. One third of the questions on the exam are not graded. NCEES used Subject Matter Experts (SMEs) who would take the exam and then it would be evaluated. Currently, NCEES is having the examinees take the exam instead. Some of the issues presented were claims of typographical errors, issues with reference materials, complaints that examinees cannot go back to a question, insufficient time, and only one monitor. Various professional organizations are monitoring the situation and are in close contact with the NCEES exam committee. The next exam for October is ready and can no longer be modified. He is hopefully there will be a slight adjustment for next year's exam.

B. 2024 Exams – First and Second Quarter Examination Results

During public comment, Andrew Johnson explained that the electrical exam is a three-part exam and the ABET accredited education is not a necessary requirement to take the exam. Electrical engineering can be endorsed in industry without licensure of engineers in high tech, as he does. He would like to see the same prerequisites that are offered to structural engineering be offered to electrical engineering in terms of application and qualifications.

Another member of the public David Leggett, civil engineer, inquired what was the intention of AB 2862. President Wong explained that the Board is currently discussing Exams.

VIII. Legislation

A. 2024 Legislative Calendar

Mr. Moore reviewed the legislative calendar.

B. Discussion of Legislation for 2024 (**Possible Action**)

1. AB 1862 - Engineering, land surveying, and architecture: limited liability partnerships.

During Public Comment Robert DeWitt representing ACEC, sponsor of the bill, respectfully requests for the Board to continue their support.

MOTION:	Mr. Hartley and Dr. Amistad moved to take a position of "Support" on AB 1862, as amended June 28, 2024.
VOTE:	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Wong	X				
Vice-President Martinez	X				
Fel Amistad	X				
Alireza Asgari	X				
Khaesha Brooks	X				
Rossana D'Antonio	X				
Michael Hartley	X				
Coby King				X	
Betsy Mathieson				X	
Frank Ruffino	X				
Wilfredo Sanchez				X	
Fermin Villegas	X				
Cliff Waldeck	X				

2. AB 2862 - Licenses: African American applicants.
No action taken.

Mr. Moore took an opportunity to respond to Mr. David Leggett's previous question in reference to the intention of AB 2862. Mr. Moore recommended that he raise his question to the author of the bill and Mr. Hartley recommended that he review the staff analysis in the board meeting materials.

3. AB 3176 - Professional land surveyors: surveying practices: monuments and corner accessories.
No action taken.
4. AB 3253 - Board for Professional Engineers, Land Surveyors, and Geologists: licensees
No action taken.
5. SB 1048 - Planning and zoning; local planning; and site plans
No action taken.

IX. Executive Officer's Report
A. Rulemaking Status Report

Despite the Board withdrawing the rulemaking for the definition of traffic engineering at its previous meeting, it was decided to maintain it in the report for the time being, as the board requested that staff conduct more research and report any additional thoughts.

B. Update on Board's Business Modernization Project

Mr. Moore reported the Board continues to finalize the project by applying revisions to existing functionality and necessary updates.

C. Personnel

Mr. Moore announced that Tiffany Criswell has been appointed as the new Assistant Executive Officer, which will leave her current position as Enforcement Manager vacant. The Board continues to interview for the vacant Senior Registrar position and an Office Technician vacancy in the Licensing Unit.

In addition, Ms. Anjannae Laird has filled the vacant position in the Enforcement Unit.

D. ABET

Mr. Moore provided the new board members some background information on ABET and the Board's role as invited observers in accrediting colleges and universities.

E. Association of State Boards of Geology (ASBOG)

Mr. Moore mentioned that ASBOG started a new Strategic Planning process and has requested his participation as a member board administrator.

Mr. Joshua Goodwin, Senior Registrar Geologist, was previously nominated by the Board as ASBOG Secretary however, he was not selected but was encouraged to try again.

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

1. August 14-17, 2024, Annual Meeting Report

Mr. Moore was joined in Chicago for the NCEES Annual Meeting by President Christina Wong, Vice-President Guillermo Martinez, Rossana D'Antonio, and Frank Ruffino. One of the events that took place was the ceremonial signing of the UK Mutual Recognition Agreement (MRA). This agreement started in 2023 between President Biden and the UK Prime Minister to improve trade and professional services, and part of that was engineering resources. NCEES and the UK counterpart, which is Engineering Council of UK, collaborated and assembled a Mutual Recognition Agreement for engineers to be licensed in the other country if they meet certain criteria. There were several boards that sent representatives to London to visit the UK Engineering Council. The California Board was the first board to agree to participate in the agreement

as an alternate pathway for PE licensure. Approximately 26 of 69 boards have since joined.

2. Consider Nomination of Coby King for NCEES Emeritus Member (**Possible Action**)

MOTION:	Mr. Hartley and Mr. Villegas moved to nominate Coby King as NCEES Emeritus member.
VOTE:	10-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
President Wong	X				
Vice-President Martinez	X				
Fel Amistad	X				
Alireza Asgari	X				
Khaesha Brooks	X				
Rossana D'Antonio	X				
Michael Hartley	X				
Coby King				X	
Betsy Mathieson				X	
Frank Ruffino	X				
Wilfredo Sanchez				X	
Fermin Villegas	X				
Cliff Waldeck	X				

G. Update on Outreach Efforts

Mr. Moore reviewed the Outreach report.

X. President's Report/Board Member Activities

Several Board members and staff are on various NCEES committees, including President Wong on the Finance Committee; Ms. D'Antonio on the Licensure Committee; Mr. Ruffino on the Awards and Leadership Committee for the Western Zone, and Ms. Criswell on the Law Enforcement Committee.

Mr. Hartley announced that Fresno State Geomatics Program has a conference every year and they invited him and Dallas Sweeney, Senior Registrar, as speakers.

XI. Approval of Meeting Minutes (Possible Action)

A. Approval of June 27, 2024, Board Meeting Minutes

MOTION:	Mr. Hartley and Ms. D’Antonio moved to approve the June 27, 2024, Board meeting minutes.
VOTE:	10-0, Motion Carried

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

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

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

- B. Confer with, or Receive Advice from, Its Legal Counsel Regarding Pending Litigation Pursuant to Government Code Section 11126(e)(1) and (2)(A), on the following matters:

1. Ryan Crownholm, et al. vs. Richard B. Moore, et al., United States District Court, Eastern District of California, Case No. 2:22-cv-01720-DAD-CKD
2. Victor Rodriguez-Fernandez vs. California Board for Professional Engineers, Land Surveyors, and Geologists, San Diego County Superior Court, Case No. 37-2023-00053465-CU-WM-CTL

XIII. Adjourn

The meeting adjourned at 3:31 p.m.

PUBLIC PRESENT

Carl Josephson, SEAOC
Krista Looza, Buehler Engineering
Andrew Johnson, NSPE-CA
Alan Escarda, PECG